



# Superannuation Industry (Supervision) Amendment Regulations 2005 (No. 2)<sup>1</sup>

**Select Legislative Instrument 2005 No. 56**

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Superannuation Industry (Supervision) Act 1993*.

Dated 23 March 2005

P. M. JEFFERY  
Governor-General

By His Excellency's Command

MAL BROUGH  
Minister for Revenue and Assistant Treasurer

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**1 Name of Regulations**

These Regulations are the *Superannuation Industry (Supervision) Amendment Regulations 2005 (No. 2)*.

**2 Commencement**

These Regulations commence on 1 July 2005.

**3 Amendment of *Superannuation Industry (Supervision) Regulations 1994***

Schedule 1 amends the *Superannuation Industry (Supervision) Regulations 1994*.

**Schedule 1 Amendments**

(regulation 3)

**[1] Subregulation 6.01 (2), after definition of *lump sum***

*insert*

***non-commutable allocated annuity*** means an annuity provided under a contract that:

- (a) meets the standards of subregulation 1.05 (4); and
- (b) ensures that payments of benefits are made only in accordance with the rules set out in regulations 6.16, 6.18, 6.19 and 6.22A, as if:
  - (i) the annuity were a regulated superannuation fund; and
  - (ii) the annuitant were a member of the fund; and
  - (iii) the annuity provider were a trustee of the fund; and

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- (c) ensures that, if the annuity is commuted, the resulting eligible termination payment cannot be cashed unless:
- (i) the purpose of the commutation is:
    - (A) to cash an unrestricted non-preserved benefit; or
    - (B) to pay a superannuation contributions surcharge; or
    - (C) to give effect to an entitlement of a non-member spouse under a payment split; or
  - (ii) before commutation, the annuitant has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted non-preserved benefits is 'Nil'.

***non-commutable allocated pension*** means a pension provided under rules of a superannuation fund that:

- (a) meet the standards of subregulation 1.06 (4); and
- (b) ensure that, if the pension is commuted, the resulting eligible termination payment cannot be cashed unless:
  - (i) the purpose of the commutation is:
    - (A) to cash an unrestricted non-preserved benefit; or
    - (B) to pay a superannuation contributions surcharge; or
    - (C) to give effect to an entitlement of a non-member spouse under a payment split; or
  - (ii) before commutation, the pensioner has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted non-preserved benefits is 'Nil'.

***non-commutable annuity*** means an annuity provided under a contract that:

- (a) meets the standards of subregulation 1.05 (2), (9) or (10); and

- (b) ensures that payments of benefits are made only in accordance with the rules set out in regulations 6.16, 6.18, 6.19 and 6.22A, as if:
  - (i) the annuity were a regulated superannuation fund; and
  - (ii) the annuitant were a member of the fund; and
  - (iii) the annuity provider were a trustee of the fund; and
- (c) ensures that, if the annuity is commuted under subparagraph 1.05 (2) (f) (i), (9) (h) (i) or (10) (d) (i), the resulting eligible termination payment cannot be cashed unless:
  - (i) the purpose of the commutation is to cash an unrestricted non-preserved benefit; or
  - (ii) before commutation, the annuitant has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted non-preserved benefits is 'Nil'.

***non-commutable pension*** means a pension provided under rules of a superannuation fund that:

- (a) meet the standards of subregulation 1.06 (2), (7) or (8); and
- (b) ensure that, if the pension is commuted under subparagraph 1.06 (2) (e) (i), (7) (g) (i) or (8) (d) (i), the resulting eligible termination payment cannot be cashed unless:
  - (i) the purpose of the commutation is to cash an unrestricted non-preserved benefit; or
  - (ii) before commutation, the pensioner has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted non-preserved benefits is 'Nil'.

**[2] Schedule 1, Part 1, after item 109***insert*

- 109A Attaining preservation age One or more of the following:
- (a) a non-commutable allocated annuity;
  - (b) a non-commutable allocated pension;
  - (c) a non-commutable annuity;
  - (d) a non-commutable pension

**[3] Schedule 1, Part 2, after item 207***insert*

- 208 Attaining preservation age One or more of the following:
- (a) a non-commutable allocated annuity;
  - (b) a non-commutable allocated pension;
  - (c) a non-commutable annuity;
  - (d) a non-commutable pension

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).