



Superannuation Industry (Supervision) Amendment Regulations 2008 (No. 1)¹

Select Legislative Instrument 2008 No. 9

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Superannuation Industry (Supervision) Act 1993*.

Dated 14 February 2008

P. M. JEFFERY
Governor-General

By His Excellency's Command

NICK SHERRY
Minister for Superannuation and Corporate Law

1 Name of Regulations

These Regulations are the *Superannuation Industry (Supervision) Amendment Regulations 2008 (No. 1)*.

2 Commencement

These Regulations commence on the day after they are registered.

3 Amendment of *Superannuation Industry (Supervision) Regulations 1994*

Schedule 1 amends the *Superannuation Industry (Supervision) Regulations 1994*.

Schedule 1 Amendments

(regulation 3)

[1] Subregulation 6.01 (2), after definition of *temporary incapacity*

insert

terminal medical condition has the meaning given by regulation 6.01A.

[2] Subregulation 6.01 (2), definition of *transition to retirement income stream*, subparagraph (a) (ii)

substitute

- (ii) allows total payments (excluding payments by way of commutation, but including payments under a payment split) made in a financial year to amount to no more than 10% of the annuity account balance:

- (A) on 1 July in the financial year in which the payment is made; or

(B) if that year is the year in which the annuity commences — on the commencement day; unless the annuitant has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted non-preserved benefits is ‘Nil’; and

[3] Subregulation 6.01 (2), definition of *transition to retirement income stream*, subparagraph (b) (ii)

substitute

- (ii) allow total payments (excluding payments by way of commutation but including payments under a payment split) made in a financial year to amount to no more than 10% of the pension account balance:
- (A) on 1 July in the financial year in which the payment is made; or
- (B) if that year is the year in which the pension commences — on the commencement day; unless the pensioner has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted non-preserved benefits is ‘Nil’; and

[4] After regulation 6.01

insert

6.01A Meaning of *terminal medical condition*

For Schedule 1, a *terminal medical condition* exists in relation to a person at a particular time if the following circumstances exist:

- (a) two registered medical practitioners have certified, jointly or separately, that the person suffers from an illness, or has incurred an injury, that is likely to result in the death of the person within a period (the *certification period*) that ends not more than 12 months after the date of the certification;

- (b) at least one of the registered medical practitioners is a specialist practicing in an area related to the illness or injury suffered by the person;
- (c) for each of the certificates, the certification period has not ended.

[5] Schedule 1, heading*substitute*

Schedule 1 Conditions of release of benefits

(Subregulations 1.03AB (2) and 6.01 (2), regulation 6.01A, paragraphs 6.15A (1) (a) and (b), (2) (b), (3) (b), (4) (c) and (5) (c), subparagraph 6.16 (3) (b) (ii) and paragraphs 6.18 (3) (a), 6.19 (3) (a), 6.23 (3) (a) and 7A.01A (a) and (c))

[6] Schedule 1, after item 102*insert*

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| 102A | Terminal medical condition | Nil |
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[7] Schedule 1, after item 202*insert*

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| 202A | Terminal medical condition | Nil |
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Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.