

Superannuation (Resolution of Complaints) Regulations (Amendment) 1997 No. 307

EXPLANATORY STATEMENT

STATUTORY RULES 1997 No. 307

Issued by the authority of the Assistant Treasurer

Superannuation (Resolution of Complaints) Act 1993

Superannuation (Resolution of Complaints) Regulations (Amendment)

The *Superannuation (Resolution of Complaints) Act 1993* (the Act) established, with effect from 1 July 1994, the Superannuation Complaints Tribunal (the Tribunal). The Tribunal has the objectives of providing a fair, economical, informal and quick alternative to the courts for resolution of disputes between members of certain regulated superannuation funds and approved deposit funds and the trustees of the fund.

Section 68 of the Act provides that the Governor-General may make regulations for the purposes of the Act.

Amendments to the Act, effected by the *Superannuation Contributions Tax (Consequential Amendments) Act 1997*, insert new section 15CA which expands the jurisdiction of the Tribunal by allowing it to deal with complaints concerning the calculation of superannuation contributions subject to the superannuation contributions surcharge (the surcharge).

In particular, section 15CA of the Act enables a person, in respect of whom a superannuation provider has given to the Commissioner of Taxation a statement setting out the amount of the person's superannuation contributions that are subject to the surcharge, to complain to the Tribunal that the decision to set out that amount in the statement was unfair or unreasonable. Where a person who has been given a copy of the statement given by the superannuation provider to the Commissioner of Taxation is also given a notice setting out the prescribed period within which the person must complain to the Tribunal about the decision of the superannuation provider, the person may only complain to the Tribunal within that period.

The Regulations insert a new regulation to provide that the prescribed period for the purposes of section 15CA of the Act is twelve months. A prescribed time limit of twelve months is consistent with the existing time limits in the Act which are generally 12 months from the date of a superannuation provider's original decision. In addition, it is considered that 12 months achieves a balance between requiring persons to make a complaint to the Tribunal within a reasonable time and allowing sufficient time for a person to take the matter up with their superannuation provider in the first instance.

The Regulations commence on gazettal.