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F.R.L.I.

1998B00077



Statutory Rules 1998 No. *K*¹

82

Retirement Savings Accounts Regulations² (Amendment)

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Retirement Savings Accounts Act 1997*.

Dated **28 APR 1998** 1998.

WILLIAM DEANE

Governor-General

By His Excellency's Command,

K

Assistant Treasurer

C. R. KEMP

1. Commencement

1.1 Regulation 6 commences on 1 November 1998.

1.2 The remainder of these Regulations commence on gazettal.

2. Amendment

2.1 The Retirement Savings Accounts Regulations are amended as set out in these Regulations.

3. Regulation 2.35 (Specific requirements)

3.1 Omit the regulation, substitute:

“**2.35.** On request in writing by a concerned person or by an employer who:

- (a) contributes to the RSA on behalf of the RSA holder; or
- (b) would, apart from a temporary cessation of contributions, contribute to the RSA on behalf of the RSA holder;

the RSA provider must give to the concerned person or employer a copy of the terms and conditions of the RSA.”.

4. Regulation 4.01 (Interpretation)

4.1 Subregulation 4.01 (2):

Insert the following definition:

“**transitional period**, in relation to a superannuation fund (within the meaning of the SIS Act), means the period beginning at the beginning of the fund’s 1994-1995 year of income and ending:

- (a) in the case of a public sector superannuation scheme (within the meaning of the SIS Act)—at the end of the day when the scheme became an exempt public sector superannuation scheme; or
- (b) in any other case—at the end of the day when the trustee of the fund lodges an election under section 19 of that Act.”.

5. New regulation 4.17A

5.1 After regulation 4.17, insert:

When benefits rolled over or transferred are unrestricted non-preserved benefits

“4.17A. Benefits rolled over or transferred to an RSA are unrestricted non-preserved benefits if:

- (a) the benefits were rolled over or transferred from:
 - (i) a superannuation fund (*Fund A*) during its transitional period; or
 - (ii) a regulated superannuation fund or an approved deposit fund to which the benefits were rolled over or transferred from a superannuation fund (*Fund B*) during its transitional period; and
- (b) the RSA provider is reasonably satisfied that:
 - (i) during the transitional period of Fund A or Fund B, there arose in relation to the benefits a circumstance that would have resulted in the satisfaction of a condition of release and a ‘Nil’ cashing restriction if the SIS Regulations applied; or
 - (ii) before the benefits were rolled over or transferred to Fund A or Fund B from a regulated superannuation fund or an approved deposit fund, the relevant cashing restriction set out in Schedule 1 of the SIS Regulations in respect of the benefits was ‘Nil’.”.

6. Regulation 4.18 (Redistribution of benefits by operation of terms and conditions or action of RSA provider)

6.1 Subregulation 4.18 (2):

After “but”, insert “, subject to subregulation (3),”.

6.2 Add at the end:

“(3) The RSA provider may alter the category of benefits from preserved benefits or restricted non-preserved benefits to unrestricted non-preserved benefits if, before the commencement of regulation 4.17A:

- (a) the benefits were rolled over or transferred from:
 - (i) a superannuation fund (*Fund A*) during its transitional period; or
 - (ii) a regulated superannuation fund or an approved deposit fund to which the benefits were rolled over or transferred from a superannuation fund (*Fund B*) during its transitional period; and
- (b) the RSA provider is reasonably satisfied that:
 - (i) during the transitional period of Fund A or Fund B, there arose in relation to the benefits a circumstance that would have resulted in the satisfaction of a condition of release and a ‘Nil’ cashing restriction if the SIS Regulations applied; or
 - (ii) before the benefits were rolled over or transferred to Fund A or Fund B from a regulated superannuation fund or an approved deposit fund, the relevant cashing restriction set out in Schedule 1 of the SIS Regulations in respect of the benefits was ‘Nil’.”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 1998. 5 May/
2. Statutory Rules 1997 No. 116 as amended by 1997 Nos. 150, 151, 242, 294, 308 and 342.