

Superannuation (Resolution of Complaints) Regulations 1994

Statutory Rules No. 56, 1994

made under the

Superannuation (Resolution of Complaints) Act 1993

**Compilation No. 14**

**Compilation date:** 25 April 2018

**Includes amendments up to:** F2018L00515

**Registered:** 8 May 2018

**About this compilation**

**This compilation**

This is a compilation of the *Superannuation (Resolution of Complaints) Regulations 1994* that shows the text of the law as amended and in force on 25 April 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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1 Name of Regulations

These Regulations are the *Superannuation (Resolution of Complaints) Regulations 1994*.

3 Interpretation

In these regulations:

***AFCA scheme*** has the same meaning as in Chapter 7 of the *Corporations Act 2001*.

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

4A Exempt public sector superannuation schemes taken to be regulated super funds (Act, s 4A)

An exempt public sector superannuation scheme specified in Schedule 1 is taken to be a regulated superannuation fund for the purposes of the Act.

4B Persons to be treated as beneficiaries, members etc (Act s 4B)

(1) For subsection 4B(1) of the Act, the following persons are to be treated as members of regulated superannuation funds for the purposes of paragraph 14(1)(a) and subparagraph 15(1)(b)(i) of the Act:

(a) a non‑member spouse in relation to whom a splitting order under the *Family Law Act 1975* has been made, from the day on which a copy of the order is served on the trustee;

(b) a non‑member spouse who is a party to a superannuation agreement under the *Family Law Act 1975*, from the day on which a copy of the agreement is served on the trustee;

(c) a party to a marriage in relation to which an order of a kind referred to in Part VIIIAA of the *Family Law Act 1975* has been made, if the order relates to a superannuation interest;

(d) an eligible person within the meaning of section 90MZB of the *Family Law Act 1975*.

(2) For subsection 4B(1) of the Act, the following persons are to be treated as beneficiaries of approved deposit funds for the purposes of paragraph 14(1)(b) and subparagraph 15(1)(b)(ii) of the Act:

(a) a non‑member spouse in relation to whom a splitting order under the *Family Law Act 1975* has been made, from the day on which a copy of the order is served on the trustee;

(b) a non‑member spouse who is a party to a superannuation agreement under the *Family Law Act 1975*, from the day on which a copy of the agreement is served on the trustee;

(c) a party to a marriage in relation to which an order of a kind referred to in Part VIIIAA of the *Family Law Act 1975* has been made, if the order relates to a superannuation interest;

(d) an eligible person within the meaning of section 90MZB of the *Family Law Act 1975*.

(3) For subsection 4B(1) of the Act, the following persons are to be treated as holders of RSAs for the purposes of subsection 15F(1) and paragraph 15G(1)(b) of the Act:

(a) a non‑member spouse in relation to whom a splitting order under the *Family Law Act 1975* has been made, from the day on which a copy of the order is served on the trustee;

(b) a non‑member spouse who is a party to a superannuation agreement under the *Family Law Act 1975*, from the day on which a copy of the agreement is served on the trustee;

(c) a party to a marriage in relation to which an order of a kind referred to in Part VIIIAA of the *Family Law Act 1975* has been made, if the order relates to a superannuation interest;

(d) an eligible person within the meaning of section 90MZB of the *Family Law Act 1975*.

5 Payment of death benefits—period for objections and complaints

For the purposes of paragraph 14(3)(b), subparagraph 15(2)(a)(ii), paragraph 15B(2)(b), subparagraph 15C(2)(a)(ii), paragraph 15F(2)(b), subparagraph 15G(2)(a)(ii), paragraph 15J(2)(b) and subparagraph 15K(2)(a)(ii) of the Act, the prescribed period is 28 days.

5A Statement of amount or amounts in respect of person’s contributed amounts—period to make complaint

For the purposes of subsection 15CA(2) of the Act, the prescribed period is 12 months.

6 Complaint handling bodies

For the purposes of subsection 22A(1) of the Act, the operator of the AFCA scheme is prescribed.

7 Method of calculation of interest

For the purposes of subparagraph 37A(3)(a)(iii), paragraph 37A(4)(c) and subparagraphs 37B(2)(a)(iii), 37D(3)(a)(iv), 37D(5)(a)(iv), 37F(3)(a)(iv) and 37F(5)(a)(iv) of the Act, interest on any:

(a) money received under a life policy; or

(b) money received in relation to a life policy fund; or

(c) money received under an annuity policy; or

(d) money received under an RSA; or

(e) money received under a contract of insurance, the premiums for which are paid from an RSA;

that is required by the Tribunal to be repaid is to be worked out in accordance with the formula:



where:

***p*** is the amount of money received in a particular calendar month.

***n*** is the number of whole calendar months since the end of that calendar month to the date of the repayment; and

***i*** is 0.05 ÷ 12, worked out to 5 decimal places.

8 Transitional provisions relating to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018*

(1) The amendments made by items 32, 33 and 35 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* apply on and after the day, under item 58 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*, on and after which the amendments made by Part 4 of Schedule 1 to that Act apply.

(2) The amendments made by item 49 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* apply on and after the day, under item 72 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018*, on and after which the amendments made by Part 5 of Schedule 1 to that Act apply.

Schedule 1—Exempt Public Sector Superannuation Schemes taken to be regulated superannuation funds

(regulation 4A)

**1. QUEENSLAND**

1.1 Parliamentary Contributory Superannuation Fund

1.2 State Public Sector Superannuation Scheme (Q Super)

**2.** **WESTERN AUSTRALIA**

2.1 Schemes established by or under the *State Superannuation Act 2000*, including the schemes continued by section 29 of that Act.

**3.** **SOUTH AUSTRALIA**

3.1 SA Metropolitan Fire Service Superannuation Scheme

3.2 Electricity Industry Superannuation Scheme

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 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.

Endnote 2—Abbreviation key

|  |  |
| --- | --- |
| ad = added or inserted | o = order(s) |
| am = amended | Ord = Ordinance |
| amdt = amendment | orig = original |
| c = clause(s) | par = paragraph(s)/subparagraph(s) |
| C[x] = Compilation No. x | /sub‑subparagraph(s) |
| Ch = Chapter(s) | pres = present |
| def = definition(s) | prev = previous |
| Dict = Dictionary | (prev…) = previously |
| disallowed = disallowed by Parliament | Pt = Part(s) |
| Div = Division(s) | r = regulation(s)/rule(s) |
| ed = editorial change | reloc = relocated |
| exp = expires/expired or ceases/ceased to have | renum = renumbered |
| effect | rep = repealed |
| F = Federal Register of Legislation | rs = repealed and substituted |
| gaz = gazette | s = section(s)/subsection(s) |
| LA = *Legislation Act 2003* | Sch = Schedule(s) |
| LIA = *Legislative Instruments Act 2003* | Sdiv = Subdivision(s) |
| (md) = misdescribed amendment can be given | SLI = Select Legislative Instrument |
| effect | SR = Statutory Rules |
| (md not incorp) = misdescribed amendment | Sub‑Ch = Sub‑Chapter(s) |
| cannot be given effect | SubPt = Subpart(s) |
| mod = modified/modification | underlining = whole or part not |
| No. = Number(s) | commenced or to be commenced |

Endnote 3—Legislation history

| Number and year | FRLI registration or gazettal | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| 1994, 56 | 11 Mar 1994 | 1 July 1994 |  |
| 1994, 374 | 1 Nov 1994 | 1 Nov 1994 | — |
| 1995, 77 | 21 Apr 1995 | 21 Apr 1995 | — |
| 1995, 318 | 26 Oct 1995 | 1 Nov 1995 | — |
| 1995, 429 | 22 Dec 1995 | 22 Dec 1995 | — |
| 1996, 151 | 12 July 1996 | 12 July 1996 | — |
| 1996, 306 | 18 Dec 1996 | 3 Feb 1997 | — |
| 1997, 9 | 12 Feb 1997 | 14 Feb 1997 | — |
| 1997, 115 | 21 May 1997 | 1 June 1997 | — |
| 1997, 118 | 29 May 1997 | 2 June 1997: (r 1 and gaz 1997, No S202) | — |
| 1997, 307 | 5 Nov 1997 | 5 Nov 1997 | — |
| 1998, 84 | 5 May 1998 | 5 May 1998 | — |
| 2001, 38 | 1 Mar 2001 | 1 Mar 2001 | — |
| 2005, 336 | 19 Dec 2005 (F2005L03988) | 20 Dec 2005 | — |
| 2005, 337 | 19 Dec 2005 (F2005L03891) | 20 Dec 2005 | — |
| 2006, 369 | 14 Dec 2006 (F2006L04019) | 15 Dec 2006 | — |
| 2008, 95 | 2 June 2008 (F2008L01741) | 3 June 2008 | — |

| Name | Registration | Commencement | Application, saving and transitional provisions |
| --- | --- | --- | --- |
| Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018 | 24 April 2018 (F2018L00515) | Sch 1 (items 32–35, 49–51): 25 April 2018 (s 2(1) item 4, 7) | — |

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| r. 1 | rs. 2001 No. 38 |
| r 2 | rep LA s 48D |
| r. 3 | am. 1995 No. 318; 1997 No. 118; F2018L00515 |
| r. 4 | ad. 1994 No. 374 |
|  | am. 1995 No. 77 |
|  | rs. 1995 No. 318 |
|  | rep. 1997 No. 118 |
| r. 4A | ad. 1996 No. 306 |
| r. 4B | ad. 2005 No. 337 |
| r. 5 | rs. 1995 No. 429 |
|  | am. 1997 No. 118 |
| r. 5A | ad. 1997 No. 307 |
| r. 6 | ad. 1995 No. 429 |
|  | am. 1996 No. 306 |
|  | rs. 2008 No. 95; F2018L00515 |
| r. 7 | ad. 1996 No. 151 |
|  | am. 1997 No. 118 |
| r 8 | ad F2018L00515 |
| **Schedule 1** |  |
| Schedule 1 | ad. 1996 No. 306 |
|  | rs. 1997 No. 9 |
|  | am. 1997 No. 115; 1998 No. 84; 2005 No. 336; 2006 No. 369; 2008 No. 95 |
| Schedule heading | rep. 1996 No. 306 |
| Schedule 2 heading | ad. 1996 No. 306 |
|  | rep F2018L00515 |
| Schedule | ad. 1995 No. 429 |
|  | rep F2018L00515 |
| Schedule 2 | am. 1997 No. 118 |
|  | rs. 2001 No. 38 |
|  | rep F2018L00515 |