



Life Insurance (Consequential Amendments and Repeals) Act 1995

No. 5 of 1995

**An Act to amend and to repeal certain Acts in consequence
of the enactment of the *Life Insurance Act 1995*, and for
other purposes**

[Assented to 23 February 1995]

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Life Insurance (Consequential Amendments and Repeals) Act 1995*.

Commencement

2. This Act commences on the day on which the *Life Insurance Act 1995* commences.

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Application

3.(1) The amendments made by this Act to the *Defence Force Retirement and Death Benefits Act 1973*, the *Defence Forces Retirement Benefits Act 1948*, the *Parliamentary Contributory Superannuation Act 1948* or the *Superannuation Act 1976* only apply to a transfer value (within the meaning of that Act) that has become payable to or in respect of a person on or after the commencement of this Act.

(2) The amendments made by this Act to the *Income Tax Assessment Act 1936* only apply to the 1994-95 year of income and the subsequent years of income.

(3) In subsection (2), “**year of income**” has the same meaning as in the *Income Tax Assessment Act 1936*.

PART 2—CONSEQUENTIAL AMENDMENTS

Consequential amendments

4.(1) The Acts specified in Part 1 of the Schedule are amended as set out in that Part.

(2) The Corporations Law set out in section 82 of the *Corporations Act 1989*² is amended as set out in Part 2 of the Schedule.

PART 3—REPEAL OF ACTS

Repeal of Acts

5. The following Acts are repealed:

- (a) the *Life Insurance Act 1945*;
 - (b) the *Life Insurance Policy Holders' Protection Levies Act 1991*;
 - (c) the *Life Insurance Policy Holders' Protection Levies Collection Act 1991*.
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SCHEDULE

PART 1

Subsection 4(1)

AMENDMENTS OF ACTS

Defence Force Retirement and Death Benefits Act 1973

1. Subsection 66(1) (definition of “life policy”):

Omit the definition, substitute:

“ ‘life policy’ has the same meaning as in the *Life Insurance Act 1995*;”.

2. Subsection 66(1):

Insert:

“ ‘owner of a life policy’ has the same meaning as in the *Life Insurance Act 1995*;”.

3. Subsection 68(3):

Omit all the words from and including “he had the legal title” to and including “by his employer”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her, being a policy the premiums for which were, while the person was employed in that employment, paid in whole or in part by the person’s employer”.

4. Subsection 68(4):

(a) Omit “he had the legal title to a life policy, or was entitled to have the legal title to a life policy assigned to him”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her”.

(b) Omit “he had the legal title to that policy, or was entitled to have the legal title to that policy assigned to him”, substitute “the person was the owner of that policy, or was entitled to have the rights of the owner of that policy assigned to him or her”.

5. Subsection 84(1):

Omit “he” (wherever occurring), substitute “the person”.

6. Paragraph 84(1)(b):

(a) Omit “him” (first occurring), substitute “the person”.

(b) Omit all the words from and including “by reason of his having” to and including “assigned to him”, substitute “because the person was the owner of a life policy or policies of a kind referred to in that subsection, or because the person was entitled to have the rights of the owner of such a policy or policies assigned to him or her”.

SCHEDULE—continued

Defence Forces Retirement Benefits Act 1948

7. Subsection 82J(1) (definition of “life policy”):

Omit the definition, substitute:

“ ‘life policy’ has the same meaning as in the *Life Insurance Act 1995*;”.

8. Subsection 82J(1):

Insert:

“ ‘owner of a life policy’ has the same meaning as in the *Life Insurance Act 1995*;”.

9. Subsection 82L(3):

Omit all the words from and including “he had the legal title” to and including “by his employer”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her, being a policy the premiums for which were, while the person was employed in that employment, paid in whole or in part by the person’s employer”.

10. Subsection 82L(4):

(a) Omit “he had the legal title to a life policy, or was entitled to have the legal title to a life policy assigned to him”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her”.

(b) Omit “he had the legal title to that policy, or was entitled to have the legal title to that policy assigned to him”, substitute “the person was the owner of that policy, or was entitled to have the rights of the owner of that policy assigned to him or her”.

11. Subsection 82ZH(1):

Omit “he” (wherever occurring), substitute “the person”.

12. Paragraph 82ZH(1)(b):

(a) Omit “him” (first occurring), substitute “the person”.

(b) Omit all the words from and including “by reason of his having” to and including “assigned to him”, substitute “because the person was the owner of a life policy or policies of a kind referred to in that subsection, or because the person was entitled to have the rights of the owner of such a policy or policies assigned to him or her”.

SCHEDULE—continued

Financial Corporations Act 1974

13. Paragraph 8(2)(f):

Omit “*Life Insurance Act 1945-1973*”, substitute “*Life Insurance Act 1995*”.

Income Tax Assessment Act 1936

14. Subsection 6(1) (definition of “SGIO”):

Omit the definition, substitute:

“‘**SGIO**’ means a public authority that:

(a) is constituted by a law of a State or Territory; and

(b) carries on life insurance business within the meaning of section 11 of the *Life Insurance Act 1995*;”.

15. Subsection 110(1) (definition of “Australian statutory fund”):

Omit “*Life Insurance Act 1945-1959*”, substitute “*Life Insurance Act 1995*”.

16. Subsection 110(1) (paragraph (a) of the definition of “authorised actuary”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.

17. Subsection 110(1) (definition of “ordinary life assurance company”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.

18. Paragraph 402(2A)(d):

Omit “Division 3 of Part III of the *Life Insurance Act 1945*”, substitute “Part 4 of the *Life Insurance Act 1995*”.

19. Section 470 (definition of “life insurance business”):

Omit the definition, substitute:

“‘**life insurance business**’ has the same meaning as in section 11 of the *Life Insurance Act 1995*;”.

20. Subsections 482(1) and (2):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.

21. Paragraph 507(11)(b):

Omit “Division 3 of Part III of the *Life Insurance Act 1945*”, substitute “Part 4 of the *Life Insurance Act 1995*”.

SCHEDULE—continued

Insurance Acquisitions and Takeovers Act 1991

- 22. Section 4 (paragraph (b) of the definition of “accounting period”):**
Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.
- 23. Section 4 (paragraph (b) of the definition of “Australian-registered insurance company”):**
Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.
- 24. Section 4 (subparagraph (a)(ii) of the definition of “book value”):**
Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.
- 25. Section 4 (definition of “contract of life insurance”):**
Omit the definition, substitute:
“‘contract of life insurance’ means a life policy or sinking fund policy, within the meaning of the *Life Insurance Act 1995*;”.
- 26. Section 4 (definition of “life insurance business”):**
Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.
- 27. Section 4 (paragraph (a) of the definition of “total book net liabilities”):**
Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.
- 28. Section 4 (paragraph (b) of the definition of “value”):**
Omit “or section 52 of the *Life Insurance Act 1945*”, substitute “, or had given the Commissioner financial statements as at the end of that accounting period under section 82 of the *Life Insurance Act 1995*”.
- 29. Subparagraph 36(c)(ii):**
Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.
- 30. Subsection 75(2):**
Omit “or the *Life Insurance Act 1945*”, substitute “or the *Life Insurance Act 1995*”.
- 31. Subparagraph 77(1)(b)(i):**
Omit the subparagraph, substitute:
“(i) a company registered under the *Life Insurance Act 1995* has given the Commissioner financial statements as at the end of a particular accounting period under section 82 of that Act;”.

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SCHEDULE—continued

32. Subparagraph 77(1)(b)(ii):

Omit “accounts”, substitute “statements”.

33. Subsections 77(2) and (3):

After “accounts” insert “or statements”.

34. Paragraph 78(1)(a):

Omit the paragraph, substitute:

“(a) a company registered under the *Life Insurance Act 1995* has given the Commissioner financial statements as at the end of a particular accounting period under section 82 of that Act; and”.

35. Paragraph 78(1)(b) and subsections 78(2) and (3):

Omit “accounts”, substitute “statements”.

Insurance Act 1973

36. Subsection 3(1) (definition of “life insurance business”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.

37. Paragraphs 30(1)(f) and 31(1)(b):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.

Insurance (Agents and Brokers) Act 1984

38. Section 9 (definition of “life insurance business”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.

39. Subsection 38(4):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.

40. Section 45:

Omit “section 11 of the *Life Insurance Act 1945*”, substitute “section 231 of the *Life Insurance Act 1995*”.

Insurance and Superannuation Commissioner Act 1987

41. Section 3 (definition of “life insurance business”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.

Insurance Contracts Act 1984

42. Subsection 11(1):

Insert:

SCHEDULE—continued

“**‘continuous disability insurance policy’** means a contract that is a continuous disability policy within the meaning of the *Life Insurance Act 1995*;

‘contract of life insurance’ means a contract that constitutes a life policy within the meaning of the *Life Insurance Act 1995*;”.

43. Subsections 11(3) and (5):

Omit the subsections.

44. Subsection 16(2):

Omit the subsection.

45. Division 2 of Part III:

Omit the Division, substitute:

“Division 2—other contracts of insurance

Insurable interest not required

“18.(1) This section applies to:

(a) a contract of life insurance; or

(b) a contract that provides for the payment of money on the death of a person by sickness or accident.

“(2) A contract to which this section applies is not void by reason only that the insured did not have, at the time when the contract was entered into, an interest in the subject-matter of the contract.”.

46. Subsections 48(4) and (5):

Omit the subsections.

47. After section 48:

Insert:

Life policy for the benefit of another person

“48A.(1) This section applies to a contract of life insurance effected on the life of a person but expressed to be for the benefit of another person specified in the contract (the **‘third party’**).

“(2) The following provisions have effect in relation to a contract to which this section applies:

(a) any money that becomes payable under the contract is payable to the third party, even though he or she is not a party to the contract;

SCHEDULE—continued

(b) money paid under the contract does not form part of the estate of the person whose life is insured.

“(3) Nothing in this section restricts the capacity of a person to exercise any right or power under a contract of life insurance to which the person is a party. In particular, nothing in this section restricts the capacity of a person:

- (a) to surrender a contract of life insurance to which the person is a party;
or
- (b) to borrow money on the security of a contract of life insurance; or
- (c) to obtain a variation of a contract of life insurance, including a variation having the result that the contract ceases to be a contract to which this section applies.”.

48. Subsection 59(3):

Omit the subsection, substitute:

“(3) This section does not apply to a contract of life insurance if the life policy that is constituted by the contract may be forfeited in accordance with subsection 210(5) of the *Life Insurance Act 1995*.”.

49. Subsection 64(2):

Omit “Where”, substitute “Subject to subsection (6) and section 64B, where”.

50. Subsection 64(3):

Omit the subsection, substitute:

“(3) A reference in this section to a policy document does not include a reference to a replacement policy document issued as mentioned in subsection 221(3) of the *Life Insurance Act 1995*.”.

51. Section 64:

Add at the end:

“(6) If:

- (a) tax of any kind has been paid, or is payable, by the insurer because of the making of the cancelled contract; and
- (b) either:
 - (i) in a case in which the tax has been paid—the insurer is unable to obtain a refund of the tax; or
 - (ii) in a case in which the tax has not been paid—the tax does not cease to be payable as a result of the cancellation of the contract;

SCHEDULE—continued

the amount that would otherwise be payable under subsection (2) is reduced by the amount of the tax.”.

52. After section 64A:

Insert in Part VII:

Special provision regarding investment-linked contracts

“64B.(1) In this section:

‘**allocation price**’, in relation to an investment-linked contract, means the amount that represents the value of an investment unit for the purposes of the issue of the contract;

‘**investment-linked contract**’ has the same meaning as in the *Life Insurance Act 1995*;

‘**investment unit**’, in relation to an investment-linked contract, means a unit by reference to the value of which benefits under the contract are to be calculated.

“(2) If, on the day on which an investment-linked contract is cancelled, the amount that would have been the allocation price if the contract had been entered into on that day is less than the allocation price on the day on which the contract was entered into, the amount otherwise payable under subsection 64(2) is reduced by the adjustment amount.

“(3) If, on the day on which an investment-linked contract is cancelled, the amount that would have been the allocation price if the contract had been entered into on that day is greater than the allocation price on the day on which the contract was entered into, the amount otherwise payable under subsection 64(2) is increased by the adjustment amount.

“(4) The adjustment amount is worked out as follows:

- (a) work out the difference between the allocation price on the day on which the contract was entered into and the allocation price on the day on which the contract is cancelled;
- (b) multiply the difference by the number of investment units to which the contract relates;
- (c) the result is the adjustment amount.”.

Insurance Supervisory Levies Collection Act 1989

53. Section 3 (definition of “company”):

After “*Life Insurance Act 1945*” insert “as in force immediately before the commencement of the *Life Insurance Act 1995*”.

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SCHEDULE—continued

54. Section 3 (paragraph (b) of the definition of “leviable day”):

Omit “or”.

55. Section 3 (definition of “leviable day”):

Add at the end:

“or (d) in relation to a life company—a day during any part of which the company was registered, or was taken to be registered, under the *Life Insurance Act 1995*;”.

56. Section 3:

Insert:

“‘**life company**’ means a company that is required to give financial statements under subsection 82(1) of the *Life Insurance Act 1995*;
‘*Life Insurance Act 1945*’ means the *Life Insurance Act 1945* as in force from time to time before the commencement of the *Life Insurance Act 1995* and includes the *Life Insurance Act 1945* as in force under section 258 of the *Life Insurance Act 1995*;”.

57. Subsection 5(2):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.

58. Section 6:

Add at the end:

“(4) If:

(a) a financial year of a life company ends on or after the date of commencement of the *Life Insurance Act 1995*; and

(b) that financial year includes a leviable day;

the life company is liable to pay a levy for the period that consists of that financial year.”.

59. Subsection 7(3):

After “company” (first occurring) insert “, other than a life company;”.

60. After subsection 7(3):

Insert:

“(3A) Life insurance levy payable by a life company for a period is due and payable on the last day of the period within which the company is required by subsection 118(3) of the *Life Insurance Act 1995* to give to the Commissioner financial statements as at the end of that period.”.

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SCHEDULE—continued

61. Subsection 7(4):

After “accounts” insert “or financial statements”.

Life Insurance Supervisory Levy Act 1989

62. Title:

After “required to lodge accounts under the *Life Insurance Act 1945*” insert “or to give financial statements under the *Life Insurance Act 1995*”.

63. Section 5:

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1995*”.

Parliamentary Contributory Superannuation Act 1948

64. Subsection 4(1) (definition of “life policy”):

Omit the definition, substitute:

“ ‘life policy’ has the same meaning as in the *Life Insurance Act 1995*;”.

65. Subsection 4(1):

Insert:

“ ‘owner of a life policy’ has the same meaning as in the *Life Insurance Act 1995*;”.

66. Subsection 4A(3):

Omit all the words from and including “he had the legal title” to and including “by his employer”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her, being a policy the premiums for which were, while the person was employed in that employment, paid in whole or in part by the person’s employer”.

67. Subsection 4A(4):

- (a) Omit “he had the legal title to a life policy, or was entitled to have the legal title to a life policy assigned to him”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her”.
- (b) Omit “he had the legal title to that policy, or was entitled to have the legal title to that policy assigned to him”, substitute “the person was the owner of that policy, or was entitled to have the rights of the owner of that policy assigned to him or her”.

SCHEDULE—continued

68. Subsection 22R(1):

Omit “he” (wherever occurring), substitute “the person”.

69. Paragraph 22R(1)(b):

(a) Omit “him” (first occurring), substitute “the person”.

(b) Omit all the words from and including “by reason of his having” to and including “assigned to him”, substitute “because the person was the owner of a life policy or policies of a kind referred to in that subsection, or because the person was entitled to have the rights of the owner of such a policy or policies assigned to him or her”.

Pooled Development Funds Act 1992

70. Subsection 4(1) (definition of “life office”):

Omit the definition, substitute:

“ ‘life office’ means:

(a) a body corporate that is registered under the *Life Insurance Act 1995*;
or

(b) a public authority:

(i) that is constituted by a law of a State or internal Territory; and

(ii) that carries on life insurance business within the meaning of section 11 of the *Life Insurance Act 1995*;”.

Social Security Act 1991

71. Subsection 23(1) (definition of “life insurance policy”):

Omit “within the meaning of the *Life Insurance Act 1945*”, substitute “within the meaning of the *Life Insurance Act 1995*”.

72. Subsection 23(1) (Note at the foot of the definition of “life insurance policy”):

Omit the Note.

Superannuation Act 1922

73. Subsection 119A(1) (definition of “life policy”):

Omit the definition, substitute:

“ ‘life policy’ has the same meaning as in the *Life Insurance Act 1945* as in force immediately before the commencement of the *Life Insurance Act 1995*;”.

SCHEDULE—continued

Superannuation Act 1976

74. Subsection 125(1) (definition of “life policy”):

Omit the definition, substitute:

“ ‘life policy’ has the same meaning as in the *Life Insurance Act 1995*”.

75. Subsection 125(1):

Insert:

“ ‘owner of a life policy’ has the same meaning as in the *Life Insurance Act 1995*;”.

76. Subsection 127(3):

Omit all the words from and including “he had the legal title” to and including “by his employer”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her, being a policy the premiums for which were, while the person was employed in that employment, paid in whole or in part by the person’s employer”.

77. Subsection 127(4):

(a) Omit “he had the legal title to a life policy, or was entitled to have the legal title to a life policy assigned to him”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her”.

(b) Omit “he had the legal title to that policy, or was entitled to have the legal title to that policy assigned to him”, substitute “the person was the owner of that policy, or was entitled to have the rights of the owner of that policy assigned to him or her”.

78. Subsection 145(1):

Omit “he” (wherever occurring), substitute “the person”.

79. Paragraph 145(1)(b):

(a) Omit “him” (first occurring), substitute “the person”.

(b) Omit all the words from and including “by reason of his having” to and including “assigned to him”, substitute “because the person was the owner of a life policy or policies of a kind referred to in that subsection, or because the person was entitled to have the rights of the owner of such a policy or policies assigned to him or her”.

Superannuation Industry (Supervision) Act 1993

80. Section 10 (definition of “life insurance company”):

Omit the definition, substitute:

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“**life insurance company**” means:

- (a) a body corporate registered under the *Life Insurance Act 1995*; or
- (b) a public authority:
 - (i) that is constituted by a law of a State or Territory; and
 - (ii) that carries on life insurance business within the meaning of section 11 of that Act;”.

PART 2

Subsection 4(2)

AMENDMENTS OF THE CORPORATIONS LAW

1. Amend the Corporations Law in accordance with the following table:

Amendment number	Provisions to be amended	Omit	Substitute
1	Section 9 (paragraph (f) of the definition of “participation interest”).	“policy of life insurance”	“life policy within the meaning of the <i>Life Insurance Act 1995</i> ”
2	Subparagraph 65(1)(b)(ii), paragraph 191(2)(d), paragraph 279(5)(c), subsection 408A(1) (paragraph (b) of the definition of “prescribed corporation”), subsections 409(6) and (9), subparagraph 409A(1)(b)(iv), subsection 1017A(1) (paragraph (c) of the definition of “exempt recipient”), paragraph 1052(1)(e) and section 1348.	“ <i>Life Insurance Act 1945</i> ”	“ <i>Life Insurance Act 1995</i> ”
3	Section 207 and subsection 210(5).	“section 140 of the <i>Life Insurance Act 1945</i> ”	“section 242 of the <i>Life Insurance Act 1995</i> ”

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NOTES

1. No. 28, 1945, as amended. For previous amendments, see Nos. 65 and 80, 1950; No. 94, 1953; No. 3, 1958; No. 93, 1959; No. 29, 1961; No. 145, 1965; Nos. 78 and 216, 1973; No. 32, 1977; No. 177, 1978; Nos. 92 and 176, 1981; No. 143, 1983; No. 74, 1984; No. 65, 1985; No. 99, 1987; No. 38, 1988; No. 16, 1989; and No. 1, 1992.
2. No. 109, 1989, as amended. For previous amendments, see Nos. 110, 200 and 201, 1991; Nos. 27 and 210, 1992; and Nos. 32 and 78, 1993.

NOTE ABOUT SECTION HEADINGS

1. On the commencement of this Act, the headings to sections 77 and 78 of the *Insurance Acquisitions and Takeovers Act 1991* are changed as set out in the following table:

Heading	Change
Section 77	After “statutory accounts”, insert “or financial statements”.
Section 78	Omit “statutory accounts”, substitute “financial statements”.

*[Minister’s second reading speech made in—
House of Representatives on 16 November 1994
Senate on 6 December 1994]*