

EXPLANATORY STATEMENT

Select Legislative Instrument 2013 No. 157

Issued by the Authority of the Treasurer

Banking Act 1959

Banking Amendment Regulation 2013 (No. 2)

Section 71 of the *Banking Act 1959* (Banking Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Amendment of Banking Regulations 1966

Under subsection 69(1D) of the Banking Act, regulations can specify an account to which the unclaimed moneys provision (i.e. subsection 69(1)) does not apply.

The Regulation would specify that where an account holder or their agent (for example, advisor, agency, guardian and authorised user) has notified their authorised deposit taking institution (ADI) within the last three years that they want to keep their account as active, then subsection 69(1) would not apply. This would avoid the need for an account holder or their agent to make a transaction to prevent their account from being classified as unclaimed and transferred to the Commonwealth.

An account holder or their agent can notify the ADIs via mail and email, in person, by phone, or through any other contact method acceptable to the ADI.

Treasury consulted with the Australian Bankers' Association and Abacus, the industry groups which represent authorised deposit-taking institutions in Australia.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commences on 1 July 2013.

ATTACHMENT A

Details of the *Banking Amendment Regulation 2013 (No. 2)*

Regulation 1 specifies the name of the Regulation as the *Banking Amendment Regulation 2013 (No. 2)*

Regulation 2 provides that the Regulation will commence on 1 July 2013.

Regulation 3 provides that Schedule 1 amends the *Banking Regulations 1966*.

Schedule 1

Specifies an account that subsection 69(1) does not apply to is where the account holder or their agent has notified the ADI (within the last three years) that the holder wishes to treat the account as active.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

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This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

Subsection 69(1D) of the *Banking Act 1959* (Banking Act) allows regulations to specify accounts that unclaimed moneys provision does not apply to. The Regulation will specify accounts, where account holders have notified their authorised deposit taking institutions that they are aware of the accounts and want to keep the accounts active, for the purpose of subsection 69(1D).

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.