

EXPLANATORY STATEMENT

Issued by authority of the Assistant Treasurer and Minister for Financial Services

Superannuation (Unclaimed Money and Lost Members) Amendment (No. 1) Regulations 2023

Section 50 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (the 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.

The purpose of the *Superannuation (Unclaimed Money and Lost Members) Amendment (No. 1) Regulations 2023* is to prescribe additional public sector superannuation schemes in the relevant lists under the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019*.

The Act requires superannuation providers to report and pay certain amounts to the Commissioner of Taxation. Amounts received by the Commissioner of Taxation can then be paid to the persons entitled to them or paid into funds in which the member is active. The payment provisions in the Act generally do not apply to public sector superannuation schemes unless they are prescribed for that purpose. Part 7 of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* lists prescribed public sector superannuation schemes. Part 7 of the Regulations prescribes certain public sector superannuation schemes to enable them to pay unclaimed money, unclaimed superannuation of former temporary residents, inactive low-balance accounts, and lost member accounts.

A number of South Australian public sector superannuation schemes have already been prescribed in Part 7. The additional South Australian public sector superannuation schemes are being prescribed by the Regulations at the request of the South Australian Government. As these regulations implement that request, and the regulations are minor or machinery in nature, consultation was not undertaken with respect to these regulations.

The Act does not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003* and are subject to disallowance and sunseting.

The Regulations commenced on the day after registration.

Details of the Regulations are set out in [Attachment 1](#).

A statement of Compatibility with Human Rights is at [Attachment 2](#).

The Office of Impact Analysis has been (OIA) has been consulted (OIA23-05399) and agreed that Impact Analysis is not required.

Details of the *Superannuation (Unclaimed Money and Lost Members) Amendment (No. 1) Regulations 2023*

Section 1 – Name

This section provides that the name of the regulations is the *Superannuation (Unclaimed Money and Lost Members) Amendment (No. 1) Regulations 2023* (the Regulations).

Section 2 – Commencement

Schedule 1 to the Regulations commenced on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

The Regulations are made under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (the Act).

Section 4 – Schedule

This section provides that each instrument that is specified in the Schedules to this instrument are amended as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms.

Schedule 1 – Amendments

The Act requires superannuation providers to report and pay certain amounts to the Commissioner of Taxation. Amounts received by the Commissioner of Taxation can then be paid to the persons entitled to them or paid into funds in which the member is active. The payment provisions in the Act generally do not apply to public sector superannuation schemes unless they are prescribed for that purpose. Part 7 of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* lists prescribed public sector superannuation schemes.

The table in section 15 of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* lists prescribed public sector superannuation schemes eligible to pay unclaimed money to the Commissioner, for the purposes of section 18AA of the Act. Item 1 updates this list by adding the Super SA Flexible Rollover Product and Super SA Income Stream (both established by the *Southern State Superannuation Act 2009* (SA)) to the table.

The table in section 17 of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* lists prescribed public sector superannuation schemes eligible to pay the Commissioner payments in respect of inactive low-balance accounts, for the purposes of section 20QH of the Act. Item 2 updates this list by adding the Super SA Flexible Rollover Product and Super SA Income Stream (both established by the *Southern State Superannuation Act 2009* (SA)) to the table.

The table in section 17A of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* lists prescribed public sector superannuation schemes eligible to pay voluntary amounts to the Commissioner where such accounts do not satisfy the criteria of the other transfer regimes and where it is in a member's best interests to do so, for the purposes of section 22D of the Act. Item 3 updates this list by adding the Southern State Superannuation Scheme, Super SA Flexible Rollover Product and Super SA Income Stream (all established by the *Southern State Superannuation Act 2009* (SA)), as well as Super SA Select (established by the Trust Deed and Rules dates 18 December 2012), to the table.

The table in section 18 of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* lists prescribed public sector superannuation schemes eligible to make payments in respect of lost member accounts to the Commissioner, for the purposes of section 24HA of the Act. Item 4 updates this list by adding the Super SA Flexible Rollover Product and Super SA Income Stream (both established by the *Southern State Superannuation Act 2009* (SA)) to the table.

The schemes were prescribed at the request of the South Australian Government.

Statement of Compatibility with Human Rights

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

Superannuation (Unclaimed Money and Lost Members) Amendment (No. 1) Regulations 2023

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

The purpose of the Regulations is to prescribe additional public sector superannuation schemes in the relevant lists under the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019*, at the request of the South Australian Government.

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.