



Superannuation Industry (Supervision) Consequential Amendments Act 1993

No. 82 of 1993

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Superannuation Industry (Supervision) Consequential Amendments Act 1993

No. 82 of 1993

**An Act to amend the statute law of the Commonwealth in
consequence of the enactment of the *Superannuation
Industry (Supervision) Act 1993*, and for other purposes**

[Assented to 30 November 1993]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Superannuation Industry (Supervision) Consequential Amendments Act 1993*.

Commencement

2.(1) Subject to subsection (2), this Act commences on 1 December 1993.

(2) The following provisions commence on 1 July 1994:

(a) Part 2;

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- (b) Part 3;
- (c) Part 4;
- (d) Part 5 (other than section 14 and subsection 16(2));
- (e) Part 6;
- (f) Part 7;
- (g) sections 43 and 44;
- (h) section 47;
- (i) subsections 48(2) and (3);
- (j) Part 9;
- (k) Part 13;
- (l) Part 14.

**PART 2—AMENDMENT OF THE AUSTRALIAN CAPITAL
TERRITORY (SELF-GOVERNMENT) ACT 1988**

Principal Act

3. In this Part, “**Principal Act**” means the *Australian Capital Territory (Self-Government) Act 1988*¹.

Disqualification of member

4. Section 14 of the Principal Act is amended by omitting the definition of “dependant” in subsection (4) and substituting the following definition: “ ‘**dependant**’ has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*. ”.

PART 3—AMENDMENT OF THE BANKRUPTCY ACT 1966

Principal Act

5. In this Part, “**Principal Act**” means the *Bankruptcy Act 1966*².

Interpretation

6. Section 5 of the Principal Act is amended by omitting from subsection (1) the definition of “policy for pure endowment”.

Property divisible among creditors

7. Section 116 of the Principal Act is amended:

- (a) by omitting paragraphs (2)(d), (e), (f) and (fa) and substituting the following paragraph:

“(d) subject to subsection (5):

- (i) policies of life assurance or endowment assurance in respect of the life of the bankrupt or the spouse of the bankrupt;

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- (ii) the proceeds of such policies received on or after the date of the bankruptcy;
- (iii) the interest of the bankrupt in:
 - (A) a regulated superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*); or
 - (B) an approved deposit fund (within the meaning of that Act);
- (iv) a payment to the bankrupt from such a fund received on or after the date of the bankruptcy, if the payment is not a pension within the meaning of the *Superannuation Industry (Supervision) Act 1993*;”;
- (b) by adding “or” at the end of paragraph (2A)(a);
- (c) by omitting “or” from the end of paragraph (2A)(b);
- (d) by omitting paragraph (2A)(c);
- (e) by omitting paragraph (a) of the definition of “exempt money” in subsection (2D) and substituting the following paragraph:
 - “(a) an amount to which subsection (1) does not extend because of subparagraph (2)(d)(ii) or (iv);”;
- (f) by adding at the end the following subsections:
 - “(5) The following provisions apply in working out how subsection (1) extends to property covered by paragraph (2)(d):
 - (a) if the total value of the property does not exceed the bankrupt’s pension RBL (worked out under section 140ZD of the *Income Tax Assessment Act 1936*) for the year of income in which the date of the bankruptcy occurred—subsection (1) does not extend to any of that property;
 - (b) if the total value of the property exceeds that pension RBL—subsection (1) does not extend to so much of that total value as equals that pension RBL.
 - “(6) The rules may set out a method for determining how one or more items of property are to be apportioned for the purposes of paragraph (5)(b). For example, if the bankrupt’s pension RBL is \$800,000 and the bankrupt has 2 items of paragraph (2)(d) property each with a value of \$500,000, the rules could provide that subsection (1):
 - (a) does not extend to the first item; and
 - (b) does not extend to so much of the value of the second item as equals \$300,000.

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“(7) The rules may provide for a special method of working out the value of a specified kind of property for the purposes of subsection (5).

“(8) The rules may provide for the trustee of:

- (a) a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993*; or
- (b) an approved deposit fund within the meaning of that Act;

to issue a written evidentiary certificate about the value of the interest of the bankrupt in the fund. The rules may provide that, in proceedings under this Act, the certificate is *prima facie* evidence of the value of the interest for the purposes of subsection (5).

“(9) In subsections (5) to (8) (inclusive):

‘value’ includes amount.”.

Meaning of income

8. Section 139L of the Principal Act is amended:

- (a) by omitting “a payment” from paragraph (a) of the definition of “income” and substituting “an annuity or pension paid”;
- (b) by inserting “of annuity or pension” before “received” in paragraph (c) of that definition;
- (c) by inserting the following definition:

“ ‘**pension**’ includes a pension within the meaning of the *Superannuation Industry (Supervision) Act 1993*.”.

Vesting of property on making of order

9. Section 249 of the Principal Act is amended:

- (a) by omitting subparagraph (6)(a)(ii) and substituting the following subparagraph:

“(ii) so much of:

- (A) the proceeds of a policy of life assurance or endowment assurance; or
- (B) a payment from a regulated superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) or an approved deposit fund (within the meaning of that Act);

as would not have been divisible among the creditors of the deceased person under Part VI if:

- (C) the deceased person had not died; and
- (D) a sequestration order had been made against the deceased person immediately before his or her death; and

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(E) the amount concerned had been paid immediately before his or her death;”;

(b) by omitting subparagraph (7)(a)(ii) and substituting the following subparagraph:

“(ii) so much of:

(A) the proceeds of a policy of life assurance or endowment assurance; or

(B) a payment from a regulated superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) or an approved deposit fund (within the meaning of that Act);

as would not have been divisible among the creditors of the deceased person under Part VI if:

(C) the deceased person had not died; and

(D) a sequestration order had been made against the deceased person immediately before his or her death; and

(E) the amount concerned had been paid immediately before his or her death;”;

(c) by omitting subparagraph (8)(a)(ii) and substituting the following subparagraph:

“(ii) so much of:

(A) the proceeds of a policy of life assurance or endowment assurance; or

(B) a payment from a regulated superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) or an approved deposit fund (within the meaning of that Act);

as would not have been divisible among the creditors of the deceased person under Part VI if:

(C) the deceased person had not died; and

(D) a sequestration order had been made against the deceased person at that time; and

(E) the amount concerned had been paid at that time;”.

Insertion of new section

10. After section 302 of the Principal Act the following section is inserted:

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Certain provisions in governing rules of superannuation funds and approved deposit funds to be void

“302A.(1) This section applies to a provision in the governing rules of a provident, benefit, superannuation, retirement or approved deposit fund to the extent to which the provision has the effect that:

- (a) any part of the beneficial interest of a member or depositor is cancelled, forfeited, reduced or qualified; or
- (b) the trustee or another person is empowered to exercise a discretion relating to such a beneficial interest to the detriment of a member or depositor;

if the member or depositor:

- (c) becomes a bankrupt; or
- (d) commits an act of bankruptcy; or
- (e) executes a deed of assignment or a deed of arrangement under this Act.

“(2) The provision is void.

“(3) This section applies to governing rules made before the commencement of this section.

“(4) In this section:

‘**governing rules**’, in relation to a fund, means any trust instrument, other document or legislation, or combination of them, governing the establishment or operation of the fund.”.

Application of amendments

11.(1) The following amendments made by this Part apply in relation to a bankruptcy, if the date of the bankruptcy is on or after the date of commencement of this section:

- (a) section 6 (to the extent to which the amendment relates to section 116 of the Principal Act);
- (b) sections 7, 8 and 10.

(2) The remaining amendments made by this Part apply in relation to the death of a person, if the death occurs on or after the date of commencement of this section.

PART 4—AMENDMENT OF THE CORPORATIONS LAW

Corporations Law

12. In this Part, “**Corporations Law**” means the Corporations Law set out in section 82 of the *Corporations Act 1989*³.

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Interpretation

13. Section 1076A of the Corporations Law is amended by omitting “*Occupational Superannuation Standards Act 1987*” from the definition of “Division 5A trust” and substituting “*Superannuation Industry (Supervision) Act 1993*”.

**PART 5—AMENDMENT OF THE INCOME TAX ASSESSMENT
ACT 1936**

Principal Act

14. In this Part, “**Principal Act**” means the *Income Tax Assessment Act 1936*⁴.

Interpretation

15. Section 6 of the Principal Act is amended by omitting from the definition of “proclaimed superannuation standards day” in subsection (1) all the words after “means” and substituting “1 July 1990”.

Officers to observe secrecy

16.(1) Section 16 of the Principal Act is amended by omitting from paragraph (4)(hc) “*Occupational Superannuation Standards Act 1987*” and substituting “*Superannuation Entities (Taxation) Act 1987* (including a repealed provision of that Act as that provision continues to apply because of the *Taxation Laws Amendment (Superannuation) Act 1992* or the *Occupational Superannuation Standards Amendment Act 1993*)”.

(2) Section 16 of the Principal Act is amended by inserting after paragraph (4)(hc) the following paragraph:

“(hca) the Insurance and Superannuation Commissioner, for the purpose of the administration of the *Superannuation Industry (Supervision) Act 1993*;”.

Assessable income to include value of benefits received from or in connection with funds that have obtained tax benefits under Part IX or former section 23FC

17. Section 26AFB of the Principal Act is amended:

(a) by omitting from paragraph (2)(b) “subsection 7(1) of the *Occupational Superannuation Standards Act 1987*” and substituting “subsection 31(1) of the *Superannuation Industry (Supervision) Act 1993*”;

(b) by omitting paragraph (3)(b) and substituting the following paragraph:

“(b) at the time when the benefit was provided:

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- (i) the fund was not a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993*; or
- (ii) both:
 - (A) the fund was a regulated superannuation fund within the meaning of that Act; and
 - (B) the fund was not maintained as required by section 62 of that Act;”.

Interpretation

18.(1) Section 27A of the Principal Act is amended by omitting from the definitions of “annuity” and “pension” in subsection (1) “3 of the *Occupational Superannuation Standards Act 1987*” and substituting “10 of the *Superannuation Industry (Supervision) Act 1993*”.

(2) Section 27A of the Principal Act is amended by omitting paragraph (a) of the definition of “approved deposit fund” in subsection (1) and substituting the following paragraphs:

“(aa) a fund that, at any time after the beginning of the fund’s 1994-95 year of income, is or was an approved deposit fund within the meaning of the *Superannuation Industry (Supervision) Act 1993*; or

(a) a fund that was, at any time during the period:

- (i) beginning immediately after the commencement of section 1 of the *Taxation Laws Amendment Act (No. 4) 1989*; and
- (ii) ending immediately before the beginning of the fund’s 1994-95 year of income;

an approved deposit fund within the meaning of the *Occupational Superannuation Standards Act 1987* as in force on 30 November 1993; or”.

(3) Section 27A of the Principal Act is amended by omitting from subsection (1) the definition of “approved trustee”.

(4) Section 27A of the Principal Act is amended by inserting after subsection (3A) the following subsections:

“(3B) A reference in the definition of ‘eligible termination payment’ in subsection (1) to a payment made by the trustee of an approved deposit fund in respect of a taxpayer by reason that the taxpayer was a depositor with the fund includes a reference to an amount paid to a taxpayer under subsection 225(6) of the *Superannuation Industry (Supervision) Act 1993*, if the payment relates to an amount of unclaimed money that was payable to the taxpayer by the trustee of an approved deposit fund.

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“(3C) A reference in the definition of ‘eligible termination payment’ in subsection (1) to a payment made from a superannuation fund in respect of a taxpayer by reason that the taxpayer was a member of the fund includes a reference to an amount paid to a taxpayer under subsection 225(6) of the *Superannuation Industry (Supervision) Act 1993*, if the payment relates to an amount of unclaimed money that was payable to the taxpayer by the trustee of a superannuation fund.”.

19. Before section 27D of the Principal Act the following section is inserted:

Exemption from tax—payment of unclaimed money to Insurance and Superannuation Commissioner by superannuation fund or approved deposit fund

“27CC. If:

- (a) an amount is paid to the Insurance and Superannuation Commissioner under subsection 225(5) of the *Superannuation Industry (Supervision) Act 1993*; and
- (b) the whole or a part of that amount consists of unclaimed money that was payable to a taxpayer by the trustee of an approved deposit fund or a superannuation fund;

the taxpayer’s assessable income does not include the whole or the part, as the case may be, of the amount paid to the Insurance and Superannuation Commissioner.”.

Interpretation

20. Section 82AAA of the Principal Act is amended by omitting from subsection (1) the definition of “dependant” and substituting the following definition:

“ ‘**dependant**’ has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*;”.

Interpretation

21. Section 82AAS of the Principal Act is amended by omitting from subsection (1) the definition of “dependant” and substituting the following definition:

“ ‘**dependant**’ has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*;”.

Interpretation

22. Section 110 of the Principal Act is amended by omitting “3 of the *Occupational Superannuation Standards Act 1987*” from the definition of “annuity” in subsection (1) and substituting “10 of the *Superannuation Industry (Supervision) Act 1993*”.

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Interpretation

23. Section 116E of the Principal Act is amended by omitting “3 of the *Occupational Superannuation Standards Act 1987*” from the definition of “annuity” in subsection (1) and substituting “10 of the *Superannuation Industry (Supervision) Act 1993*”.

Interpretation

24. Section 159GP of the Principal Act is amended by omitting “3 of the *Occupational Superannuation Standards Act 1987*” from the definition of “annuity” in subsection (1) and substituting “10 of the *Superannuation Industry (Supervision) Act 1993*”.

Interpretation

25. Section 140C of the Principal Act is amended by omitting “3 of the *Occupational Superannuation Standards Act 1987*” from the definitions of “annuity” and “pension” and substituting “10 of the *Superannuation Industry (Supervision) Act 1993*”.

Rebate for personal superannuation contributions

26. Section 159SZ of the Principal Act is amended by omitting from the definition of “dependant” in subsection (2) “*Occupational Superannuation Standards Act 1987*” and substituting “*Superannuation Industry (Supervision) Act 1993*”.

Objects of this Part

27. Section 202 of the Principal Act is amended by adding at the end the following word and paragraph:

“; and (i) to facilitate the administration of Parts 22 and 24 of the *Superannuation Industry (Supervision) Act 1993*.”.

Interpretation

28. Section 221A of the Principal Act is amended by omitting from the definitions of “annuity” and “pension” in subsection (1) “3 of the *Occupational Superannuation Standards Act 1987*” and substituting “10 of the *Superannuation Industry (Supervision) Act 1993*”.

Interpretation

29.(1) Section 267 of the Principal Act is amended by omitting from subsection (1) the definitions of “OSS Act” and “OSS notice”.

(2) Section 267 of the Principal Act is amended by omitting from subsection (1) the definitions of “complying ADF”, “complying superannuation fund”, “dependant”, “non-complying superannuation fund” and “pooled superannuation trust” or “PST” and substituting the following definitions:

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“ **‘complying ADF’** has the meaning given to ‘complying approved deposit fund’ by section 47 of the SIS Act;

‘complying superannuation fund’ has the meaning given by section 45 of the SIS Act;

‘dependant’ has the same meaning as in the SIS Act;

‘non-complying superannuation fund’, in relation to a year of income, means a fund that, at all times during the year of income when the fund is in existence, is a provident, benefit, superannuation or retirement fund, but does not include a fund that is a complying superannuation fund in relation to the year of income;

‘pooled superannuation trust’ has the meaning given by section 48 of the SIS Act;

‘PST’ means a pooled superannuation trust;”.

(3) Section 267 of the Principal Act is amended by inserting in subsection (1) the following definition:

“ **‘SIS Act’** means the *Superannuation Industry (Supervision) Act 1993*;”.

(4) Section 267 of the Principal Act is amended:

(a) by omitting from the definition of “annuity” in subsection (1) “3 of the *Occupational Superannuation Standards Act 1987*” and substituting “10 of the SIS Act”;

(b) by omitting subparagraph (c)(ii) of the definition of “death or disability benefit” in subsection (1) and substituting the following subparagraph:

“(ii) if there is in force at the beginning of the disability period an approval given in relation to the fund for the purposes of section 62 of the SIS Act and that approval specifies a maximum period for the provision of such benefits—that period;”;

(c) by omitting from the definition of “foreign approved deposit fund” in subsection (1) “OSS Act” (first occurring) and substituting “SIS Act”;

(d) by omitting from paragraph (b) of the definition of “foreign approved deposit fund” in subsection (1) “subsection 3(1) of the OSS Act” and substituting “section 10 of the SIS Act”;

(e) by omitting from the definition of “non-complying ADF” in subsection (1) “OSS Act” and substituting “SIS Act”;

(f) by omitting from the definition of “pension” in subsection (1) “3 of the *Occupational Superannuation Standards Act 1987*” and substituting “10 of the SIS Act”.

(5) Section 267 of the Principal Act is amended by adding at the end the following subsection:

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“(4) A reference in this Part to, or to a provision of, section 342 of the SIS Act includes a reference to, or to the corresponding provision of, the repealed section 15D of the *Occupational Superannuation Standards Act 1987* (including that section as it continues to apply because of the *Occupational Superannuation Standards Amendment Act 1993*).”.

Issue, revocation etc. of SIS notices

30. Section 269 of the Principal Act is amended:

- (a) by omitting subsection (1);
- (b) by omitting from paragraph (2)(a) “section 15D of the OSS Act” and substituting “section 342 of the SIS Act”.

Pre-1 July 88 funding credit balance

31. Section 275A of the Principal Act is amended:

- (a) by omitting from subsection (2) “15D(2) of the OSS Act” and substituting “342(2) of the SIS Act”;
- (b) by omitting from subsection (4) “15D(4) of the OSS Act” and substituting “342(4) of the SIS Act”;
- (c) by omitting from subsection (5) “15D(6) of the OSS Act” and substituting “342(6) of the SIS Act”;
- (d) by omitting from subsection (6) “15D(7) of the OSS Act” and substituting “342(7) of the SIS Act”.

Assessment as if entity were a complying superannuation fund, complying ADF or PST

32. Section 300A of the Principal Act is amended:

- (a) by omitting paragraph (1)(a) and substituting the following paragraph:
 - “(a) at the time when the Commissioner is making an assessment in relation to a fund or a unit trust for a particular year of income, the fund or unit trust is not a complying superannuation fund, complying ADF or PST in respect of the year of income; and”;
- (b) by omitting from paragraph (1)(b) “one of those sections” and substituting “section 40 of the SIS Act”;
- (c) by omitting from subparagraph (2)(b)(i) “return, certificates and fees referred to in subsection 12(1), 14(1) or 15B(1) of the OSS Act” and substituting “return and certificates referred to in subsection 36(1) of the SIS Act”.

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Assessment on basis of anticipated pre-1 July 88 funding credit balance

33.(1) Section 300B of the Principal Act is amended by omitting from subparagraph (1)(a)(i) “subsection 15D(2) or (7), or both, of the OSS Act” and substituting “subsection 342(2) or (7), or both, of the SIS Act,”.

(2) Section 300B of the Principal Act is amended by omitting sub-subparagraphs (2)(b)(i)(A) and (B) and substituting the following sub-subparagraphs:

- “(A) if the anticipated notice, or any of the anticipated notices, is a notice under subsection 342(2) of the SIS Act—the application, certificates, other documents and fee referred to in subsection 342(3) of that Act in relation to the fund by the end of 12 months after the Commissioner of Taxation makes the assessment, or by such date as is prescribed by the regulations, whichever is the earlier; or
- (B) if the anticipated notice, or any of the anticipated notices, is a notice under subsection 342(7) of the SIS Act—any thing required to be given in relation to the notice under regulations for the purposes of that subsection by the end of 12 months after the Commissioner of Taxation makes the assessment, or by the time by which the thing is required by the regulations to be given, whichever is the earlier; or”.

34. After Division 10 of Part IX of the Principal Act the following Division is inserted:

***“Division 11—Tax treatment of matters relating to superannuation
(financial assistance funding) levies*”**

Definition

“315A. In this Division:

‘financial assistance funding levy’ means levy imposed by regulations under section 6 of the *Superannuation (Financial Assistance Funding) Levy Act 1993*.

Deduction for financial assistance funding levy

“315B. Financial assistance funding levy incurred by a taxpayer is an allowable deduction for the year of income in which the levy is incurred.

Financial assistance exempt from income tax

“315C. A grant of financial assistance under Part 23 of the *Superannuation Industry (Supervision) Act 1993* is exempt from income tax.

Repayment of financial assistance not an allowable deduction

“315D. A repayment of financial assistance under Part 23 of the *Superannuation Industry (Supervision) Act 1993* is not an allowable deduction.

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Amendment of assessments—remission or refund of financial assistance funding levy

“315E.(1) Section 170 does not prevent the amendment of an assessment for the purposes of giving effect to section 315B or 315C.

“(2) The following are examples of situations that could result in such an amendment being made:

- (a) the remission of the whole or a part of an amount of financial assistance funding levy;
- (b) the refund or other application of an overpayment of financial assistance funding levy.

“(3) For the purposes of section 315B, the effect of a remission of financial assistance funding levy is that the amount remitted is taken never to have been incurred.

This Division to be primary code for tax treatment of matters relating to financial assistance funding levy

“315F. If any of the following events happen:

- (a) a taxpayer incurs financial assistance funding levy;
- (b) the remission of the whole or a part of an amount of financial assistance funding levy;
- (c) the refund or other application of an overpayment of financial assistance funding levy;

the event is to be ignored in determining:

- (d) whether an amount is included in the assessable income of a taxpayer under a provision of this Act other than this Division or Part IIIA; or
- (e) whether an amount is allowable as a deduction to a taxpayer under a provision of this Act other than this Division; or
- (f) whether Part IIIA applies in respect of the disposal of an asset.”.

Application of amendments

Definitions of “annuity” and “pension”

35.(1) The amendments made to the definitions of “annuity” and “pension” in subsections 27A(1), 110(1) and 116E(1), section 140C and subsections 159GP(1), 221A(1) and 267(1) of the Principal Act made by this Part apply in relation to annuities and pensions, where the first day of the period to which the first payment of pension or annuity relates is on or after the date of commencement of this subsection.

ETPs—redundant definition

(2) The omission of the definition of “approved trustee” in subsection 27A(1) of the Principal Act effected by this Part applies in relation to an eligible termination payment made on or after 1 July 1990.

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Superannuation contributions

(3) The amendments of sections 82AAA, 82AAS and 159SZ of the Principal Act made by this Part apply in relation to contributions made on or after the date of commencement of this subsection.

Section 26AFB and Part IX

(4) The amendments of section 26AFB and Part IX of the Principal Act made by this Part (other than the amendments relating to the definitions of “annuity” and “pension” in subsection 267(1) of the Principal Act, the amendments relating to pre-1 July 88 funding credits and the amendment inserting Division 11 in Part IX) apply in relation to a fund for the 1994-95 year of income of the fund and for all later years of income.

**PART 6—AMENDMENT OF THE INSURANCE AND
SUPERANNUATION COMMISSIONER ACT 1987**

Principal Act

36. In this Part, “**Principal Act**” means the *Insurance and Superannuation Commissioner Act 1987*⁵.

Interpretation

37. Section 3 of the Principal Act is amended by omitting “*Occupational Superannuation Standards Act 1987*” (wherever occurring) and substituting “*Superannuation Industry (Supervision) Act 1993*”.

**PART 7—AMENDMENT OF THE MILITARY
SUPERANNUATION AND BENEFITS ACT 1991**

Principal Act

38. In this Part, “**Principal Act**” means the *Military Superannuation and Benefits Act 1991*⁶.

Amendment of Trust Deed

39. Section 5 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) If compliance with a provision of the Trust Deed as amended under subsection (1) would have the effect that the Scheme:

- (a) would not be a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993*; or
- (b) would not comply with that Act;

that provision is invalid.”.

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Application of amendment

40. The amendment made by this Part does not apply to the Scheme in relation to a year of income of the Scheme earlier than the 1994-95 year of income.

PART 8—AMENDMENT OF THE SUPERANNUATION ACT 1976

Principal Act

41. In this Part, “**Principal Act**” means the *Superannuation Act 1976*⁷.

Interpretation

42. Section 3 of the Principal Act is amended:

- (a) by omitting “within the meaning of the *Occupational Superannuation Standards Act 1987*” from paragraph (e) of the definition of “deferred annuity” in subsection (1);
- (b) by omitting “*Occupational Superannuation Standards Act 1987*” from the definition of “preservation fund” in subsection (1) and substituting “*Superannuation Industry (Supervision) Act 1993*”.

Fund to be managed by Board

43. Section 41 of the Principal Act is amended by omitting from subsection (3) “standards prescribed by regulations under the *Occupational Superannuation Standards Act 1987*” and substituting “the *Superannuation Industry (Supervision) Act 1993*”.

Repeal of section 80A

44. Section 80A of the Principal Act is repealed.

Interpretation

45. Section 110A of the Principal Act is amended by omitting from the definition of “preservation fund” all the words after “in accordance” and substituting the following word and paragraphs:

“with:

- (a) standards prescribed by regulations made for the purposes of a provision of the *Occupational Superannuation Standards Act 1987*, as that provision:
 - (i) applies to a year of income of a fund earlier than the 1994-95 year of income; or
 - (ii) continues to apply, despite its repeal, because of the *Occupational Superannuation Standards Amendment Act 1993*; or

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- (b) standards prescribed by regulations under the *Superannuation Industry (Supervision) Act 1993*;

Payment of transfer values to Commissioner

46. Section 128 of the Principal Act is amended by omitting from subsection (4C) all the words after “satisfy” and substituting:

“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:
 - (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 *Superannuation Industry (Supervision) Act 1993* or regulations under that Act.”.

Regulations relating to the operation of the *Superannuation Industry (Supervision) Act 1993* and certain other laws

47. Section 155C of the Principal Act is amended:

- (a) by omitting from subsection (1) “the *Occupational Superannuation Standards Act 1987*” and substituting “an eligible regulatory law”;
- (b) by adding at the end the following subsection:

“(3) In this section:

‘eligible regulatory law’ means:

- (a) the *Superannuation Industry (Supervision) Act 1993*; or
- (b) the *Superannuation Entities (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
- (c) the *Superannuation (Resolution of Complaints) Act 1993*; or
- (d) the *Income Tax Assessment Act 1936*.”.

Application of amendments

48.(1) The amendment made by paragraph 42(b) applies in relation to a fund for the 1994-95 year of income of the fund and for all later years of income.

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(2) Despite the repeal of section 80A of the Principal Act effected by this Part, that section continues to apply, in relation to repealed Part IIIA of the *Occupational Superannuation Standards Act 1987*, as if that first-mentioned repeal had not been effected.

(3) The reference in subsection (2) to repealed Part IIIA of the *Occupational Superannuation Standards Act 1987* includes a reference to that Part as it continues to apply because of the *Taxation Laws Amendment (Superannuation) Act 1992*.

**PART 9—AMENDMENT OF THE SUPERANNUATION
ACT 1990**

Principal Act

49. In this Part, “**Principal Act**” means the *Superannuation Act 1990*⁸.

Amendment of Trust Deed

50. Section 5 of the Principal Act is amended by omitting subsection (2) and substituting the following subsection:

“(2) If compliance with a provision of the Trust Deed as amended under subsection (1) would have the effect that the Superannuation Scheme:

(a) would not be a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993*; or

(b) would not comply with that Act;

that provision is invalid.”.

Application of amendment

51. The amendment made by this Part does not apply to the Superannuation Scheme in relation to a year of income of the Superannuation Scheme earlier than the 1994-95 year of income.

**PART 10—AMENDMENT OF THE SUPERANNUATION
BENEFITS (SUPERVISORY MECHANISMS) ACT 1990**

Principal Act

52. In this Part, “**Principal Act**” means the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*⁹.

Provision of superannuation in accordance with Ministerial guidelines

53. Section 6 of the Principal Act is amended by omitting from subsection (6) all the words after “inconsistent” and substituting the following word and paragraphs:

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“with:

- (c) regulations made under a provision of the *Occupational Superannuation Standards Act 1987*, as that provision:
 - (i) applies to a fund for a year of income earlier than the 1994-95 year of income; or
 - (ii) continues to apply, despite its repeal, because of the *Occupational Superannuation Standards Amendment Act 1993*; or
- (d) the *Superannuation Industry (Supervision) Act 1993* or regulations under that Act; or
- (e) the *Superannuation Entities (Taxation) Act 1987* or regulations under that Act; or
- (f) Division 14 of Part III of the *Income Tax Assessment Act 1936*.”.

**PART 11—AMENDMENT OF THE SUPERANNUATION
GUARANTEE (ADMINISTRATION) ACT 1992**

Principal Act

54. In this Part, “**Principal Act**” means the *Superannuation Guarantee (Administration) Act 1992*¹⁰.

Interpretation: general

55. Section 6 of the Principal Act is amended by omitting from subsection (1) the definition of “superannuation fund” and substituting the following definition:

“ ‘**superannuation fund**’ has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*;”.

Certain benefit certificates presumed to be certificates in relation to complying superannuation scheme

56. Section 24 of the Principal Act is amended:

- (a) by omitting from subsections (1) and (2) “subsections (3) and (4)” and substituting “subsection (4)”;
- (b) by omitting subparagraph (1)(a)(i) and (ii) and substituting the following subparagraphs:
 - “(i) is a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993*; and
 - (ii) is not subject to a direction under section 63 of the *Superannuation Industry (Supervision) Act 1993*; and
 - (iii) has not been subject to such a direction at any time since the beginning of the day on which the benefit certificate is expressed to take effect; or”;

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- (c) by omitting subsection (3);
- (d) by omitting from subsection (4) “operating while in breach of a superannuation fund condition under the *Occupational Superannuation Standards Act 1987*” (wherever occurring) and substituting “not a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* or is operating while in breach of that Act or regulations under that Act”;
- (e) by inserting after subsection (4) the following subsection:

“(4A) Section 39 of the *Superannuation Industry (Supervision) Act 1993* applies for the purposes of subsection (4) of this section in a corresponding way to the way in which it applies for the purposes of Division 2 of Part 5 of that Act.”.

Certain contributions presumed to be contributions to complying superannuation fund

57. Section 25 of the Principal Act is amended:

- (a) by omitting from subsection (1) all the words after “the time the contribution is” and substituting the following words and paragraphs:

“made, the employer has obtained a written statement, provided by or on behalf of the trustee of the fund, that the fund:

 - (a) is a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993*; and
 - (b) is not subject to a direction under section 63 of that Act.”;
- (b) by omitting from paragraph (2)(b) “operating while in breach of a superannuation fund condition under the *Occupational Superannuation Standards Act 1987*” and substituting “not a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993* or is operating while in breach of that Act or regulations under that Act”;
- (c) by adding at the end the following subsection:

“(3) Section 39 of the *Superannuation Industry (Supervision) Act 1993* applies for the purposes of subsection (2) of this section in a corresponding way to the way in which it applies for the purposes of Division 2 of Part 5 of that Act.”.

Payment of shortfall component

58. Section 65 of the Principal Act is amended by omitting from subsection (2) all the words after “at the time the payment is” and substituting the following words and paragraphs:

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“made, the Commissioner has obtained a written statement, provided by or on behalf of the trustee of the fund, that the fund:

- (a) is a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993*; and
- (b) is not subject to a direction under section 63 of that Act.”.

Application of amendments

New definition of “superannuation fund”

59.(1) The amendment made by section 55 applies in relation to a fund for the 1994-95 year of income of the fund and for all later years of income.

Section 24

(2) The amendments made by section 56 apply to a scheme in relation to so much of a contribution period as occurs after the beginning of the scheme’s 1994-95 year of income.

Section 25

(3) The amendments made by section 57 apply to contributions made to a superannuation fund at or after the beginning of the fund’s 1994-95 year of income.

Section 65

(4) The amendment made by section 58 applies to a payment to a superannuation fund at or after the beginning of the fund’s 1994-95 year of income.

**PART 12—AMENDMENT OF THE SUPERANNUATION
(PRODUCTIVITY BENEFIT) ACT 1988**

Principal Act

60. In this Part, “**Principal Act**” means the *Superannuation (Productivity Benefit) Act 1988*¹¹.

Interpretation

61. Section 3 of the Principal Act is amended:

- (a) by omitting the definition of “Standards Act” from subsection (1);
- (b) by omitting the definitions of “approved deposit fund” and “superannuation fund” from subsection (1) and substituting the following definitions:

“**‘approved deposit fund’** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*;

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‘superannuation fund’ has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.”.

When benefit payable

62. Section 6 of the Principal Act is amended by omitting from subparagraph (7)(a)(i) “Standards Act” and substituting “*Superannuation Industry (Supervision) Act 1993*”.

Minister to comply with the *Superannuation Industry (Supervision) Act 1993*

63. Section 9D of the Principal Act is amended by omitting “Standards Act” and substituting “*Superannuation Industry (Supervision) Act 1993*”.

Application of amendments

64. The amendments made by this Part apply in relation to a fund for the 1994-95 year of income of the fund and for all later years of income.

**PART 13—AMENDMENT OF THE TAXATION
ADMINISTRATION ACT 1953**

Principal Act

65. In this Part, “**Principal Act**” means the *Taxation Administration Act 1953*¹².

Annual report

66. Section 3B of the Principal Act is amended by omitting subsection (1A).

Secrecy

67. Section 3C of the Principal Act is amended by omitting subsection (1AA).

Repeal of section 8AA

68. Section 8AA of the Principal Act is repealed.

Interpretation

69. Section 8J of the Principal Act is amended by omitting paragraph (2)(ka).

Court may order payment of amount in addition to penalty

70. Section 8W of the Principal Act is amended by omitting subsection (1A).

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Unauthorised requirement etc. that tax file number be quoted

71. Section 8WA of the Principal Act is amended by omitting from paragraph (1)(b) “or (h)” and substituting “, (h) or (i)”.

Unauthorised recording etc. of tax file number

72. Section 8WB of the Principal Act is amended by omitting from paragraphs (1)(d) and (e) “or (h)” and substituting “, (h) or (i)”.

Provision of Commonwealth taxation information to State taxation authorities

73. Section 13J of the Principal Act is amended by omitting subsection (7).

Certification by State taxation officer of copies of, and extracts from, documents

74. Section 13K of the Principal Act is amended by omitting subsection (10).

Appearance by Commissioner etc.

75. Section 15 of the Principal Act is amended by omitting subsection (3).

Certification by Commissioner of copies of, and extracts from, documents

76. Section 15A of the Principal Act is amended by omitting subsection (10).

Application of amendments

77. Despite the amendments made, and repeals effected, by this Part (other than sections 71 and 72), the Principal Act continues to apply, in relation to a matter arising out of a provision of the *Occupational Superannuation Standards Act 1987* repealed by:

(a) Division 2 of Part 3 of the *Taxation Laws Amendment (Superannuation) Act 1992*; or

(b) the *Occupational Superannuation Standards Amendment Act 1993*; as if those amendments had not been made and those repeals had not been effected.

**PART 14—AMENDMENT OF THE TAXATION LAWS
AMENDMENT (SUPERANNUATION) ACT 1992**

Principal Act

78. In this Part, “**Principal Act**” means the *Taxation Laws Amendment (Superannuation) Act 1992*¹³.

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Application

79. Section 69 of the Principal Act is amended:

(a) by omitting from subsection (1) “Principal Act continues” and substituting “RBL provisions of the Principal Act continue”;

(b) by adding at the end the following subsection:

“(4) In this section:

‘**RBL provisions of the Principal Act**’ means:

(a) Part IIIA of the Principal Act; and

(b) the remaining provisions of the Principal Act in so far as they relate to Part IIIA of the Principal Act.”.

NOTES

1. No. 106, 1988, as amended. For previous amendments, see No. 60, 1989; No. 33, 1991; and Nos. 10, 49 and 104, 1992.
2. No. 33, 1966, as amended. For previous amendments, see No. 121, 1968; No. 40, 1969; No. 122, 1970; No. 216, 1973; No. 56, 1975; Nos. 37, 91 and 161, 1976; No. 111, 1977; No. 155, 1979; Nos. 12 and 70, 1980; Nos. 74 and 176, 1981; No. 18, 1983; Nos. 10 and 63, 1984; Nos. 21 and 193, 1985; Nos. 154 and 168, 1986; Nos. 73 and 119, 1987; Nos. 8, 38 and 99, 1988; No. 129, 1989; No. 115, 1990; Nos. 9, 81, 143 and 210, 1992; and Nos. 11 and 32, 1993.
3. No. 109, 1989, as amended. For previous amendments, see No. 100, 1990; Nos. 100, 200 and 201, 1991; Nos. 27 and 210, 1992; and No. 32, 1993.
4. No. 27, 1936, as amended. For previous amendments, see No. 88, 1936; No. 5, 1937; No. 46, 1938; No. 30, 1939; Nos. 17 and 65, 1940; Nos. 58 and 69, 1941; Nos. 22 and 50, 1942; No. 10, 1943; Nos. 3 and 28, 1944; Nos. 4 and 37, 1945; No. 6, 1946; Nos. 11 and 63, 1947; No. 44, 1948; No. 66, 1949; No. 48, 1950; No. 44, 1951; Nos. 4, 28 and 90, 1952; Nos. 1, 28, 45 and 81, 1953; No. 43, 1954; Nos. 18 and 62, 1955; Nos. 25, 30 and 101, 1956; Nos. 39 and 65, 1957; No. 55, 1958; Nos. 12, 70 and 85, 1959; Nos. 17, 18, 58 and 108, 1960; Nos. 17, 27 and 94, 1961; Nos. 39 and 98, 1962; Nos. 34 and 69, 1963; Nos. 46, 68, 110 and 115, 1964; Nos. 33, 103 and 143, 1965; Nos. 50 and 83, 1966; Nos. 19, 38, 76 and 85, 1967; Nos. 4, 70, 87 and 148, 1968; Nos. 18, 93 and 101, 1969; No. 87, 1970; Nos. 6, 54 and 93, 1971; Nos. 5, 46, 47, 65 and 85, 1972; Nos. 51, 52, 53, 164 and 165, 1973; No. 216, 1973 (as amended by No. 20, 1974); Nos. 26 and 126, 1974; Nos. 80 and 117, 1975; Nos. 50, 53, 56, 98, 143, 165 and 205, 1976; Nos. 57, 126 and 127, 1977; Nos. 36, 57, 87, 90, 123, 171 and 172, 1978; Nos. 12, 19, 27, 43, 62, 146, 147 and 149, 1979; Nos. 19, 24, 57, 58, 124, 133, 134 and 159, 1980; Nos. 61, 92, 108, 109, 110, 111, 154 and 175, 1981; Nos. 29, 38, 39, 76, 80, 106 and 123, 1982; Nos. 14, 25, 39, 49, 51, 54 and 103, 1983; Nos. 14, 42, 47, 63, 76, 115, 124, 165 and 174, 1984; No. 12, 1984 (as amended by No. 65, 1985); Nos. 47, 49, 104, 123, 168 and 174, 1985; No. 173, 1985 (as amended by No. 49, 1986); Nos. 41, 46, 48, 51, 109, 112 and 154, 1986; No. 49, 1986 (as amended by No. 141, 1987); No. 52, 1986 (as amended by No. 141, 1987); No. 90, 1986 (as amended by No. 141, 1987); Nos. 23, 58, 61, 120, 145 and 163, 1987; No. 62, 1987 (as amended by No. 108, 1987); No. 108, 1987 (as amended by No. 138, 1987); No. 138, 1987 (as amended by No. 11, 1988); No. 139, 1987 (as amended by Nos. 11 and 78, 1988); Nos. 8, 11, 59, 75, 78, 80, 87,

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NOTES—continued

- 95, 97, 127 and 153, 1988; Nos. 2, 11, 56, 70, 73, 105, 107, 129, 163 and 167, 1989; No. 97, 1989 (as amended by No. 105, 1989); Nos. 20, 35, 45, 57, 58, 60, 61, 87, 119 and 135, 1990; Nos. 4, 5, 6, 48, 55 and 100, 1991; Nos. 3, 35, 69, 70, 80, 81, 92, 98, 101, 118, 138, 167, 190, 191, 208, 223, 224, 227, 237 and 238, 1992; and Nos. 7, 17, 18, 27 and 32, 1993.
5. No. 98, 1987, as amended. For previous amendments, see Nos. 55 and 122, 1991.
6. No. 135, 1991, as amended. For previous amendments, see Nos. 91 and 92, 1992.
7. No. 31, 1976, as amended. For previous amendments, see No. 51, 1976; No. 80, 1977; Nos. 17, 134, 336 and 170, 1978; Nos. 52 and 155, 1979; No. 177, 1980; No. 92, 1981; No. 92, 1983; Nos. 63 and 165, 1984; Nos. 80, 93, 151 and 153, 1986; No. 141, 1987; Nos. 38 and 130, 1988; Nos. 71, 97 and 125, 1989; No. 40, 1990; Nos. 13, 122 and 130, 1991; and Nos. 95, 185, 187 and 196, 1992.
8. No. 38, 1990, as amended. For previous amendments, see Nos. 13 and 130, 1991; and Nos. 187 and 196, 1992.
9. No. 39, 1990, as amended. For previous amendments, see No. 130, 1991; and No. 196, 1992.
10. No. 111, 1992, as amended. For previous amendments, see No. 208, 1992; and No. 7, 1993.
11. No. 70, 1988, as amended. For previous amendments, see No. 130, 1988; No. 40, 1990; No. 130, 1991; and No. 187, 1992.
12. No. 1, 1953, as amended. For previous amendments, see Nos. 28, 39, 40 and 52, 1953; No. 18, 1955; No. 39, 1957; No. 95, 1959; No. 17, 1960; No. 75, 1964; No. 155, 1965; No. 93, 1966; No. 120, 1968; No. 216, 1973; No. 133, 1974; No. 37, 1976; Nos. 19 and 59, 1979; Nos. 39 and 117, 1983; No. 123, 1984; No. 65, 1985 (as amended by No. 193, 1985); Nos. 4, 47, 104, 123 and 168, 1985; Nos. 41, 46, 48, 112, 144 and 154, 1986; No. 49, 1986 (as amended by No. 141, 1987); Nos. 120 and 145, 1987; No. 62, 1987 (as amended by No. 108, 1987); No. 108, 1987 (as amended by No. 138, 1987); No. 138, 1987 (as amended by No. 11, 1988); Nos. 95 and 97, 1988; Nos. 97, 105, 107, 124, 163 and 167, 1989; Nos. 20, 60, 61, 110, 119 and 136, 1990; Nos. 5, 6, 48, 100, 122 and 216, 1991; Nos. 47, 92, 98, 101, 118, 138, 208, 210 and 224, 1992; and No. 17, 1993.
13. No. 208, 1992, as amended. For previous amendments, see No. 7, 1993.

*[Minister's second reading speech made in—
House of Representatives on 27 May 1993
Senate on 18 October 1993]*