

# **Superannuation Industry (Supervision) (Transitional Provisions) Regulations (Amendment) 1998 No. 81**

## EXPLANATORY STATEMENT

### STATUTORY RULES 1998 NO. 81

Issued by the authority of the Assistant Treasurer

*Superannuation Industry (Supervision) Act 1993*

Superannuation Industry (Supervision) (Transitional Provisions) Regulations (Amendment)

The *Superannuation Industry (Supervision) Act 1993* (the Act) provides for the prudent management of certain superannuation funds and for their supervision by the Insurance and Superannuation Commissioner (the Commissioner).

Section 353 of the Act provides that the Governor-General may make Regulations for the purposes of the Act.

The Superannuation Industry (Supervision) (Transitional Provisions) Regulations (the Principal Regulations) prescribe the transitional superannuation fund conditions and regulatory system that applies to superannuation funds from the commencement of their 1994-95 year of income (the commencement of the Act) until the day they elect to be regulated under the Act (that is, their 'pre-lodgment period').

The purpose of the Regulations is to rectify a transcription error which occurred when the Principal Regulations were amended previously.

The transitional superannuation fund conditions are based on provisions in the *Occupational Superannuation Standards Act 1987* (the 'OSS Act') and Occupational Superannuation Standards Regulations (the 'OSS Regulations') with some modifications. The OSS Act and OSS Regulations set out the standards superannuation funds must have complied with in order to be eligible for taxation concessions prior to the commencement of a superannuation fund's 1994-95 year of income. However, in order to establish what was prescribed by the Principal Regulations, it was necessary to read the Principal Regulations with the OSS Act and OSS Regulations.

Previous amendments to the Principal Regulations, among other things, set out in full the modified OSS Regulations so that it is no longer necessary to read the Principal Regulations with the OSS Regulations to determine what is prescribed by the Principal Regulations. However, in setting out the modified provisions of the OSS Regulations in the Principal Regulations there was a transcription error.

The Regulations will rectify the transcription error by deleting item 5 of Part 2 of Schedule 2 of the Principal Regulations which sets out subregulations 18(1) and (2) of the OSS Regulations as the applicable provisions and inserting subregulations 18B(1) and (3) of the OSS Regulations. Subregulations 18B(1) and (3) are the provisions that are to apply to superannuation funds during their pre-lodgment period, not subregulations 18(1) and (2).

The Regulations take effect retrospectively from 1 July 1996. The retrospective effect of the Regulations will not adversely affect the rights of any person. Therefore, subsection 48(2) of the *Acts Interpretation Act 1901* will not be contravened. The retrospective effect of the Regulations is in line with the commencement of the previous amendments to the Principal Regulations and therefore ensures consistency in the regulatory regime for funds during their 'pre-lodgment period'.

