



Statutory Rules 1997 No. *K*

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Retirement Savings Accounts Regulations

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**SCHEDULE 1
PAYMENT LIMITS**

**SCHEDULE 2
CONDITIONS OF RELEASE AND CASHING RESTRICTIONS—
PRESERVED BENEFITS AND RESTRICTED
NON-PRESERVED BENEFITS**



Statutory Rules 1997 No. *K*¹

116/

Retirement Savings Accounts Regulations

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council and under section 4 of the *Acts Interpretation Act 1901*, make the following Regulations under the *Retirement Savings Accounts Act 1997*.

Dated *K* 1997.

28 May/

K WILLIAM DEANE/
Governor-General

By His Excellency's Command,

K
Assistant Treasurer

C. R. KEMP/

PART 1—PRELIMINARY

Citation

1.01. These Regulations may be cited as the Retirement Savings Accounts Regulations.

Commencement

1.02. These Regulations commence on the date of commencement of the *Retirement Savings Accounts Act 1997*.

Interpretation

1.03. (1) In these Regulations, unless the contrary intention appears:

“**Act**” means the *Retirement Savings Accounts Act 1997*;

“**commencement day**”, in relation to a pension, means the first day of the period to which the first payment of the pension relates;

“**contributions**”, in relation to an RSA, includes:

- (a) payments of shortfall components to the RSA; and
- (b) payments to the RSA from the Superannuation Holding Accounts Reserve;

but does not include benefits that have been rolled over or transferred to the RSA;

“**costs**”, in relation to the benefits of the holder of an RSA in the RSA as at any time, means the total costs charged to those benefits down to that time and includes:

- (a) the direct costs of establishing, operating and terminating the RSA; and
- (b) any administrative, insurance and taxation costs relating to the establishment, operation and termination of the RSA;

“**eligible rollover fund**” has the same meaning as in Part 24 of the SIS Act;

“**eligible termination payment**” has the same meaning as in Subdivision AA of Division 2 of Part III of the Tax Act;

“**employer contribution**”, in relation to an RSA, means a contribution by, or on behalf of, an employer of an RSA holder;

“**exempt public sector superannuation scheme**” has the same meaning as in the SIS Act;

“**full-time**”, in relation to being gainfully employed, means gainfully employed for at least 30 hours each week;

“**gainfully employed**” means employed or self-employed for gain or reward in any business, trade, profession, vocation, calling, occupation or employment;

“industrial authority” means:

- (a) a court, or a tribunal or other body or person, constituted under a law of the Commonwealth, a State or a Territory with power of conciliation or arbitration in relation to industrial disputes; or
- (b) a special board constituted under the law of a State relating to factories;

“investment earnings”, in relation to the benefits (or to benefits of a particular kind) of an RSA holder as at any time, means the total of the amounts credited to the RSA:

- (a) if the RSA is an account—by way of positive interest; or
- (b) if the RSA is a policy—by way of positive investment returns or increases in the value of assets in which the policy is invested;

down to that time in respect of those benefits;

“lost RSA holder” has the meaning given by regulation 1.06;

“mandated employer contributions”, in relation to an RSA holder, means contributions by, or on behalf of, an employer that are equal to the sum of:

- (a) the contributions made by, or on behalf of, the employer to an RSA in relation to the RSA holder, that:
 - (i) reduce the employer’s potential liability for the superannuation guarantee charge imposed by section 5 of the *Superannuation Guarantee Charge Act 1992*; or
 - (ii) are payments of shortfall components; and
- (b) the contributions (other than contributions of the kind specified in paragraph (a)) made by, or on behalf of, the employer to the RSA in relation to the RSA holder in or towards satisfaction of the employer’s obligation to make contributions for the RSA holder, being an obligation under an agreement certified, or an award made, on or after 1 July 1986 by an industrial authority;

“mandated employer-financed benefits”, in relation to an RSA holder as at a particular time, means benefits equal to the sum of:

- (a) the amount of the mandated employer contributions (if any) made to the RSA down to that time; and
- (b) the amount of the mandated employer-financed benefits (if any) paid into the RSA down to that time; and

(c) the amount of the investment earnings on those contributions and benefits down to that time;
less the costs applicable to the amounts down to that time;

“member” has the same meaning as in the SIS Regulations;

“part-time”, in relation to being gainfully employed, means gainfully employed for at least 10 hours, and less than 30 hours, each week;

“protected RSA holder” means an RSA holder who has withdrawal benefits, or benefits of any other type that are payable on closing the RSA otherwise than voluntarily, net of any applicable exit fee, that:

(a) are less than \$1,000; and

(b) contain, or have contained, benefits that are mandated employer-financed benefits;

“reporting period” means a reporting period under Division 2.3;

“reviewable decision” means a decision of the Commissioner to determine a form of consent under paragraph 4.30 (b);

“RSA holder contributions”, in relation to an RSA holder, means contributions by, or on behalf of, the RSA holder to the RSA, but does not include employer contributions made in respect of the RSA holder;

“RSA holder-financed benefits”, in relation to an RSA holder as at a particular time, means benefits equal to the sum of:

(a) the amount of the RSA holder contributions (if any) made to the RSA down to that time; and

(b) the amount of the RSA holder-financed benefits (if any) paid into the RSA down to that time; and

(c) the amount of the investment earnings on those contributions and benefits down to that time;

less the costs applicable to those amounts down to that time;

“RSA holder-protection standards” means the standards set out in subregulation 3.12 (2) and regulation 3.13;

“SGA Act” means the *Superannuation Guarantee (Administration) Act 1992*;

“shortfall component” has the same meaning as in the SGA Act;

“SIS Act” means the *Superannuation Industry (Supervision) Act 1993*;

“SIS Regulations” means the Superannuation Industry (Supervision) Regulations;

“Superannuation Holding Accounts Reserve” means the Reserve established by section 8 of the *Small Superannuation Accounts Act 1995*;

“Tax Act” means the *Income Tax Assessment Act 1936*;

“withdrawal benefit”, in relation to an RSA holder, means the total amount of the benefits that would be payable:

- (a) to the RSA holder; and
- (b) in respect of the RSA holder, to:
 - (i) another RSA; or
 - (ii) the trustee of a superannuation entity;

if the RSA holder voluntarily ceased to be an RSA holder.

(2) For the purposes of the definition of “protected RSA holder” in subregulation (1), a benefit in an RSA is taken to contain or to have contained mandated employer-financed benefits unless the RSA provider knows otherwise.

Eligible person—section 13 of the Act

1.04. For the purposes of section 13 of the Act, the criterion that the person must be an individual is prescribed.

Approved auditor

1.05. For the purposes of the definition of “approved auditor” in section 16 of the Act, individuals each of whom is:

- (a) under Division 2 of Part 9.2 of the Corporations Law, registered, or taken to be registered, as an auditor; and
- (b) a Member of the Australian Society of Certified Practising Accountants or the Institute of Chartered Accountants in Australia;

constitute a specified class.

Lost RSA holder

1.06. (1) An RSA holder is taken to be a lost RSA holder at a particular time if:

- (a) he or she is uncontactable, that is, if and only if:
 - (i) the RSA provider has never had an address for the RSA holder; or
 - (ii) 2 written communications or, if the RSA provider so chooses, 1 written communication have been sent by the RSA provider to the RSA holder’s last known address and returned unclaimed; or

- (b) the RSA holder is an inactive RSA holder, that is, if and only if:
 - (i) he or she has been an RSA holder for longer than 2 years; and
 - (ii) the RSA has not received a contribution or rollover in respect of him or her within the last 2 years of his or her being an RSA holder;

unless:

- (c) within the last 2 years of the RSA holder's being an RSA holder, the RSA provider has verified that the RSA holder's address is correct and has no reason to believe that that address is now incorrect; or
- (d) the RSA holder is permanently excluded from being a lost RSA holder.

(2) For the purposes of subregulation (1), and subject to subregulation (3), an RSA holder is permanently excluded from being a lost RSA holder if:

- (a) the RSA holder is an inactive RSA holder who has indicated by a positive act (for example, deferring a benefit in the RSA) that he or she wishes to continue to be an RSA holder; or
 - (b) the RSA holder has contacted the RSA provider at any time after the time at which he or she became an RSA holder and indicated that he or she wishes to continue being an RSA holder.
- (3) The RSA provider may decide that:
- (a) an RSA holder, a class of RSA holders, or all RSA holders cannot be permanently excluded from becoming lost RSA holders; or
 - (b) an RSA holder who is, a class of RSA holders who are, or all RSA holders who are permanently excluded from being lost is or are not to continue being permanently excluded from being lost.

[NOTE: The consequences of an RSA holder becoming a lost RSA holder are:

- (a) that the RSA provider must protect the benefits of the RSA holder (see Division 3.3); and
- (b) that the RSA provider must report certain details to the Commissioner of Taxation (see regulation 6.09); and

- (c) that if the RSA holder is transferred to a fund the RSA provider must supply certain information regarding the RSA holder to the trustee of the fund (see Division 2.8).

There may also be consequences regarding the information to be supplied to the RSA holder (see regulation 2.04).]

Meaning of “pension”—section 16 of the Act

1.07. (1) A benefit is taken to be a pension for the purposes of the Act if it is a benefit that is provided under terms and conditions of an RSA that meet the standards of subregulation (2).

(2) Terms and conditions of an RSA meet the standards of this subregulation if they at least ensure that:

- (a) the pension is not able to be transferred to a person other than a reversionary beneficiary on the death of the primary beneficiary or of another reversionary beneficiary; and
- (b) the capital value of the pension, and the income from it, cannot be used as security for a borrowing; and
- (c) payments are made at least once in each financial year; and
- (d) the payments in a year, except a payment by way of commutation, are not larger or smaller in total than, respectively, the maximum and minimum limits calculated in accordance with Schedule 1; and
- (e) before full commutation or transfer of the pension, a payment at least equal to the minimum limits calculated in accordance with Schedule 1 must be made.

(3) For the purpose of determining whether the terms and conditions meet the standards in paragraphs (2) (c) and (d), it is immaterial:

- (a) that:
 - (i) the commencement day occurs on or after 1 April in a financial year; and
 - (ii) the terms and conditions do not provide for the payment of an amount in that financial year that meets the standard for the minimum limit in paragraph (2) (d); or

- (b) that the terms and conditions do not ensure that the payments in the year in which the pension is to end meet the standard for the minimum limit in paragraph 2 (d).

PART 2—INFORMATION FOR RSA HOLDERS AND OTHERS

Division 2.1—Introductory

Interpretation

2.01. (1) In this Part:

“**amount**” includes a nil amount;

“**contact details**”, in relation to an RSA provider or eligible rollover fund, means:

- (a) the name of the RSA provider or eligible rollover fund; and
- (b) a contact address for the RSA provider or eligible rollover fund; and
- (c) a contact person and telephone number for the contact person;

“**contact person**”, in relation to an RSA provider or eligible rollover fund, means a named individual, or a person holding a designated office or position, who is available to receive and deal with inquiries or complaints by RSA holders or members (as the case may be);

“**RSA information**” means information required to be given under Division 2.3.

(2) A reference to the telephone number of a contact person includes a reference to the telephone number of a switchboard through which the person may be reached by telephone.

Duties and requirements arising under this Part

2.02. (1) A requirement to give information under a Division of this Part must be met within the time specified in the Division as the time for compliance.

Requirements concerning information

- (2) Information given in accordance with this Part must:
- (a) be in writing; and
 - (b) be worded and presented in a clear and effective manner.

(3) Information given in accordance with this Part may be given, where appropriate, in diagrammatical form.

Where information may mislead (if incomplete, outdated, etc)

(4) If an RSA provider has reason to think that information that the RSA provider is required to give, other than under Division 2.6, will materially mislead a person, or may do so, the RSA provider must give with the information a statement containing further information to rectify any misleading, or potentially misleading, effect.

Giving information—reasonable efforts sufficient

2.03. An RSA provider is taken to have satisfied a requirement, under Divisions 2.3 to 2.8, to give information to a person if:

- (a) the RSA provider has sent the information to the last known address of the person; or
- (b) the RSA provider cannot give the information because the information:
 - (i) is unknown to the RSA provider; and
 - (ii) cannot be obtained by making reasonable inquiries; or
- (c) as provided by regulation 2.04, the RSA does not give the information.

RSA holders to whom RSA providers are not required to give information

2.04. (1) Subject to subregulation (2), an RSA provider need not give information to an RSA holder if:

- (a) the RSA provider has an address for the RSA holder, and:
 - (i) the RSA provider is satisfied, on reasonable grounds, that that address is incorrect; and
 - (ii) the RSA provider has taken reasonable steps to locate the RSA holder but has been unable to do so; or
- (b) the RSA provider has no address for the RSA holder, and:
 - (i) has been unable to obtain an address for the RSA holder; and
 - (ii) has taken reasonable steps to locate the RSA holder, but has been unable to do so.

RSA provider becoming aware of RSA holder's address, etc

(2) Subject to subregulation (3), if an RSA provider has refrained, in reliance on subregulation (1), from giving information to an RSA holder, the RSA provider must give information to the RSA holder if the RSA provider later becomes aware of the RSA holder's address or location.

(3) Subregulation (2) applies only in respect of information that the RSA provider becomes liable to give to the RSA holder after becoming aware of the RSA holder's address or location.

Charges for information requested

2.05. (1) Subject to this regulation, the obligation of an RSA provider under these Regulations to give information on request by a person arises only if the person pays the amount specified by the RSA provider as the charge for giving the information.

(2) The amount of the charge must not exceed the reasonable cost to the RSA provider of giving the information (including all reasonably related costs—for example, costs of searching for, obtaining and collating the information).

(3) In the case of information to be supplied under Division 2.6 to a concerned person (as defined in subregulation 2.34 (3)), a charge may be made only if:

- (a) the person to whom the information is to be given has requested the information; and
- (b) the person had been given the same information during the period of 12 months immediately preceding the date on which the request is made.

Division 2.2—Information before becoming an RSA holder or on employer's making an application on behalf of employee

Information to be given to prospective RSA holder

2.06. (1) For the purposes of section 53 of the Act, the information that the RSA institution must be satisfied has been received by a person before the person becomes an RSA holder comprises each of the following items of information so far as they are applicable:

- (a) the name, ACN or ARBN and contact details of the RSA provider;
- (b) a statement:
 - (i) that outlines the effect of the lower-risk/ lower-return nature of the RSA on possible benefits in the long term; and
 - (ii) that there are other superannuation arrangements that may provide a greater return over the long term; and
 - (iii) that the person may wish to seek information about the rates of return of those superannuation arrangements;
- (c) if the terms and conditions of the RSA meet the standards of subregulation 1.07 (2), or of 1.05 (4) of the SIS Regulations—a statement that:
 - (i) the amount that the RSA holder can take out each year is subject to minimum and maximum limits set by the Government; and
 - (ii) an allocated pension or allocated annuity may not provide an income stream for the rest of the RSA holder's life; and

- (iii) payments will only be made while there is money in the RSA;
- (d) a brief statement on the benefits that the person may become entitled to on becoming an RSA holder;
- (e) a brief statement of who may contribute to the RSA;
- (f) a brief statement of when benefits are payable;
- (g) a brief statement that, subject to any notice period, the amount of the RSA may be transferred at any time to:
 - (i) another RSA provided by an RSA institution; or
 - (ii) a superannuation entity or regulated exempt public sector superannuation scheme; or
 - (iii) a deferred annuity;
- (h) if there is an insured benefit—the name of the company taking the insurance risk;
- (i) a brief statement of the taxation of the RSA and benefits;
- (j) if a fixed-rate option is, or fixed-rate options are, offered by the RSA provider in relation to the whole, or a part, of an RSA—a statement of the net rate of interest of each fixed-rate option and the term to which that net rate of interest applies; and
- (k) if a variable-rate option is, or variable-rate options are, offered by the RSA provider in relation to the whole, or a part, of an RSA:
 - (i) a statement of the current rate of interest of each variable-rate option offered; and
 - (ii) a statement that the rate, or rates, of interest may increase or decrease over time; and
 - (iii) the annual actual or notional rate of net interest applied under similar variable-rate options offered by the RSA provider for each year of the previous 5 years; and
 - (iv) the compound average of the annual actual or notional rate of net interest applied under similar variable-rate options offered by the RSA provider for each year of the previous 5 years; and
 - (v) a statement that past interest are not an indicator of future interest;
- (l) a summary of fees and charges that may be charged directly to the RSA;
- (m) a brief statement about the effect of the RSA holder-protection standards;

- (n) if fees and charges are deducted before interest is credited to the RSA—a statement to the effect that interest is paid net of all expenses;
 - (o) details (in summary form) of arrangements that the RSA provider has to deal with inquiries or complaints;
 - (p) details of the existence and (in outline terms) the functions of the Superannuation Complaints Tribunal;
 - (q) a statement of the circumstances in which the RSA provider will pay the RSA holder's benefits to an eligible rollover fund, the effect of that payment and the contact details of the eligible rollover fund;
 - (r) a statement that further information is available on request.
- (2) If a variable-rate option has not been in existence for 5 years, the references in subparagraphs (1) (k) (iii) and (iv) to 5 years are taken to be references to the whole period of existence of the option.
- (3) The information mentioned in subparagraphs (1) (k) (iii) and (iv), must not have been first published or issued by the RSA institution more than 15 months before the date the information was given to the person.
- (4) A reference in subparagraphs (1) (k) (iii) and (iv) to similar variable-rate options offered by the RSA provider includes a reference to variable at-call deposits offered by that RSA provider or by a capital guaranteed life policy, if the RSA provider did not offer similar variable-rate options for each year of the previous 5 years.

When information need not be given to RSA holders

2.07. For the purposes of subsection 53 (4) of the Act, there is specified the circumstance that:

- (a) an employer gives written notice to the RSA institution that the employer has complied with section 52 of the Act; or
- (b) a person becomes the holder of an RSA with the RSA institution, and does so as a direct result of:
 - (i) the takeover of the RSA provider with which the person previously held an RSA by:
 - (A) the RSA institution; or

- (B) a corporation that is a related corporation of the RSA institution within the meaning of the Corporations Law; or
- (ii) a merger involving the RSA provider with which the person previously held an RSA and which results in the creation of the RSA institution; or
- (iii) the transfer of any, or all of, the assets and liabilities of the RSA provider with which the person previously held an RSA to the RSA institution:
 - (A) under a provision of the *Banking Act 1959*, the *Life Insurance Act 1995* or of any other law of the Commonwealth, a State or a Territory; or
 - (B) under a voluntary transfer of engagements; or
 - (C) on request of a regulatory agency prescribed under regulation 6.12.

Information to be given to employers

2.08. For the purposes of section 54 of the Act, the information that the RSA institution must ensure has been received by an employer who makes an application, on behalf of an employee, for an RSA for the employee comprises:

- (a) where applicable, the items of information mentioned in regulation 2.06; and
- (b) a summary of the provisions of Division 7 of Part 5 of the Act relating to the cooling off period.

Prescribed information—paragraph 52 (2) (a) of the Act

2.09. For the purposes of paragraph 52 (2) (a) of the Act, there is prescribed the items of information mentioned in regulation 2.06 that have been given to the employer by the RSA provider.

Information to be given to employees

2.10. (1) For the purposes of section 55 of the Act, the following information is prescribed in circumstances other than the circumstances in subregulation (2):

- (a) a statement that the RSA has been opened by the employer; and
- (b) a summary of the provisions of Division 7 of Part 5 of the Act relating to the cooling off period.

(2) Subregulation (1) does not apply if:

- (a) the RSA was opened by the employer under subsection 52 (5) of the Act; or
- (b) the holder of an RSA closes the RSA before the time at which the RSA institution would be required to give the RSA holder the information prescribed by subregulation (1).

Division 2.3—Information to be given for each reporting period

Operating standards

2.11. For the purposes of subsection 38 (1) of the Act, a requirement of this Division is a standard applicable to the operation of RSAs.

Reporting periods

2.12. (1) RSA information must be given in respect of consecutive reporting periods.

(2) A reporting period must not exceed 12 months or, if the Commissioner on the application of an RSA provider fixes a longer period generally, in a particular case or in particular cases, that longer period.

(3) In relation to a particular RSA, all RSA information must be given in respect of the same reporting period.

(4) In relation to a particular RSA, the first reporting period must begin on a date not later than the date on which the RSA was opened or issued.

(5) A subsequent reporting period must commence immediately after the end of the preceding reporting period.

Time for compliance

2.13. (1) The duties and requirements imposed on an RSA provider by this Division apply in respect of another person only if that other person is an RSA holder on the last day of the reporting period.

(2) The RSA provider must discharge each of those duties, and satisfy each of those requirements, as soon as practicable, and in any event within 3 months, after the end of the relevant reporting period.

Information to be given in all cases

2.14. An RSA provider must give to an RSA holder all of the following items of information:

- (a) the contact details of the RSA provider;
- (b) a statement:
 - (i) that outlines the effect of the lower-risk/ lower-return nature of the product on possible benefits in the long term; and
 - (ii) that there are other superannuation arrangements that may provide a greater return over the long term; and
 - (iii) that the RSA holder may wish to seek information about the rates of return of those superannuation arrangements;
- (c) the amount of the withdrawal benefit at the start of the reporting period;
- (d) the amount of the withdrawal benefit at the end of the reporting period;

- (e) the amount (if any) of the withdrawal benefit at the end of the reporting period that consists of preserved benefits within the meaning of Subdivision 4.1.2;
- (f) the amount (if any) of the withdrawal benefit at the end of the reporting period that consists of restricted non-preserved benefits within the meaning of Subdivision 4.1.3;
- (g) the amount (if any) of the withdrawal benefit at the end of the reporting period that consists of unrestricted non-preserved benefits within the meaning of Subdivision 4.1.4;
- (h) details (in summary form) of arrangements that the RSA provider has to deal with inquiries or complaints;
- (i) a statement that other information is available on request.

Information to be given where applicable

2.15. (1) Subject to subregulation (2), an RSA provider must give to an RSA holder details of the following matters in respect of the RSA holder so far as they are applicable:

- (a) the amount of the RSA holder's contributions during the reporting period;
- (b) the amount of employer contributions during the reporting period;
- (c) the amount of benefits rolled-over or transferred into the RSA during the reporting period;
- (d) the amount of withdrawals during the reporting period;
- (e) the amounts of fees, charges and other expenses deducted from the RSA during the reporting period;
- (f) the amount of interest credited to the RSA during the reporting period;
- (g) the actual or notional rate of net interest applied to the RSA during the reporting period;
- (h) a statement of:
 - (i) the annual actual or notional rate of net interest applied to the RSA for each year of the previous 5 years ending at the end of the reporting period; and
 - (ii) the compound average of the annual actual or notional rate of net interest applied to the RSA for

each year of the previous 5 years ending at the end of the reporting period;

- (i) the effect of the RSA holder-protection standards;
- (j) the amount of bonuses that have accrued at the end of the reporting period;
- (k) if an insurance policy is held by the RSA provider—the amount of the sum assured;
- (l) the circumstances when benefits may be paid to an eligible rollover fund, the effect of that payment and the contact details of the eligible rollover fund;
- (m) the amount payable in the event of the RSA holder's death:
 - (i) at the end of the reporting period; or
 - (ii) on the first day of the next reporting period; or the method by which that amount is worked out;
- (n) the amount, or method of working out, of other benefits including, in particular, disability benefits.

(2) A nil amount need not be disclosed.

(3) If, at the end of a reporting period, an RSA has not been in existence for 5 years, the references in paragraph (1) (h) to 5 years are taken to be references to the whole period of existence of the RSA.

Exception—certain cases of RSA holders leaving RSA provider

2.16. If:

- (a) a person ceases to be an RSA holder before RSA information in respect of a particular reporting period (the “**relevant period**”) is given; and
- (b) either:
 - (i) the RSA provider gives, or intends to give, information to the person under Division 2.7 in respect of a reporting period that is the same as, or includes the whole of, the relevant period; or

- (ii) if the person ceases to be an RSA holder by reason of death—the RSA provider complies in relation to the person with the relevant requirements of Division 2.7;

the RSA provider need not give RSA information, in respect of the relevant period, to or in relation to the person.

Exception—RSA holders subject to compulsory protection of small amounts

2.17. (1) If, at the end of a reporting period, an RSA holder is a protected RSA holder, the RSA provider need give the RSA holder only the following information for the reporting period:

- (a) the contact details of the RSA provider;
- (b) either:
 - (i) the amount of the RSA holder's withdrawal benefit at the end of the reporting period; or
 - (ii) the total of the amounts that have been received by the RSA provider in respect of the RSA holder;
- (c) the annual actual or notional rate of net interest applied to the RSA for each year of the previous 5 years ending at the end of the reporting period;
- (d) the compound average of the annual actual or notional rate of net interest applied to the RSA for each year of the previous 5 years ending at the end of the reporting period;
- (e) details (in summary form) of arrangements that the RSA provider has to deal with inquiries or complaints;
- (f) a statement that other information is available on request;
- (g) a statement:
 - (i) that outlines the effect of the lower-risk/ lower-return nature of the product on possible benefits in the long term; and
 - (ii) that there are other superannuation arrangements that may provide a greater return over the long term; and
 - (iii) that the RSA holder may wish to seek information about the rates of return of those superannuation arrangements.

(2) A nil amount need not be disclosed.

(3) If, in relation to an RSA holder, the RSA provider takes advantage of regulation 2.18, the RSA provider must not, in relation to the RSA holder, take advantage of subregulation (1).

(4) If, at the end of a reporting period, an RSA has not been in existence for 5 years, the references in paragraphs (1) (c) and (d) to 5 years are taken to be references to the whole period of existence of the RSA.

Exception—RSA holders with small amounts that are expected to grow quickly

2.18. (1) If, at the end of a reporting period, an RSA provider has a reasonable expectation that an RSA holder will have a withdrawal benefit of at least \$1,500 within 12 months after the end of the reporting period, the RSA provider need not show, in RSA information provided to the RSA holder, the effect of the RSA holder-protection standards.

(2) For the purposes of subregulation (1), an RSA provider is not taken to have a reasonable expectation that the RSA holder will have a withdrawal benefit of \$1,500 within the period of 12 months mentioned in that subregulation if termination of the RSA holder's employment with a current employer would be likely to result in the RSA holder's withdrawal benefit being below \$1,500 at the end of that period.

(3) If, at the end of the 12-month period, the RSA holder's withdrawal benefit has not reached \$1,500, the RSA provider must show, in RSA information provided to the RSA holder for each reporting period ending on or after the end of the 12-month period, the effect of the RSA holder-protection standards.

(4) An RSA provider must not take advantage of subregulation (1) in respect of a person more than once unless, after an occasion on which the RSA provider does so but before the next occasion, the person ceases to be the holder of the RSA and subsequently becomes the holder of an RSA provided by the same RSA provider.

Division 2.4—Information on amount of RSA**Operating standards**

2.19. For the purposes of subsection 38 (1) of the Act, a requirement of this Division is a standard applicable to the operation of RSAs.

Duty to give information

2.20. (1) If, at the end of a reporting period, the amount of an RSA is at least \$10,000, the RSA provider must give written notice of that fact to the holder of the RSA at the time when the RSA provider gives to the RSA holder the items of information mentioned in regulation 2.14 for that period.

(2) The notice must include:

- (a)** a statement that the information contained in the notice is important and that the notice must be read carefully; and
- (b)** a statement that outlines the effect of the lower-risk/lower-return nature of the RSA on possible benefits in the long term; and
- (c)** a suggestion that the RSA holder may wish to consider:
 - (i)** other superannuation arrangements that may provide a greater return over the long term; and
 - (ii)** seeking advice on alternative investment strategies that may be more suitable.

(3) The notice must be prominent and set in bold type on a separate sheet of paper.

Division 2.5—Information concerning significant events**Operating standards**

2.21. For the purposes of subsection 38 (1) of the Act, a requirement of this Division is a standard applicable to the operation of RSAs.

Time for compliance—event*Meaning of “event”*

2.22. (1) For the purposes of this regulation:

“**event**” means:

- (a) an event mentioned in regulation 2.27; or
- (b) a change of a kind mentioned in subregulation 2.28 (1); or
- (c) a transfer of the amount of an RSA mentioned in subregulation 2.28 (3).

General rule

(2) Subject to regulation 2.23, the time within which an RSA provider must give information under this Division about an event to an RSA holder is:

- (a) if the event has an adverse effect:
 - (i) before the expected occurrence of the event; or
 - (ii) within 30 days after the occurrence of the event;
- (b) in any other case—within 3 months after the occurrence of the event.

Where delay not material

(3) Despite paragraph (2) (b), the information may be given more than 3 months after the occurrence of the event if:

- (a) the RSA provider reasonably believes that the RSA holder would not be expected to be concerned about the delay in giving the information; and
- (b) the information is given no later than 12 months after the occurrence of the event.

Time for compliance—increase in fees or charges or decrease in interest rates

2.23. (1) An RSA provider must notify an RSA holder of an increase in a fee or charge, or a decrease in interest rates, by:

- (a) written notice to the RSA holder; or
- (b) advertisement in the national or local media.

(2) Subregulation (1) may be complied with before, or on the day of, the increase, or decrease, as the case may be.

Time for compliance—decisions of RSA provider

2.24. If an RSA holder would reasonably expect to be informed of a decision of an RSA provider before it is made, the RSA provider must give the information to the RSA holder as soon as practicable after the RSA provider becomes aware of the need for the decision (except that the information need not be given more than 3 months before the expected date of the decision).

Information to be given

2.25. Information under this Division concerning an event or decision is information that the RSA provider reasonably believes an RSA holder would reasonably need:

- (a) if there is a nature or purpose to the event or decision—to understand the nature or purpose; and
- (b) to make an informed judgment about the effect (generally and in respect of the RSA holder's current and future benefit entitlements) of the event or decision.

Contact details to accompany information

2.26. If an RSA provider gives information under this Division the RSA provider must give with the information a statement of the contact details of the RSA provider.

General requirement

2.27. The RSA provider must give information to an RSA holder concerning any event, or decision, in relation to the RSA that the RSA provider should reasonably believe the RSA holder would reasonably expect to be informed of.

Specific requirements—changes in terms and conditions

2.28. (1) If the terms and conditions of an RSA are changed or, because of any other act carried out, or consented to, by the RSA provider, a change occurs in relation to an RSA and the change is of a kind stated in subregulation (2), the RSA provider must give information concerning the change to the holder of the RSA.

- (2) The kinds of changes are those that:
 - (a) have an adverse effect on the amount of the RSA; or
 - (b) have an adverse effect on the benefits to which the RSA holder may be entitled; or
 - (c) have an adverse effect on the circumstances in which those benefits would be payable.
- (3) If the amount of an RSA is transferred to another RSA offered by an RSA institution or to a superannuation entity, the RSA provider must give to the RSA holder information concerning the transfer.
- (4) The RSA provider need not give information under this regulation in relation to an increase in a fee or charge, or a decrease in interest rates, if the RSA provider has notified the RSA holder of that increase or decrease, as the case may be, under subregulation 2.23 (1).

Specific requirements—benefit to be paid to eligible rollover fund

2.29. (1) If the benefits of an RSA holder will be paid to an eligible rollover fund unless the RSA holder chooses, within a specified period, an RSA institution or superannuation entity to which those benefits will be paid, the RSA provider must give to the RSA holder information relating to the payment to the eligible rollover fund that will assist the RSA holder to decide between having the benefits paid to the eligible rollover fund or to the RSA institution or superannuation entity chosen by the RSA holder.

- (2) In particular, the RSA provider must give to the RSA holder so much of the following information as is relevant to the circumstances:
 - (a) an explanation why the RSA provider intends to pay the RSA holder's benefits to the eligible rollover fund if the RSA holder does not make the choice within the period;
 - (b) a statement of the effect of the payment of the benefits to the eligible rollover fund;
 - (c) the contact details of the eligible rollover fund;
 - (d) the amount of the RSA holder's benefits that will be paid from the RSA;

- (e) a statement to the effect that if the RSA holder chooses an RSA institution or superannuation entity that refuses to accept the payment of the RSA holder's benefits, or the RSA holder makes no choice within the specified period, the RSA provider will pay the benefits to the eligible rollover fund.

(3) This regulation does not require the RSA provider to provide information about an RSA institution, or superannuation entity other than the eligible rollover fund.

Information about Superannuation Complaints Tribunal

2.30. If a decision is made in relation to a complaint made in accordance with arrangements established under section 47 of the Act, the RSA provider must give to the person who made the complaint details of the existence and (in outline terms) the functions of the Superannuation Complaints Tribunal.

Division 2.6—Information on request

Operating standards

2.31. For the purposes of subsection 38 (1) of the Act, a requirement of this Division is a standard applicable to the operation of RSAs.

Documents may be made available for inspection

2.32. It is sufficient compliance with a requirement under this Division to give information, or to give a copy of a document, to a person if:

- (a) a document containing the information; or
- (b) a copy of the document;

as the case requires, is made available for inspection by the person:

- (c) at a suitable place (having adequate facilities for the person to inspect and photocopy the document); and
- (d) during normal business hours;

or as otherwise agreed between the RSA provider who is required to give the information to the person, and the person.

Time for compliance

2.33. The RSA provider must comply with a request to give information, or a copy of a document, as soon as practicable, and in any event the RSA provider must make reasonable efforts to comply with the request within 1 month of receiving the request.

General requirement

2.34. (1) Subject to subregulation (2), the RSA provider must give to a person, on request by the person, information that the person reasonably requires, as follows:

- (a) if the person is a concerned person (as defined in subregulation (3))—for the purposes of:
 - (i) understanding any benefit entitlements that the person may have, has or used to have; and
 - (ii) understanding the main features of the relevant RSA; or
- (b) if the person is an employer who made an application, on behalf of an employee—for the purposes of:
 - (i) understanding the kinds of benefits to which the person's employees are entitled or will or may become entitled, and the main features of the RSA; and
 - (ii) a matter related to the SGA Act.

(2) This regulation does not require (or, by implication, authorise) the disclosure of:

- (a) internal working documents of the RSA provider; or
- (b) information or documents that would disclose, or tend to disclose:
 - (i) personal information of another person if, in the circumstances, the disclosure would be unreasonable; or
 - (ii) trade secrets or other information having a commercial value that would be reduced or destroyed by the disclosure; or
- (c) information or documents in relation to which the RSA provider owes to another person a duty of non-disclosure.

- (3) In this regulation and regulation 2.35:
“**concerned person**” means a person who:
- (a) is, or was within the preceding 12 months, the holder of the RSA; or
 - (b) is a legal personal representative of the holder of the RSA; or
 - (c) has a right or claim under the RSA;
- in relation to which the request is made.

Specific requirements

2.35. The RSA provider must give to a concerned person, on request in writing by the person, a copy of the terms and conditions of the RSA.

Division 2.7—Information on closing RSA

Application

- 2.36.** This Division is subject to:
- (a) the exception concerning an exit reporting period, in the case of persons who cease to be RSA holders, that is stated in regulation 2.43; and
 - (b) the exception concerning the information to be provided to protected RSA holders that is stated in regulation 2.44.

Operating standards

2.37. For the purposes of subsection 38 (1) of the Act, a requirement of this Division is a standard applicable to the operation of RSAs.

Time for compliance

2.38. (1) The RSA provider must give information under this Division to a person as soon as practicable after the RSA provider becomes aware that that or another person (“**the former RSA holder**”) has ceased to be the holder of an RSA, and in particular the

RSA provider must make reasonable efforts to give the information within 1 month after becoming aware that the former RSA holder has ceased to be the holder of the RSA.

(2) The RSA provider must make all reasonable efforts to give information that a continuation option for insurance cover is available, in good time before the option lapses.

Exit reporting period

2.39. In this Division, “**exit reporting period**”, in relation to a person who ceases to be the holder of an RSA, means the period:

- (a) beginning on the first day of the reporting period in which the person ceases to be the holder of the RSA; and
- (b) ending at the end of the day on which the person ceases to be the holder of the RSA.

Information to be given in cases other than death of RSA holder

2.40. The RSA provider must give to a person who ceases, otherwise than by death, to be an RSA holder, the following information:

- (a) the contact details of the RSA provider;
- (b) the amount of the withdrawal benefit at the start of the exit reporting period;
- (c) the amount of the withdrawal benefit at the end of the exit reporting period;
- (d) the amount (if any) of the withdrawal benefit at the end of the exit reporting period that consists of preserved benefits within the meaning of Subdivision 4.1.2;
- (e) the amount (if any) of the withdrawal benefit at the end of the exit reporting period that consists of restricted non-preserved benefits within the meaning of Subdivision 4.1.3;
- (f) the amount (if any) of the withdrawal benefit at the end of the exit reporting period that consists of unrestricted non-preserved benefits within the meaning of Subdivision 4.1.4;

- (g) details (in summary form) of arrangements that the RSA provider has to deal with inquiries or complaints;
- (h) a statement that other information is available on request.

Information to be given where applicable

2.41. (1) The RSA provider must give, to each person who ceases, otherwise than by death, to be an RSA holder, details of the following matters in respect of the RSA holder so far as they are applicable:

- (a) the amount of the RSA holder's contributions during the exit reporting period;
- (b) the amount of employer contributions during the exit reporting period;
- (c) the amount of benefits rolled-over or transferred into the RSA during the exit reporting period;
- (d) the amount of withdrawals during the exit reporting period;
- (e) the rate of interest applied during the exit reporting period;
- (f) the amount of interest credited to the RSA during the exit reporting period;
- (g) the amounts of fees, charges and other expenses deducted from the RSA during the exit reporting period;
- (h) the amount of bonuses that have accrued at the end of the exit reporting period;
- (i) if an insurance policy is held by the RSA provider—the amount of the sum assured;
- (j) in the case of a death benefit that ceases or reduces, or will cease or reduce, because the person has closed the RSA:
 - (i) either:
 - (A) the amount of the death benefit immediately before the person closed the RSA or at the end of the last RSA holder reporting period; or
 - (B) the method of working out the death benefit; and
 - (ii) whether a continuation option for insurance cover is available to the person and, if it is, details of

the option, a contact person who is available to discuss the option and a telephone number for the contact person.

- (2) A nil amount need not be disclosed.

Information to be given in case of death of RSA holder

2.42. If a person ceases by death to be an RSA holder, the RSA provider must give to each person receiving a benefit from the RSA as a result of the death of the person:

- (a) a statement setting out details (in summary form) of arrangements that the RSA provider has to deal with inquiries or complaints; or
- (b) a statement that those details are available on request.

Exceptions to “exit reporting period” provisions

2.43. (1) Subject to subregulation (2), if a person ceases to be the holder of an RSA:

- (a) after the end of a completed reporting period (“**completed period**”); and
- (b) before RSA information is given for the completed period;

the information required by this Division to be given to or in relation to the person may be given in respect of the period consisting of:

- (c) the completed period; and
- (d) the period from the end of that period to the end of the day on which the person ceased to be the holder of the RSA;

instead of in respect of the person’s exit reporting period.

(2) If the period mentioned in paragraph (1) (d) exceeds 3 months in a particular case, subregulation (1) does not apply in respect of that case.

(3) The RSA provider need not give information under this Division to the holder of an RSA who is transferring the amount of the RSA if:

- (a) the RSA holder has received sufficient information under subregulation 2.28 (3) to enable the RSA holder to understand the effect of the transfer; and

- (b) the RSA provider reasonably believes that the RSA holder does not need the information because the RSA holder has received or will receive, from:
 - (i) the RSA institution to which the amount is being transferred, information under regulations 2.14 and 2.15 in respect of the RSA holder's exit reporting period; or
 - (ii) the trustee of the superannuation entity to which the amount is being transferred, information under Subdivision 2.4.2 of the SIS Regulations in respect of the RSA holder's exit reporting period.

Exception—RSA holders subject to compulsory protection of small amounts

2.44. If a protected RSA holder ceases to be an RSA holder, the RSA provider need give the RSA holder only the following information for the exit reporting period:

- (a) the contact details of the RSA provider;
- (b) the amount of the RSA holder's withdrawal benefit.

Division 2.8—Information to be given on transfer of lost RSA holders

Application

2.45. This Division applies in the case of payment of the benefits of a lost RSA holder by an RSA provider to a superannuation entity.

Operating standard

2.46. For the purposes of subsection 38 (1) of the Act, a requirement of this Division is a standard applicable to the operation of RSAs.

Information to be given on transfer of lost RSA holders

2.47. The RSA provider must give to the trustee of a superannuation entity to which the benefits of a lost RSA holder are paid the following information and statements in relation to each lost RSA holder whose benefits are to be paid to the entity:

- (a) a statement that the RSA holder is a lost RSA holder;
- (b) if the lost RSA holder has specifically asked the RSA provider not to disclose information of a specified kind—a statement to the effect that the RSA holder has asked the RSA provider not to disclose information of that kind;
- (c) all information in the possession of the RSA provider that could reasonably help the trustee of the superannuation entity to locate or identify the lost RSA holder, other than information of a kind that the RSA holder has specifically requested the RSA provider not to disclose.

PART 3—BENEFIT PROTECTION STANDARDS*Division 3.1—Introductory***Interpretation**

3.01. (1) In this Part, unless the contrary intention appears: “**administration costs**” includes all fees and charges charged against benefits of the holder of an RSA in the RSA (whether or not charged against the contributions by or in respect of the RSA holder), other than:

- (a) the cost (if any) of providing to the RSA holder:
 - (i) an insured death benefit; or
 - (ii) an insured permanent or temporary incapacity benefit; and
- (b) taxation costs;

[NOTE: Example of “taxation costs”: if contributions tax applies to contributions, RSA providers may deduct tax from those contributions.]

“deferred annuity” has the same meaning as in Part 5 of the SIS Regulations;

“rolled over” means paid as an eligible termination payment (other than by way of being transferred) within the superannuation system;

“superannuation system” means the system comprising:

- (a) RSAs; and
- (b) regulated superannuation funds; and
- (c) approved deposit funds; and
- (d) the Commissioner of Taxation in the Commissioner of Taxation’s role as the recipient of unclaimed money that is paid to the Commissioner of Taxation under subsection 83 (1) of the Act or subsection 225 (5) of the SIS Act; and
- (e) a State or Territory, or a State or Territory authority, in its role as the recipient of unclaimed money that is paid under subsection 84 (1) of the Act or subsection 225 (9) of the SIS Act; and
- (f) annuities; and
- (g) deferred annuities; and
- (h) exempt public sector superannuation schemes;

“transferred”, in relation to the benefits of the holder of an RSA, means paid from the RSA to:

- (a) another RSA provided by an RSA institution; or
- (b) a superannuation entity;

otherwise than upon the satisfaction by the RSA holder of a condition of release (within the meaning of Part 4) in respect of all of those benefits.

(2) For the purposes of this Part, a payment from the Superannuation Holding Accounts Reserve is taken to be a mandated employer contribution.

(3) For the purposes of this Part, a reference to the RSA holder-protection standards having only lost-RSA holder operation in relation to a person is a reference to the RSA holder-protection standards operating to protect the benefits of that person only if the person becomes a lost RSA holder and not if he or she becomes a protected RSA holder.

RSA provider may provide greater protection

3.02. An RSA provider has the power, despite anything in the terms and conditions of an RSA, to protect the benefits of an RSA holder to a greater degree than is required by this Part, if the RSA provider does so in a way that is consistent with this Part.

[NOTE: For example, an RSA provider might choose to protect the benefits of all RSA holders with withdrawal benefits less than \$1,500, rather than all protected RSA holders (ie, broadly, RSA holders with withdrawal benefits less than \$1,000) as this Part requires. “Protected RSA holder” is defined in regulation 1.03.]

Division 3.2—Treatment of benefits**Operating standards**

3.03. For the purposes of subsection 38 (1) of the Act, a requirement of this Division is a standard applicable to the operation of RSAs.

Minimum benefits

3.04. All of the benefits of the holder of an RSA in the RSA are minimum benefits.

How benefits are to be treated

3.05. An RSA provider must ensure that the benefits of an RSA holder are maintained until the benefits are:

- (a) cashed (in accordance with Division 4.3) as benefits of the RSA holder, other than for the purpose of the RSA holder’s temporary incapacity; or
- (b) rolled over or transferred as benefits of the RSA holder.

Mandated employer contributions

3.06. (1) Subject to this regulation, contributions to an RSA are taken to be mandated employer contributions.

- (2) If:
- (a) at least 1 year has elapsed since the RSA provider received the contributions in respect of the RSA; and
 - (b) the RSA provider:
 - (i) is satisfied that the contributions are not in fact mandated employer contributions; and
 - (ii) decides not to continue to treat the contributions as mandated employer contributions;

subregulation (1) ceases to apply to the contributions.

- (3) If:
- (a) less than 1 year has elapsed since the RSA provider received the contributions in respect of the RSA; and
 - (b) the RSA provider is satisfied that the contributions are not in fact mandated employer contributions;

subregulation (1) ceases to apply to the contributions.

(4) The RSA provider has power to make a decision of the kind mentioned in subparagraph 2 (b) (ii) despite anything in the terms and conditions of the RSA.

[EXAMPLE OF THE APPLICATION OF THIS REGULATION:

An RSA provider may receive a non-mandated employer contribution from an employer that the RSA provider does not know is a non-mandated employer contribution (ie, a contribution not made in satisfaction of the employer's superannuation guarantee or award obligation).

On acceptance, the contribution will be taken to be a mandated employer contribution.

From this point, one of three circumstances may apply:

(a) the RSA provider may become aware in the first year after the contribution was received that the contribution is a non-mandated employer contribution, and, if this is the case, the RSA provider must treat the contribution as a non-mandated employer contribution; or

(b) the RSA provider may become aware more than a year after the contribution was received that the contribution is a non-mandated employer contribution, and, if this is the case, the RSA provider may continue to treat the contribution as a mandated employer contribution instead of making corrections to reflect the change; or

(c) the RSA provider may never become aware that the contribution is a non-mandated employer contribution, and, if this is the case, the contribution will always be taken to be a mandated employer contribution.]

Division 3.3—RSA holder-protection standards

Interpretation

3.07. In this Division:

“**exit fee**” means a fee charged by an RSA provider in relation to a payment of benefits, being a fee that the RSA provider would not have charged if the payment had not been made;

“**RSA holder reporting period**”, in relation to an RSA, means:

- (a) a reporting period that applies under Division 2.3; or
- (b) an exit reporting period within the meaning of regulation 2.39.

Operating standards

3.08. For the purposes of subsection 38 (1) of the Act, a requirement of this Division is a standard applicable to the operation of RSAs.

RSA holder-protection standards not to apply to certain protected RSA holders

3.09. If:

- (a) an RSA holder is a protected RSA holder at the end of an RSA holder reporting period; and
- (b) the RSA provider has a reasonable expectation (in accordance with regulation 2.18) that the RSA holder will have a withdrawal benefit of at least \$1,500 within 12 months after the end of that RSA holder reporting period; and

- (c) the RSA holder's withdrawal benefits reach \$1,500 within 12 months after the end of that RSA holder reporting period;

the RSA holder is taken not to have been subject to the RSA holder-protection standards from the beginning of that RSA holder reporting period until the end of that period of 12 months.

[NOTE: See regulation 2.18 in relation to protected RSA holders whose benefits are reasonably expected to reach \$1,500 within the period of 12 months after the end of an RSA holder reporting period.]

RSA holder-protection standards not to apply to pensions or annuities

3.10. The RSA holder-protection standards do not apply to any part of the benefits of an RSA holder that has commenced to be taken in the form of a pension or annuity.

RSA holder-protection standards not to apply to traditional life insurance policies

3.11. The RSA holder-protection standards do not apply to a part of the benefits of an RSA holder that is wholly determined by a life insurance policy within the meaning of the *Life Insurance Act 1995* if:

- (a) the policy includes an investment component; and
- (b) the premium is not dissected (whether by reference to the investment component or otherwise); and
- (c) the sum insured, together with bonuses (if any), is payable only upon:
 - (i) the death of the life insured; or
 - (ii) the occurrence of the earlier of the following events:
 - (A) the death of the life insured; or
 - (B) the attainment by the life insured of the age specified in the policy.

RSA holder-protection standards

3.12. (1) This regulation applies in relation to an RSA holder if:

- (a) the RSA holder is a protected RSA holder; or
- (b) the following conditions are satisfied:
 - (i) the RSA holder is reportable to the Commissioner of Taxation as a lost RSA holder under regulation 6.09; and
 - (ii) 90 days have elapsed since the RSA holder became reportable under that regulation; and
 - (iii) the RSA holder remains a lost RSA holder.

(2) The amount charged as administration costs in respect of a relevant RSA holder reporting period against the benefits of the holder of an RSA to whom this regulation applies must not exceed the amount of the investment earnings credited to the RSA for that period.

(3) For the purposes of subregulation (2) and subject to subregulation (4), an RSA holder reporting period is a relevant RSA holder reporting period if:

- (a) in the case of a protected RSA holder—at the end of the period, and subject to any adjustment affecting the RSA holder's benefits (net of any exit fee) made by the RSA provider in respect of the period, the RSA holder is a protected RSA holder; or
- (b) in the case of a lost RSA holder who becomes reportable for the purposes of regulation 6.09—the period is:
 - (i) the first RSA holder reporting period beginning after the RSA holder becomes reportable for the purposes of that regulation; or
 - (ii) a subsequent RSA holder reporting period during a part of which the RSA holder remains a lost RSA holder.

(4) For the purposes of subregulation (2) and paragraph (3) (b), if an RSA holder ceases to be a lost RSA holder during an RSA holder reporting period, an RSA provider may treat only the part of that period ending when the RSA holder ceases to be a lost RSA holder as being a relevant RSA holder reporting period.

(5) For the purposes of this regulation, the benefits of an RSA holder are taken to be composed wholly of mandated employer-financed benefits except for the portion (if any) of the benefits that the RSA provider knows are not mandated employer-financed benefits.

Costs not to be deferred

3.13. If an RSA provider would charge costs against the benefits of an RSA holder in respect of an RSA holder reporting period but for regulation 3.12, the RSA provider must not charge those costs against the benefits of the RSA holder in a future RSA holder reporting period, whether in combination with other costs or not.

PART 4—PAYMENT STANDARDS

Division 4.1—Introductory

Subdivision 4.1.1—General interpretation

Interpretation

4.01. (1) Subject to subregulation (2), expressions used in this Part that are defined for the purposes of Part 3 have the same meanings respectively as in that Part.

(2) In this Part and in Schedule 2, unless the contrary intention appears:

“condition of release” means a condition of release specified in Column 2 of Schedule 2, and an RSA holder is taken to have satisfied a condition of release if the event specified in that condition has occurred in relation to the RSA holder;

“indexed”, in relation to a benefit, means indexed in accordance with section 159SG of the Tax Act modified so that subsection (1) reads as follows:

- “(1) The benefit as indexed for each year of income is:
- (a) in relation to the year of income in which occurs the day on which a benefit was required to have been calculated or was received by the RSA provider—the amount of the benefit that was calculated or received; or
 - (b) in relation to a later year of income—the amount calculated by multiplying the benefit for the immediately preceding year of income by the indexation factor worked out in accordance with subsection (2) for the later year of income.”;

“lump sum”, in this Part but not in Schedule 2, includes an asset;

“non-commutable income stream” means a benefit that:

- (a) cannot be commuted; and
- (b) is paid at least monthly; and
- (c) does not have a residual capital value; and
- (d) is such that the total amount paid each month is fixed or varies only:
 - (i) for the purpose of complying with the Act and these Regulations; and
 - (ii) during any period of 12 months by a rate not exceeding either:
 - (A) 5% per annum; or
 - (B) the rate of increase in the last Consumer Price Index (All Capital Cities) for a quarter to be published by the Australian Statistician before the end of that period of 12 months compared with the Consumer Price Index (All Capital Cities) published for the same quarter in the preceding year;

“OSS Laws” means:

- (a) the *Occupational Superannuation Standards Act 1987* as in force immediately before the commencement of section 5 of the *Occupational Superannuation Standards Amendment Act 1993*; and
- (b) the Occupational Superannuation Standards Regulations;

“permanent departure from Australia”, in relation to an RSA holder, means a departure by the RSA holder from Australia where

the RSA provider is reasonably satisfied that it is for the purpose of permanent residence outside Australia;

“permanent incapacity”, in relation to an RSA holder who has ceased to be gainfully employed, means ill-health (whether physical or mental), where the RSA provider is reasonably satisfied that the RSA holder is unlikely, because of the ill-health, ever again to engage in gainful employment for which the RSA holder is reasonably qualified by education, training or experience;

“restricted non-preserved contributions” means undeducted contributions (within the meaning of subregulation (3)) of an RSA holder other than contributions that were preserved in satisfaction of requirements of the Tax Act, the OSS Laws or the Superannuation Industry (Supervision) (Transitional Provisions) Regulations leading to income tax concessions;

“retirement” has the meaning given by subregulation (4);

“RSA changeover day”, in relation to an RSA holder, means:

- (a) if, under regulation 4.03, the RSA provider has fixed a day in the 1998 calendar year as the changeover day in relation to that RSA holder—the day fixed under that regulation; or
- (b) in any other case—1 July 1998;

“severe financial hardship” has the meaning given by subregulation (5);

“SIS changeover day”, in relation to a member of a regulated superannuation fund (within the meaning of the SIS Regulations) has the same meaning as the term “changeover day” has in Part 6 of those Regulations;

“temporary incapacity”, in relation to an RSA holder who has ceased to be gainfully employed (including an RSA holder who has ceased temporarily to receive any gain or reward under a continuing arrangement for the RSA holder to be gainfully employed), means ill-health (whether physical or mental) that caused the RSA holder to cease to be gainfully employed but does not constitute permanent incapacity.

(3) For the purposes of the definition of “restricted non-preserved contributions” in subregulation (2), amounts to the credit of an RSA holder are undeducted contributions if:

- (a) in relation to amounts which formed the whole or part of an eligible termination payment—those amounts are undeducted contributions within the meaning given by subsections 27A (1) and (7) of the Tax Act for the

purposes of Subdivision AA of Division 2 of Part III of that Act; or

- (b) in relation to any other amounts—those amounts comprise:
 - (i) RSA holder contributions made in order to obtain superannuation benefits (within the meaning of the Tax Act); and
 - (ii) in respect of which no deduction is allowable or has been allowed to the RSA holder under the Tax Act.

(4) For the purposes of Schedule 2, the retirement of a person is taken to occur:

- (a) in the case of a person who has attained age 55—if:
 - (i) an arrangement under which RSA holder was gainfully employed has come to an end; and
 - (ii) the RSA provider is reasonably satisfied that the RSA holder intends never to again become gainfully employed, either on a full-time or a part-time basis; or
- (b) in the case of a person who has attained age 60—an arrangement under which the RSA holder was gainfully employed has come to an end on or after the RSA holder attained that age.

(5) For the purposes of Schedule 2, a person is taken to be in severe financial hardship if the Commissioner has made a determination in writing that the person is in severe financial hardship.

(6) A reference in this Part to “preserved benefits”, “restricted non-preserved benefits”, “restricted non-preserved contributions”, “unrestricted non-preserved benefits” and “post-65 employer-financed benefits” includes benefits, or contributions (as the case may be), rolled over, or transferred, from a superannuation entity.

Operating standards

4.02. For the purposes of subsection 38 (1) of the Act, the requirement set out in subregulation 4.03 (3) is a standard applicable to the operation of RSAs.

RSA changeover day

4.03. (1) For the purposes of the definition of “RSA changeover day” in subregulation 4.01 (2), the RSA provider may, before 1 July in the calendar year 1998, fix a day in that calendar year as the RSA changeover day in relation to an RSA holder.

(2) In deciding the RSA changeover day in relation to an RSA holder, the RSA provider is not bound by the terms and conditions of the RSA.

(3) If the RSA provider fixes a day as the RSA changeover day in relation to an RSA holder, the RSA provider must record the decision in writing.

- (4) Nothing in this Part is to be taken as:
- (a) requiring a decision as to the RSA changeover day in relation to an RSA holder to be made in terms specific to that RSA holder; or
 - (b) prohibiting such a decision from being made prospectively in relation to future RSA holders.

Subdivision 4.1.2—Preserved benefits**Preserved benefits—before RSA changeover day**

4.04. Subject to regulations 4.06, 4.07, 4.08 and 4.14 and to Subdivision 4.1.5, the amount of the preserved benefits of the holder of an RSA in the RSA at any time before the RSA changeover day is the sum of:

- (a) the amount of any benefits arising directly or indirectly from amounts contributed to the RSA by an employer on behalf of the RSA holder; and
- (b) the amount of the RSA holder-financed benefits arising from contributions (other than undeducted contributions) made to the RSA in relation to the RSA holder; and
- (c) the amount of benefits arising from payments from the Superannuation Holding Accounts Reserve established by section 8 of the *Small Superannuation Accounts Act 1995*.

Preserved benefits—on and after RSA changeover day

4.05. Subject to regulation 4.14 and to Subdivision 4.1.5, the amount of the preserved benefits of the holder of an RSA in the RSA at any time on or after the RSA changeover day is the amount of the RSA holder's benefits less the sum of:

- (a) the amount of the RSA holder's restricted non-preserved benefits as defined by regulation 4.10; and
- (b) the amount of the RSA holder's unrestricted non-preserved benefits as defined by regulation 4.13.

Preserved benefits—rollover or transfer from regulated superannuation funds during 1997 or 1998**4.06. (1) If:**

- (a) on a day during the 1997 or 1998 calendar year that is, or is after, the day that is the SIS changeover day in relation to a person who is a member of a regulated superannuation fund, benefits of that person in that fund are rolled over or transferred into an RSA; and
- (b) the RSA institution providing the RSA does not decide, on or before the day on which it receives those benefits, that that day is the RSA changeover day in respect of that person;

then, despite regulation 4.04, the portion of those benefits that is to be taken to be preserved benefits in the RSA is the same as the portion of those benefits that comprised preserved benefits immediately before the rollover or transfer.

- (2) Nothing in this regulation is to be taken as:
 - (a) derogating from regulation 4.08 or 4.14 or Subdivision 4.1.5; or
 - (b) affecting the operation of regulation 4.04 in relation to:
 - (i) contributions made to the RSA; or
 - (ii) benefits rolled over or transferred to the RSA from regulated superannuation funds in relation to which a SIS changeover day has not been decided in respect of the person whose benefits are rolled over or transferred.

Preserved benefits—rollover or transfer between RSAs during 1998**4.07. (1) If:**

- (a) on a day during the 1998 calendar year that is, or is after, the day that is the RSA changeover day in relation an RSA holder, benefits of that RSA holder are rolled over or transferred into another RSA (“**the transferee RSA**”); and
- (b) the RSA institution providing the transferee RSA does not decide, on or before the day on which it receives those benefits, that that day is the RSA changeover day in respect of that RSA holder;

then, despite regulation 4.04, the portion of those benefits that is to be taken to be preserved benefits in the transferee RSA is the same as the portion of those benefits that comprised preserved benefits immediately before the rollover or transfer.

(2) Nothing in this regulation is to be taken as:

- (a) derogating from regulation 4.08 or 4.14 or Subdivision 4.1.5; or
- (b) affecting the operation of regulation 4.04 in relation to:
 - (i) contributions made to the transferee RSA; or
 - (ii) benefits rolled over or transferred to the transferee RSA from other RSAs in relation to which an RSA changeover day has not been decided in respect of the RSA holder whose benefits are rolled over or transferred.

Effect of rollover or transfer on preserved benefits

4.08. Subject to regulation 4.14, the benefits of the holder of an RSA in the RSA that were preserved benefits in the source from which they were received continue to be preserved benefits in that RSA.

Subdivision 4.1.3—Restricted non-preserved benefits**Restricted non-preserved benefits—before RSA changeover day**

4.09. Subject to regulations 4.11, 4.12 and 4.14 and to Subdivision 4.1.5, the amount of the restricted non-preserved benefits of the holder of an RSA in the RSA at any time before the RSA changeover day is the amount of the RSA holder's benefits, less the sum of:

- (a) the amount of the RSA holder's preserved benefits as defined by regulation 4.04; and
- (b) the amount of the RSA holder's unrestricted non-preserved benefits as defined by regulation 4.13.

Restricted non-preserved benefits—on and after RSA changeover day

4.10. (1) Subject to regulation 4.14 and to Subdivision 4.1.5, the amount of the restricted non-preserved benefits of the holder of an RSA in the RSA at any time on or after the RSA changeover day, is the greatest of the following amounts:

- (a) the total of:
 - (i) the indexed amount of the RSA holder's restricted non-preserved benefits (as defined by regulation 4.09) that would be payable to the RSA holder on the RSA changeover day if the RSA holder resigned from employment on that day; and
 - (ii) the indexed amount of the RSA holder's restricted non-preserved benefits received by the RSA from another RSA or a regulated superannuation fund on or after the RSA changeover day that are subject to indexation in the RSA;
- (b) the total of:
 - (i) the indexed amount of the RSA holder's restricted non-preserved benefits (as defined by regulation 4.09) on the RSA changeover day that would be payable to the RSA holder if the RSA holder were retrenched from employment that day; and

- (ii) the indexed amount of the RSA holder's restricted non-preserved benefits received by the RSA from another RSA or a regulated superannuation fund on or after the RSA changeover day that are subject to indexation in that other RSA or in that fund;
 - (c) the amount of the RSA holder's restricted non-preserved contributions in the RSA.
- (2) Subject to regulation 4.14 and Subdivision 4.1.5, the benefits of the holder of an RSA ("**the transferee RSA**") that:
- (a) were rolled over or transferred from another RSA or a regulated superannuation fund; and
 - (b) were indexed amounts of restricted non-preserved benefits in that other RSA or in that fund;
- continue to be subject to indexation in the transferee RSA.
- (3) Subject to regulation 4.14 and Subdivision 4.1.5, the benefits of the holder of an RSA that were restricted non-preserved contributions in the source from which they were received continue to be restricted non-preserved contributions in that RSA.
- (4) The references in this regulation to indexation apply subject to regulation 4.16.

Restricted non-preserved benefits—rollover or transfer from regulated superannuation funds during 1997 or 1998

4.11. (1) If:

- (a) on a day during the 1997 or 1998 calendar year that is, or is after, the day that is the SIS changeover day in relation to a person who is a member of a regulated superannuation fund, benefits of that person in that fund are rolled over or transferred into an RSA; and
- (b) the RSA institution providing the RSA does not decide, on or before the day on which it receives those benefits, that that day is the RSA changeover day in respect of those benefits as benefits in the RSA;

then, despite regulation 4.09, the portion of those benefits that is to be taken to be restricted non-preserved benefits in the RSA is the same as the portion of those benefits that comprised restricted non-preserved benefits immediately before the rollover or transfer.

- (2) Nothing in this regulation is to be taken as:
 - (a) derogating from regulation 4.14 or Subdivision 4.1.5; or
 - (b) affecting the operation of regulation 4.09 in relation to:
 - (i) contributions made to the RSA;
 - (ii) benefits rolled over or transferred to the RSA from a regulated superannuation fund in relation to which a SIS changeover day has not been decided in respect of the member whose benefits are rolled over or transferred.

Restricted non-preserved benefits—rollover or transfer between RSAs during 1998

4.12. (1) If:

- (a) on a day during the 1998 calendar year that is, or is after, the day that is the RSA changeover day in relation to an RSA holder, benefits of that RSA holder are rolled over or transferred into another RSA (“**the transferee RSA**”); and
- (b) the RSA institution providing the transferee RSA does not decide, on or before the day on which it receives those benefits, that that day is the RSA changeover day in respect of those benefits as benefits in the transferee RSA;

then, despite regulation 4.09, the portion of those benefits that is to be taken to be restricted non-preserved benefits in the transferee RSA is the same as the portion of those benefits that comprised restricted non-preserved benefits immediately before the rollover or transfer.

- (2) Nothing in this regulation is to be taken as:
 - (a) derogating from regulation 4.14 or Subdivision 4.1.5; or
 - (b) affecting the operation of regulation 4.09 in relation to:
 - (i) contributions made to the transferee RSA; or
 - (ii) benefits rolled over or transferred to the transferee RSA from other RSAs in relation to which an RSA changeover day has not been decided in respect of the RSA holder whose benefits are rolled over or transferred.

Subdivision 4.1.4—Unrestricted non-preserved benefits**Unrestricted non-preserved benefits**

4.13. (1) Subject to Subdivision 4.1.5, the amount of the unrestricted non-preserved benefits of the holder of an RSA in the RSA is the sum of:

- (a) the amount of benefits of the RSA holder that have become unrestricted non-preserved benefits in accordance with regulation 4.14; and
- (b) the amounts specified in subregulation (2) that the RSA institution receives in respect of the RSA holder; and
- (c) the amount of unrestricted non-preserved benefits received by the RSA institution in respect of the RSA holder; and
- (d) the amount of any investment earnings on the amounts mentioned in paragraphs (a), (b) and (c).

(2) The amounts mentioned in paragraph (1) (b) are amounts that:

- (a) will be taken by section 27D of the Tax Act to have been expended out of eligible termination payments within the meaning of that section; and
- (b) have been received from sources other than:
 - (i) RSAs; or
 - (ii) superannuation funds within the meaning of the SIS Act; or
 - (iii) approved deposit funds within the meaning of:
 - (A) the SIS Act; or
 - (B) the *Occupational Superannuation Standards Act 1987* as in force immediately before the commencement of section 5 of the *Occupational Superannuation Standards Amendment Act 1993*; or
 - (iv) deferred annuities within the meaning of:
 - (A) this Part; or
 - (B) the Occupational Superannuation Standards Regulations.

Movement of benefits between categories by satisfaction of conditions of release**4.14. (1) If:**

- (a) an RSA holder satisfies a condition of release; and
- (b) the relevant cashing restriction in respect of preserved benefits is “Nil”;

the RSA holder’s preserved benefits in the RSA at that time cease to be preserved benefits and become unrestricted non-preserved benefits.

(2) If:

- (a) an RSA holder satisfies a condition of release; and
- (b) the relevant cashing restriction in respect of restricted non-preserved benefits is “Nil”;

the RSA holder’s restricted non-preserved benefits in the RSA at that time cease to be restricted non-preserved benefits and become unrestricted non-preserved benefits.

- (3) This regulation has effect subject to Subdivision 4.1.5.

Effect of rollover or transfer on unrestricted non-preserved benefits

4.15. Subject to Subdivision 4.1.5, the benefits of the holder of an RSA in the RSA that were unrestricted non-preserved benefits in the source from which they were received continue to be unrestricted non-preserved benefits in that RSA.

Subdivision 4.1.5—Miscellaneous**Indexation**

4.16. Benefits that are mentioned in this Division as indexed may be aggregated for the purpose of that indexation.

Contributions and benefits taken to be preserved benefits

4.17. Contributions made, or benefits rolled over or transferred, to an RSA are taken to be preserved benefits for the

purposes of this Division unless and until the RSA provider is satisfied that they are not preserved benefits.

Redistribution of benefits by operation of terms and conditions or action of RSA provider

4.18. (1) For the purpose of subregulation (2), the following are categories of benefits of an RSA holder:

- (a) preserved benefits, as defined by regulation 4.04 or 4.05;
- (b) restricted non-preserved benefits, as defined by regulation 4.09 or 4.10;
- (c) unrestricted non-preserved benefits, as defined by regulation 4.13.

(2) For the purposes of this Part, the terms and conditions of an RSA, or the RSA provider, may alter the category of any benefits but not so as to:

- (a) decrease the amount of the RSA holder's preserved benefits in the RSA; or
- (b) increase the amount of the RSA holder's unrestricted non-preserved benefits in the RSA.

Division 4.2—Payment of benefits

Operating standards

4.19. For the purposes of subsection 38 (1) of the Act, the standard set out in regulation 4.20 is applicable to the operation of RSAs.

Restriction on payment

4.20. The benefits of an RSA holder:

- (a) may only be paid by:
 - (i) being cashed in accordance with Division 4.3; or
 - (ii) being rolled over or transferred in accordance with Division 4.4; and

- (b) must not be paid except when, and to the extent that, the RSA provider is required or permitted under this Part to pay them; and
- (c) must be paid when, and to the extent that, the RSA provider is required under this Part to pay them.

Division 4.3—Cashing of benefits

Voluntary cashing of preserved benefits

4.21. (1) The preserved benefits of an RSA holder may be cashed on or after the satisfaction by the RSA holder of a condition of release.

(2) The amount of preserved benefits that may be cashed in accordance with subregulation (1) must not exceed the sum of:

- (a) the amount of preserved benefits of the RSA holder that had accrued at the time when the RSA holder satisfied the condition of release; and
- (b) the amount of any investment earnings accruing on those benefits from that time.

(3) Subject to subregulation (4), the form in which preserved benefits may be cashed under this regulation is:

- (a) the form (if any) specified in the cashing restriction for preserved benefits set out in Schedule 2 in relation to the relevant condition of release; or
- (b) if that cashing restriction is “Nil”—any one or more of the following forms:
 - (i) a lump sum or 2 or more lump sums;
 - (ii) a pension or 2 or more pensions;
 - (iii) the purchase of an annuity or 2 or more annuities.

(4) A lump sum mentioned in subparagraph (3) (b) (i) must be payable not later than the time for the payment of a lump sum mentioned in paragraph 4.24 (3) (a).

Voluntary cashing of restricted non-preserved benefits

4.22. (1) The restricted non-preserved benefits of an RSA holder may be cashed on or after the satisfaction by the RSA holder of a condition of release.

(2) The amount of restricted non-preserved benefits that may be cashed in accordance with subregulation (1) must not exceed the amount of:

- (a)** the restricted non-preserved benefits of the RSA holder that had accrued at the time when the RSA holder satisfied the condition of release; and
- (b)** any investment earnings accruing on those benefits from that time.

(3) Subject to subregulation (4), the form in which restricted non-preserved benefits may be cashed under this regulation is:

- (a)** the form (if any) specified in the cashing restriction for restricted non-preserved benefits set out in Schedule 2 in relation to the relevant condition of release; or
- (b)** if that cashing restriction is “Nil”—any one or more of the following forms:
 - (i)** a lump sum or 2 or more lump sums;
 - (ii)** a pension or 2 or more pensions;
 - (iii)** the purchase of an annuity or 2 or more annuities.

(4) A lump sum mentioned in subparagraph (3) (b) (i) must be payable not later than the time for the payment of a lump sum mentioned in paragraph 4.24 (3) (a).

Voluntary cashing of unrestricted non-preserved benefits

4.23. (1) The unrestricted non-preserved benefits of an RSA holder may be cashed at any time.

(2) The amount of unrestricted non-preserved benefits that may be cashed in accordance with subregulation (1) is the whole or part of the RSA holder’s unrestricted non-preserved benefits.

(3) Subject to subregulation (4), the form in which unrestricted non-preserved benefits may be cashed under this regulation is any one or more of the following forms:

- (a)** a lump sum or 2 or more lump sums;

- (b) a pension or 2 or more pensions;
- (c) the purchase of an annuity or 2 or more annuities.

(4) A lump sum mentioned in paragraph (3) (a) must be payable not later than the time for the payment of a lump sum mentioned in paragraph 4.24 (3) (a).

Compulsory cashing of benefits

4.24. (1) Subject to regulation (4), the benefits of an RSA holder (other than the RSA holder's post-65 employer-financed benefits) must be cashed as soon as practicable after the occurrence of any of the following events:

- (a) where:
 - (i) the RSA holder has reached age 65 but not age 70; and
 - (ii) the RSA holder is not gainfully employed on either a full-time or part-time basis;
- (b) where:
 - (i) the RSA holder has reached age 70; and
 - (ii) the RSA holder is not gainfully employed on a full-time basis;
- (c) the RSA holder dies.

(2) Subject to subregulation (4), the post-65 employer-financed benefits of an RSA holder must be cashed as soon as practicable after the occurrence of any of the following events:

- (a) where:
 - (i) the RSA holder has reached age 65 but not age 70; and
 - (ii) the RSA holder is not gainfully employed on either a full-time or part-time basis; and
 - (iii) mandated employer contributions have ceased to be made, and are not liable to be made, in respect of the RSA holder to:
 - (A) the RSA; or
 - (B) another RSA; or
 - (C) a regulated superannuation fund;
- (b) where:
 - (i) the RSA holder has reached age 70; and

- (ii) the RSA holder is not gainfully employed on a full-time basis; and
 - (iii) mandated employer contributions have ceased to be made, and are not liable to be made, in respect of the RSA holder to:
 - (A) the RSA; or
 - (B) another RSA; or
 - (C) a regulated superannuation fund;
 - (c) where the RSA holder dies.
- (3) The form in which benefits may be cashed under this regulation is any one or more of the following forms:
- (a) a single lump sum in respect of each person to whom benefits are cashed;
 - (b) a pension or 2 or more pensions;
 - (c) the purchase of an annuity or 2 or more annuities.
- (4) For the purposes of subregulations (1) and (2), it is sufficient if, instead of being cashed, the benefits are rolled over as soon as practicable for immediate cashing.
- (5) In this regulation and in regulation 4.25:
“post-65 employer-financed benefits”, in relation to an RSA holder as at a particular date, means the sum of:
- (a) the amount of the mandated employer contributions made to the RSA in respect of the RSA holder in respect of the period commencing when the RSA holder reached age 65 and ending on that date; and
 - (b) the amount of the mandated employer contributions made to another RSA or to a regulated superannuation fund in respect of the RSA holder in respect of that period, if the benefits arising in respect of those contributions were transferred or rolled over to the RSA during that period; and
 - (c) the amount of the investment earnings on those amounts during that period;
- less the costs applicable to those amounts during that period.

Effect of rollover or transfer on post-65 employer-financed benefits

4.25. Benefits of an RSA holder that were post-65 employer-financed benefits in the source from which they were received continue to be post-65 employer-financed benefits in that RSA.

Limitation on cashing of benefits in favour of persons other than RSA holders or their legal personal representatives

4.26. (1) Subject to regulation 4.27, the benefits of an RSA holder must not be cashed in favour of a person other than the RSA holder or the RSA holder's legal personal representative unless:

- (a) the RSA holder has died; and
- (b) the conditions of subregulation (2) or (3) are satisfied.

(2) The conditions of this subregulation are satisfied if the benefits are cashed in favour of either or both of the following:

- (a) the RSA holder's legal personal representative;
- (b) one or more of the RSA holder's dependants.

(3) The conditions of this subregulation are satisfied if:

- (a) the RSA provider has not, after making reasonable inquiries, found either a legal personal representative, or a dependant, of the RSA holder; and
- (b) the person in whose favour the benefits are cashed is an individual.

Circumstances in which benefits may be cashed in favour of persons other than RSA holders

4.27. The benefits of an RSA holder may be cashed in favour of a person other than the RSA holder if:

- (a) the cashing is approved in writing by the Commissioner for the purposes of paragraph 15 (4) (d) of the Act; and
- (b) the benefits are cashed only to the extent of that approval.

Effect of payment of benefits

4.28. (1) If the cashing of the benefits of an RSA holder complies with regulation 4.26 or 4.27, the RSA provider is discharged from all further liability in respect of the benefits cashed.

(2) Benefits of an RSA holder cashed in accordance with regulation 4.26 or 4.27 in favour of a person other than a legal personal representative of the RSA holder do not form part of the estate of the RSA holder.

Priority in cashing benefits in certain cases

4.29. (1) This regulation applies to an RSA provider if:

- (a) an RSA holder has satisfied a condition of release; and
- (b) there is a cashing restriction (other than a “Nil” restriction) in respect of that condition.

(2) In cashing benefits in accordance with the restriction, the RSA provider must give priority to benefits in the following order:

- (a) first—to unrestricted non-preserved benefits;
- (b) second—to restricted non-preserved benefits;
- (c) third—to preserved benefits.

Division 4.4—Rollover and transfer of benefits

[NOTE: See also Parts 8 and 9 of the Act.]

Interpretation

4.30. In this Division:

“consent” means:

- (a) written consent; or
- (b) any other form of consent determined by the Commissioner as sufficient in the circumstances.

Operating standards

4.31. Subject to regulation 4.34, for the purposes of subsection 38 (1) of the Act, it is a standard applicable to the operation of RSAs that the RSA institution (“**the receiving RSA institution**”) must not accept the rollover or transfer of a benefit from another RSA or from a superannuation entity if:

- (a) the receiving RSA institution has reasonable grounds to believe that the benefit being rolled over or transferred is being rolled over or transferred on the basis of a belief held by the RSA provider or trustee of the transferring entity (as the case may be) that the receiving RSA institution has received the RSA holder’s or member’s consent to the rollover or transfer; and
- (b) the receiving RSA institution has not received that consent.

Rollover

4.32. Except as otherwise provided by the Act or these Regulations, the benefits of an RSA holder in an RSA must not be rolled over from that RSA unless:

- (a) the RSA holder has given to the RSA provider the RSA holder’s consent to the rollover; or
- (b) the RSA provider believes, on reasonable grounds, that:
 - (i) the RSA institution providing the RSA; or
 - (ii) the trustee of the superannuation entity;into which the benefits are to be rolled over has received, from the RSA holder, consent to the rollover.

Transfer

4.33. Except as otherwise provided by the Act or these Regulations, the benefits of an RSA holder in an RSA must not be transferred from that RSA unless:

- (a) the RSA holder has given to the RSA provider the RSA holder’s consent to the transfer; or
- (b) the RSA provider believes, on reasonable grounds, that:
 - (i) the RSA institution providing the RSA; or
 - (ii) the trustee of the superannuation entity;into which the benefits are to be transferred, has received, from the RSA holder, consent to the transfer.

When RSA holder's consent need not be given

4.34. The benefits of an RSA holder in an RSA may be transferred from the RSA to another RSA provided by an RSA institution without the consent required under regulation 4.33 if the transfer is the direct result of:

- (a) the takeover of the RSA provider with which the person previously held an RSA, by:
 - (i) the RSA institution; or
 - (ii) a corporation that is a related corporation of the RSA institution within the meaning of the Corporations Law; or
- (b) a merger involving the RSA provider with which the person previously held an RSA and which results in the creation of the RSA institution; or
- (c) the transfer of any, or all of, the assets and liabilities of the RSA provider with which the person previously held an RSA to the RSA institution:
 - (i) under a provision of the *Banking Act 1959*, the *Life Insurance Act 1995* or of any other law of the Commonwealth, a State or a Territory; or
 - (ii) under a voluntary transfer of engagements; or
 - (iii) on request of a regulatory agency prescribed under regulation 6.12.

PART 5—CONTRIBUTION STANDARDS**Interpretation**

5.01. Expressions used in this Part that are defined for the purposes of Part 3 have the same meanings respectively as in that Part.

Operating standards

5.02. (1) For the purposes of subsection 38 (1) of the Act, the requirement set out in subregulation (2) is a standard applicable to the operation of RSAs.

(2) An RSA institution must not accept contributions except in accordance with this Part.

Acceptance of contributions

5.03. (1) Subject to subregulation (5), an RSA institution may accept contributions that are made in respect of an RSA holder who is under age 65 only if:

- (a) the contributions are mandated employer contributions; or
- (b) the contributions are not mandated employer contributions and the RSA holder:
 - (i) has, at any time in the period of 2 years immediately preceding the date of acceptance, engaged in full-time or part-time gainful employment; or
 - (ii) ceased full-time or part-time gainful employment because of ill-health (whether physical or mental) that, at the date of acceptance, prevents the RSA holder from engaging in employment of the kind that the RSA holder engaged in at the onset of the ill-health; or
 - (iii) is on authorised leave from his or her employer, and:
 - (A) the leave is for the purposes of raising children of whom the RSA holder is a parent, or for whom he or she has assumed the responsibility of a parent; and
 - (B) he or she has been on that leave for less than 7 years consecutively; and
 - (C) he or she has a statutory or contractual right to resume employment at the end of the leave; and
 - (D) he or she was the RSA holder of the RSA immediately before going on the leave.

(2) In subparagraph (1) (b) (iii):

“authorised leave”, in relation to an RSA holder, means leave that is:

- (a) approved by the RSA holder’s employer; or
- (b) authorised by:
 - (i) a law of the Commonwealth, a State or a Territory; or
 - (ii) an agreement certified, or an award made, by a tribunal or body having the authority to do so

under a law of the Commonwealth, a State or a Territory.

(3) Subject to subregulation (5), an RSA institution may accept contributions that are made in respect of an RSA holder who has reached age 65 but not age 70 only if:

- (a) the contributions are mandated employer contributions; or
- (b) the RSA holder is gainfully employed on a part-time or full-time basis.

(4) Subject to subregulation (5), an RSA institution may accept contributions that are made in respect of an RSA holder who has reached age 70 only if the contributions are mandated employer contributions.

(5) An RSA institution may accept contributions in respect of an RSA holder if the RSA institution is reasonably satisfied that the contribution is in respect of a period during which, under subregulation (1), (3) or (4), the RSA institution may accept the contribution in respect of that RSA holder, even though the contribution is actually made after that period.

PART 6—MISCELLANEOUS

Division 6.1—Reconsideration and review of decisions

Notice of reviewable decisions and reasons for those decisions

6.01. (1) As soon as practicable after the Commissioner makes a reviewable decision, the Commissioner must give written notice of the decision to the person at whose request the decision was made.

(2) The notice must have with it a statement by the Commissioner of the Commissioner's reasons for making the decision.

(3) The notice must include a statement to the effect that, if dissatisfied with the decision, the person may:

- (a) in the case of notice of a decision (other than a decision made by the Commissioner under regulation 6.02 confirming or varying an earlier reviewable decision of the Commissioner)—request reconsideration of the decision under regulation 6.02; and
- (b) in the case of notice of a decision made by the Commissioner under regulation 6.02 confirming or varying an earlier reviewable decision of the Commissioner—apply to the Administrative Appeals Tribunal for review of the decision so confirmed or varied.

(4) Failure to comply with subregulation (3) in relation to a decision does not affect the validity of the decision.

Reconsideration of certain decisions

6.02. (1) If a person is dissatisfied with a reviewable decision (other than a decision made by the Commissioner under this regulation), the person may give notice in writing to the Commissioner within:

- (a) the period of 21 days after the day on which the person first receives notice of the decision; or
- (b) such further period as the Commissioner reasonably allows;

requesting the Commissioner to reconsider the decision.

(2) The person must set out in the notice the reasons for the request.

(3) Subject to subregulation (4), the Commissioner must reconsider the decision and may:

- (a) confirm the decision; or
- (b) vary or revoke the decision.

(4) If the Commissioner does not confirm, vary or revoke the decision before the end of the period of 60 days after the day on which the Commissioner received the request, the Commissioner is taken to have confirmed the decision under subregulation (3) at the end of that period.

Review by Tribunal of reconsidered decisions

6.03. Application may be made to the Administrative Appeals Tribunal for review of a decision of the Commissioner to confirm or vary a decision under subregulation 6.02 (3), including a decision that is taken under subregulation 6.02 (4) to have been confirmed.

Division 6.2—Matters prescribed or specified in relation to RSA institutions and providers**Application for approval as an RSA institution**

6.04. For the purposes of paragraph 23 (2) (c) of the Act, the prescribed amount of an application fee is \$500.

Circumstances in which a person may become RSA holder

6.05. For the purposes of subsection 51 (1) of the Act, a person who was the holder of an RSA with an RSA provider is taken to have applied in prescribed circumstances for an RSA with an RSA institution if he or she becomes the holder of the RSA with the RSA institution, and does so as a direct result of:

- (a) the takeover of the RSA provider with which the person previously held an RSA, by:
 - (i) the RSA institution; or
 - (ii) a corporation that is a related corporation of the RSA institution within the meaning of the Corporations Law; or
- (b) a merger involving the RSA provider with which the person previously held an RSA and which results in the creation of the RSA institution; or
- (c) the transfer of any, or all of, the assets and liabilities of the RSA provider with which the person previously held an RSA to the RSA institution:
 - (i) under a provision of the *Banking Act 1959*, the *Life Insurance Act 1995* or of any other law of the Commonwealth, a State or a Territory; or
 - (ii) under a voluntary transfer of engagements; or
 - (iii) on request of a regulatory agency prescribed under regulation 6.12.

Requirements concerning how certain money to be dealt with

6.06. (1) If an amount of money received by an RSA provider is an amount to which section 61 of the Act applies, the RSA provider must:

- (a) pay the money into a suspense account (that need not be interest-bearing); and
- (b) record the payment in a register showing the payments to, and withdrawals from, that suspense account.

(2) The money must:

- (a) if subsection 61 (1) of the Act applies—be retained in the suspense account until:
 - (i) the RSA is provided; or
 - (ii) the money is refunded, at the request of the applicant or the employer, to the applicant or the employer; or
- (b) if subsection 61 (2) of the Act applies—be paid to an eligible rollover fund as soon as practicable.

Statements by experts—keeping of written consents

6.07. (1) For the purposes of subsection 77 (2) of the Act the period for which an RSA provider must keep a consent or copy is 10 years from the date on which the RSA provider receives the consent.

(2) A copy of a consent may be kept:

- (a) in its physical form; or
- (b) in an electronic form that is capable of being reproduced in paper form.

***Division 6.3—Information to be given to Commissioner or
Commissioner of Taxation and related matters***

Operating standards—disclosure of information to Commissioner

6.08. (1) For the purposes of subsection 38 (1) of the Act, it is a standard applicable to the operation of RSAs that an RSA provider

must give notice in writing to the Commissioner, in accordance with subregulation (2), of any change in:

- (a) the name of the RSA provider; or
- (b) the postal address, registered address or address for service of notices, of the RSA provider; or
- (c) details of the contact person, and contact telephone and facsimile numbers.

(2) A notice mentioned in subregulation (1) must be given within 1 month of the occurrence of the change.

(3) In subregulation (1):

“**contact person**” means a named individual, or a person holding a designated office or position, who is available to receive and deal with inquiries from the Commissioner.

Operating standards—information regarding lost RSA holders

6.09. (1) For the purposes of subsection 38 (1) of the Act, the requirement in subregulation (3) is a standard applicable to the operation of RSAs.

(2) For the purposes of this regulation, a lost RSA holder becomes reportable if the RSA holder is a lost RSA holder at the end of an RSA holder reporting period ending after 1 July 1997.

(3) The RSA provider must give to the Commissioner of Taxation, on or before the date specified in subregulation (4) (or such later date as the Commissioner of Taxation may, at any time before or after the date specified in that subregulation, determine in writing in relation to a particular RSA or a class of RSAs), for each half-year a statement, in the form approved by the Commissioner of Taxation, setting out the most recent information, of the kinds set out in subregulation (6), that the RSA provider has regarding:

- (a) each lost RSA holder who became reportable during the half-year, unless:
 - (i) the RSA holder ceased to be an RSA holder; or
 - (ii) the RSA holder ceased to be a lost RSA holder; or
 - (iii) the RSA holder was previously reported under this paragraph and the RSA provider reasonably

- believes that the RSA holder is recorded as lost on the register of lost RSA holders; and
- (b) each RSA holder previously reported under paragraph (a) who ceased to be a lost RSA holder during the half-year.
- (4) The date is:
- (a) in relation to a half-year that ends on 30 June in a calendar year—31 October in that calendar year; and
 - (b) in relation to a half-year that ends on 31 December in a calendar year—30 April in the following calendar year.
- (5) An approval by the Commissioner of Taxation of a form of statement for the purposes of subregulation (3) may require or permit the statement to be given on a specified kind of data processing device in accordance with specified software requirements.
- (6) The information regarding each RSA holder is:
- (a) in the case of an RSA holder who became reportable during the half-year:
 - (i) the RSA holder's name, date of birth, contact details and sex; and
 - (ii) the RSA provider's name and contact details; and
 - (iii) the name and contact details of the RSA holder's employer last known to the RSA provider; and
 - (iv) a statement to the effect that the RSA holder has become a lost RSA holder; and
 - (v) a statement of the amount of the RSA holder's withdrawal benefits at the date on which the RSA holder became reportable; and
 - (vi) if, in the half-year, the Commissioner of Taxation requests in writing from the RSA provider other information that the Commissioner of Taxation reasonably believes may assist the Commissioner of Taxation in administering the register of lost RSA holders—that information; and
 - (b) in the case of an RSA holder who ceased to be a lost RSA holder during the half-year:
 - (i) a statement to that effect; and
 - (ii) the RSA holder's name, date of birth, and sex; and

- (iii) the RSA provider's name and contact details; and
- (iv) if, in the half-year, the Commissioner of Taxation requests in writing from the RSA provider other information that the Commissioner of Taxation reasonably believes may assist the Commissioner of Taxation in administering the register of lost RSA holders—that information; and
- (v) if the RSA provider so chooses—any other information mentioned in paragraph (a).

(7) For the purposes of this regulation, if a lost RSA holder ceases to be a lost RSA holder during an RSA holder reporting period, the RSA provider may decide that the RSA holder is to be taken to continue to be a lost RSA holder until the end of that RSA holder reporting period.

(8) In this regulation:
“contact details” means:

- (a) in relation to an RSA holder—details of the person's residential address, postal address (if different) and, where available, telephone number and facsimile (electronic transmission) number; and
- (b) in relation to the RSA provider or the RSA holder's employer—the postal address and, where available, telephone number and facsimile (electronic transmission) number;

“RSA holder reporting period” has the meaning given by regulation 3.07;

(9) This regulation does not apply in relation to a half-year beginning before 1 July 1997.

Lodgment of annual returns

6.10. For the purposes of subsection 44 (1) of the Act, the prescribed period after the end of each year of income of an RSA provider is 5 months.

Division 6.4—Other matters**RSA holder benefits—specified age**

6.11. For the purposes of paragraph 15 (2) (b) of the Act, 65 years is the specified age.

Prescribed regulatory agency

6.12. For the purposes of subsections 26 (2), 33 (3), paragraphs 96 (1) (c) and 182 (2) (b) of the Act and regulations 2.07, 4.34 and 6.05, the following agencies are prescribed:

- (a) in the case of banks—Reserve Bank of Australia;
- (b) in the case of building societies and credit unions:
 - (i) Australian Capital Territory—Registrar of Financial Institutions;
 - (ii) Australian Financial Institutions Commission;
 - (iii) New South Wales Financial Institutions Commission;
 - (iv) Queensland Office of Financial Supervision;
 - (v) South Australian Office of Financial Supervision;
 - (vi) Tasmanian Office of Financial Supervision;
 - (vii) Territory Supervisory Authority constituted by the Registrar of Financial Institutions;
 - (viii) Victorian Financial Institutions Commission;
 - (ix) Western Australian Financial Institutions Authority.

Period to notify RSA holder or employer of suspension or revocation

6.13. For the purposes of paragraph 34 (1) (a) of the Act, the prescribed period is 28 days.

Orders etc of the Superannuation Complaints Tribunal to be complied with

6.14. For the purposes of subsection 38 (1) of the Act, it is a standard applicable to the operation of RSAs that an RSA provider must not fail, without lawful excuse, to comply with an order, direction or determination of the Superannuation Complaints Tribunal.

Amount to be transferred

6.15. For the purposes of subsection 50 (3) of the Act, the amount of an RSA is the RSA holder's withdrawal benefit in the RSA.

Period within which audit report must be given

6.16. For the purposes of subsection 65 (1) of the Act, the period within which a report mentioned in that subsection must be given after the year of income to which it relates is 5 months.

Payment of benefit to eligible rollover fund

6.17. For the purposes of paragraph 89 (3) (b) of the Act, the amount of the consideration for the issue of a superannuation interest is equal to:

- (a) if the RSA provider has received an amount of money to which subsection 61 (2) of the Act applies—the amount so received; or
- (b) in any other case—the amount of the RSA holder's withdrawal benefit in the RSA.

[NOTE: Section 89 of the Act sets out the circumstances in which the RSA provider may apply to the trustee of an eligible rollover fund, on behalf of an RSA holder, for the issue to the RSA holder of a superannuation interest in the eligible rollover fund. There are no conditions prescribed for the purposes of subsection 89 (1) of the Act.]

Report of inspector—prescribed agencies

6.18. For the purposes of subparagraph 114 (3) (c) (iv) of the Act, the following agencies are prescribed:

- (a) Australian Capital Territory—Registrar of Financial Institutions;
- (b) Australian Financial Institutions Commission;
- (c) Australian Securities Commission;
- (d) Australian Transactions Reports and Analysis Centre;
- (e) Commissioner of Taxation;
- (f) New South Wales Crime Commission;
- (g) New South Wales Financial Institutions Commission;
- (h) New South Wales Independent Commission Against Corruption;
- (i) Queensland Criminal Justice Commission;
- (j) Queensland Office of Financial Supervision;
- (k) Reserve Bank of Australia;
- (l) South Australian Office of Financial Supervision;
- (m) Tasmanian Office of Financial Supervision;
- (n) Territory Supervisory Authority constituted by the Registrar of Financial Institutions;
- (o) Victorian Financial Institutions Commission;
- (p) Western Australian Financial Institutions Authority;
- (q) an authority of a State or Territory having functions and powers similar to those of the Director of Public Prosecutions;
- (r) the police force of a State or Territory.

Statements made at an examination—manner of authentication

6.19. For the purposes of subsection 120 (7) of the Act, it is a prescribed manner of authentication of a written record of an examination mentioned in the subsection if:

- (a) the written record is produced as soon as practicable after the conclusion of the examination; and
- (b) the written record is endorsed by a person (“**the endorser**”) other than the person examined at the examination; and
- (c) the endorser:
 - (i) was present throughout the examination; and

- (ii) reads and endorses the written record as soon as practicable after it is produced; and
- (d) the endorsement:
 - (i) is to the effect that the record is a true record of what was said in the examination; and
 - (ii) is signed and dated by the endorser.

Definition of “financial sector supervisory agency”

6.20. For the purposes of the definition of “financial sector supervisory agency” in subsection 191 (20) of the Act, the following agencies are prescribed:

- (a) Australian Capital Territory—Registrar of Financial Institutions;
- (b) Australian Financial Institutions Commission;
- (c) Australian Securities Commission;
- (d) Commissioner of Taxation;
- (e) New South Wales Financial Institutions Commission;
- (f) Queensland Office of Financial Supervision;
- (g) Reserve Bank of Australia;
- (h) South Australian Office of Financial Supervision;
- (i) Tasmanian Office of Financial Supervision;
- (j) Territory Supervisory Authority constituted by the Registrar of Financial Institutions;
- (k) Victorian Financial Institutions Commission;
- (l) Western Australian Financial Institutions Authority.

Definition of “law enforcement agency”

6.21. For the purposes of the definition of “law enforcement agency” in subsection 191 (20) of the Act, the following agencies are prescribed:

- (a) Australian Bureau of Criminal Intelligence;
- (b) Australian Competition and Consumer Commission;
- (c) Australian Federal Police;
- (d) Australian Transactions Reports and Analysis Centre;
- (e) Commonwealth Director of Public Prosecutions;
- (f) Commonwealth Law Enforcement Board;
- (g) National Crime Authority;

- (h) National Exchange of Police Information;
 - (i) New South Wales Crime Commission;
 - (j) New South Wales Independent Commission Against Corruption;
 - (k) Office of Law Enforcement Policy;
 - (l) Office of Strategic Crime Assessments;
 - (m) Queensland Criminal Justice Commission;
 - (n) an authority of a State or Territory having functions and powers similar to those of the Commonwealth Director of Public Prosecutions;
 - (o) the police force of a State or Territory.
-

SCHEDULE 1

Subregulation 1.07 (2)

PAYMENT LIMITS

1. Subject to clauses 3 and 4, the maximum limits mentioned in paragraph 1.07 (2) (d) are determined under the formula:

$$\frac{AB}{PVF}$$

where:

“AB” means the amount in the RSA:

- (a) on 1 July in the financial year in which the payments are made; or
- (b) if that year is the year in which the pension payments commence—on the commencement day; and

“PVF” means the maximum pension valuation factor set out in Column 3 of Table 1 in this Schedule in relation to the item in the Table that represents the age of the beneficiary (or, subject to clause 5, in the case of the death of the original beneficiary, the age of the reversionary beneficiary) on:

- (a) 1 July in the financial year in which the payments are made; or
- (b) if that is the year in which the pension payments commence—the commencement day.

2. Subject to clauses 3 and 4, the minimum limits mentioned in paragraph 1.07 (2) (d) or (e) are determined under the formula:

$$\frac{AB}{PVF}$$

where:

“AB” means the amount in the RSA:

- (a) on 1 July in the financial year in which the payments are made; or
- (b) if that year is the year in which the pension payments commence—on the commencement day; and

SCHEDULE 1—continued

“**PVF**” means the minimum pension valuation factor set out in Column 4 of Table 1 in this Schedule in relation to the item in the Table that represents the age of the beneficiary (or, subject to clause 5, in the case of the death of the original beneficiary, the age of the reversionary beneficiary) on:

- (a) 1 July in the financial year in which the payments are made; or
- (b) if that is the year in which the pension payments commence—the commencement day.

3. For a calculation of the maximum or minimum limit in the year in which the commencement day of the pension occurs if that day is a day other than 1 July, the appropriate value set out in Column 3 or Column 4 of Table 1 or Table 2, as the case requires, in this Schedule must be applied proportionally to the number of days in the financial year that include and follow the commencement day.

4. An amount determined under the formula that is not evenly divisible by 10 is to be rounded to the nearest amount that is so divisible.

5. If the reversionary beneficiary mentioned in clause 1 or 2 is a child beneficiary at the time of the first payment, the maximum and minimum pension valuation factors set out in Column 3 and Column 4 of Table 2 in this Schedule must be used.

6. In the case of a reversionary beneficiary mentioned in clause 1 or 2, the maximum and minimum limits for reversionary benefits must be calculated:

- (a) on or before the 1 July next after the death of the original beneficiary; or
- (b) if the death of the original beneficiary occurs in the period from 1 April to 30 June (inclusive) in a year, recalculation may be extended beyond 1 July in that year to the earliest normal RSA recalculation date after the financial year in which the death occurred.

7. For the purposes of clause 5, a reversionary beneficiary is a child beneficiary until:

- (a) his or her 16th birthday; or

SCHEDULE 1—continued

- (b) if the person mentioned in paragraph (a) is a full-time student at age 16—the end of his or her full-time studies or his or her 25th birthday (whichever occurs sooner).

TABLE 1**FACTORS FOR ALLOCATED PENSIONS—GENERAL**

Column 1 Item no.	Column 2 Age of Beneficiary	Column 3 Maximum Pension Valuation Factor	Column 4 Minimum Pension Valuation Factor
1	20 or less	10	28.6
2	21	10	28.5
3	22	10	28.3
4	23	10	28.1
5	24	10	28.0
6	25	10	27.8
7	26	10	27.6
8	27	10	27.5
9	28	10	27.3
10	29	10	27.1
11	30	10	26.9
12	31	10	26.7
13	32	10	26.5
14	33	10	26.3
15	34	10	26.0
16	35	10	25.8
17	36	10	25.6
18	37	10	25.3
19	38	10	25.1
20	39	10	24.8
21	40	10	24.6
22	41	10	24.3
23	42	10	24.0
24	43	10	23.7
25	44	10	23.4
26	45	10	23.1
27	46	10	22.8
28	47	10	22.5
29	48	10	22.2

SCHEDULE 1—continued

Column 1 Item no.	Column 2 Age of Beneficiary	Column 3 Maximum Pension Valuation Factor	Column 4 Minimum Pension Valuation Factor
30	49	10	21.9
31	50	9.9	21.5
32	51	9.9	21.2
33	52	9.8	20.9
34	53	9.7	20.5
35	54	9.7	20.1
36	55	9.6	19.8
37	56	9.5	19.4
38	57	9.4	19.0
39	58	9.3	18.6
40	59	9.1	18.2
41	60	9.0	17.8
42	61	8.9	17.4
43	62	8.7	17.0
44	63	8.5	16.6
45	64	8.3	16.2
46	65	8.1	15.7
47	66	7.9	15.3
48	67	7.6	14.9
49	68	7.3	14.4
50	69	7.0	14.0
51	70	6.6	13.5
52	71	6.2	13.1
53	72	5.8	12.6
54	73	5.4	12.2
55	74	4.8	11.7
56	75	4.3	11.3
57	76	3.7	10.8
58	77	3.0	10.4
59	78	2.2	10.0
60	79	1.4	9.5
61	80	1	9.1
62	81	1	8.7
63	82	1	8.3
64	83	1	7.9
65	84	1	7.5
66	85	1	7.1

SCHEDULE 1—continued

Column 1 Item no.	Column 2 Age of Beneficiary	Column 3 Maximum Pension Valuation Factor	Column 4 Minimum Pension Valuation Factor
67	86	1	6.8
68	87	1	6.4
69	88	1	6.1
70	89	1	5.8
71	90	1	5.5
72	91	1	5.3
73	92	1	5.0
74	93	1	4.8
75	94	1	4.6
76	95	1	4.4
77	96	1	4.2
78	97	1	4.0
79	98	1	3.8
80	99	1	3.7
81	100 or more	1	3.5

EXAMPLE:

Iva Fortune, who turns 60 on 5 September 1997, invests \$100,000 in an RSA on 1 October 1997. The date of the first payment to Ms Fortune is 1 January 1998.

Assume that the interest applied to the RSA is 7%.

1997/98: The maximum and minimum payments for 1997/98 are based on:

- (a) the RSA balance on the day of purchase; and
- (b) the beneficiary's age of 60 on the day of purchase:

$$\frac{\$100,000}{9.0} \times \frac{273}{365} = \$8,310.50 \quad (\text{maximum limit, rounded to } \$8,310)$$

$$\frac{\$100,000}{17.8} \times \frac{273}{365} = \$4,201.93 \quad (\text{minimum limit, rounded to } \$4,200)$$

SCHEDULE 1—continued

Assume that total payments to Ms Fortune at 30 June 1998 are \$6,000.

1998/99: The maximum and minimum payments for the year 1998/99 are based on:

- (a) the RSA balance on 1 July 1998 which is \$99,145 (residue \$94,000 + interest of \$5,145); and
- (b) the beneficiary's age of 60 on 1 July 1998:

$$\frac{\$99,145}{9.0} = \$11,016.11 \quad (\text{maximum limit, rounded to } \$11,020)$$

$$\frac{\$99,145}{17.8} = \$5,569.94 \quad (\text{minimum limit, rounded to } \$5,570)$$

SCHEDULE 1—continued

TABLE 2

FACTORS FOR ALLOCATED PENSIONS—CHILD
BENEFICIARY (REVERSION)

Column 1 Item no.	Column 2 Age of Beneficiary	Column 3 Maximum Pension Valuation Factor	Column 4 Minimum Pension Valuation Factor
1	0	8.3	17.4
2	1	8.1	16.9
3	2	7.9	16.4
4	3	7.6	15.9
5	4	7.3	15.4
6	5	7.0	14.8
7	6	6.6	14.3
8	7	6.2	13.7
9	8	5.8	13.1
10	9	5.4	12.4
11	10	4.8	11.8
12	11	4.3	11.1
13	12	3.7	10.5
14	13	3.0	9.7
15	14	2.2	9.0
16	15	1.4	8.3
17	16	1.0	7.5
18	17	1.0	6.7
19	18	1.0	5.9
20	19	1.0	5.1
21	20	1.0	4.2
22	21	1.0	3.3
23	22	1.0	2.4
24	23	1.0	1.5
25	24	1.0	1.0

SCHEDULE 2

Regulation 4.01

**CONDITIONS OF RELEASE AND CASHING
RESTRICTIONS—PRESERVED BENEFITS AND
RESTRICTED NON-PRESERVED BENEFITS**

Column 1	Column 2	Column 3
Item no.	Conditions of release	Cashing restrictions
101	Retirement	Nil
102	Death	Nil
103	Permanent incapacity	Nil
104	Permanent departure from Australia	Nil
105	Severe financial hardship	A single lump sum, not exceeding in any particular case the amount determined by the Commissioner, from the RSA for the purpose of relieving the hardship
106	Attaining age 65	Nil
107	Termination of gainful employment with an employer who had, or any of whose associates had, at any time, contributed to the RSA in relation to the RSA holder	<p>1. <i>Preserved benefits:</i> Non-commutable life pension or non-commutable life annuity</p> <p>2. <i>Restricted non-preserved benefits:</i> Nil</p>

SCHEDULE 2—continued

Column 1	Column 2	Column 3
Item no.	Conditions of release	Cashing restrictions
108	Temporary incapacity	<p>A non-commutable income stream cashed from the RSA for:</p> <p>(a) the purpose of continuing (in whole or part) the gain or reward which the RSA holder was receiving before the temporary incapacity; and</p> <p>(b) a period not exceeding the period of incapacity from employment of the kind engaged in immediately before the temporary incapacity</p>
109	Any other condition, if expressed to be a condition of release, in an approval under paragraph 15 (4) (d) of the Act	Restrictions expressed in the approval to be cashing restrictions applying to the condition of release of the Act

[NOTE: The definitions set out in subregulation 4.01 (2) apply, unless they are immaterial or expressed not to apply, to Schedule 2; see that subregulation.]

NOTE

1. Notified in the *Commonwealth of Australia Gazette* on

1

1997.

29

May