

EXPLANATORY STATEMENT

Issued by authority of the Minister for Revenue and Financial Services

Subject - *Superannuation (Resolution of Complaints) Act 1993*
Superannuation (Resolution of Complaints) Regulations 2018

The *Superannuation (Resolution of Complaints) Act 1993* establishes the Superannuation Complaints Tribunal.

Section 68 of the *Superannuation (Resolution of Complaints) Act 1993* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the Act.

The purpose of the *Superannuation (Resolution of Complaints) Regulations 2018* (the proposed Regulations) is to remake the *Superannuation (Resolution of Complaints) Regulations 1994* (the former Regulations). The *Legislation Act 2003* provides that all legislative instruments, other than exempt instruments, progressively ‘sunset’ according to the timetable set out in the *Legislation Act 2003*. Legislative instruments registered on the Federal Register of Legislation (previously known as the Federal Register of Legislative Instruments) on 1 January 2005, such as the former Regulations, sunset on 1 October 2018. When a legislative instrument sunsets, it is automatically repealed under section 50 of the *Legislation Act 2003*.

The Regulations remake the former Regulations with minor formatting changes to bring the provisions into line with current drafting conventions.

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

The Act specifies no conditions that need to be satisfied before the power to make the Regulations may be exercised.

An exposure draft of the Regulations was not released for public consultation as the Regulations do not make any substantive changes to the former Regulations.

No Regulations Impact Statement (RIS) has been prepared because under the Office of Best Practice Regulation guidelines no RIS is required if the remade Regulations do not make significant changes to the former regulations.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The Regulations commenced on the day after it is registered on the Federal Register of Legislation.

Authority: Section 68 of the
Superannuation (Resolution of Complaints) Act 1993

Statement of Compatibility with Human Rights

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

Superannuation (Resolution of Complaints) Regulations 2018

The Regulations are compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulations

The purpose of the *Superannuation (Resolution of Complaints) Regulations 2018* (the Regulations) is to remake the *Superannuation (Resolution of Complaints) Regulations 1994* (the former Regulations). The *Legislation Act 2003* provides that all legislative instruments, other than exempt instruments, progressively ‘sunset’ according to the timetable set out in the *Legislation Act 2003*. Legislative instruments registered on the Federal Register of Legislation (previously known as the Federal Register of Legislative Instruments) on 1 January 2005, such as the former Regulations, sunset on 1 October 2018. When a legislative instrument sunsets, it is automatically repealed under section 50 of the *Legislation Act 2003*.

The Regulations remake the former Regulations with minor formatting changes to bring the provisions into line with current drafting conventions.

Human rights implications

The Regulations do not engage any of the applicable rights or freedoms.

Conclusion

The Regulations are compatible with human rights as it does not raise any human rights issues.

Details of the *Superannuation (Resolution of Complaints) Regulations 2018*

All references are to the *Superannuation (Resolution of Complaints) Regulations 2018* (the Regulations) unless otherwise stated. The Regulations make improvements to the former Regulations by reformatting and restructuring provisions to take account of modern instrument drafting techniques such as the greater use of tables. The Regulations also simplify and update language in accordance with standard drafting practices.

Section 1 - Name of Regulations

This section provides that the title of the Regulations is the *Superannuation (Resolution of Complaints) Regulations 2018*.

Section 2 - Commencement

This section provides for the Regulations to commence the day after registration.

Section 3 - Authority

This section provides that the Regulations are made under the *Superannuation (Resolution of Complaints) Act 1993*.

Section 4 - Schedule(s)

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

Section 5 – Definitions

This section remakes the interpretation section of the former Regulations (former regulation 3).

Section 6 - Exempt public sector superannuation schemes taken to be regulated super funds

This section remakes regulation 4A and Schedule 1 of the former Regulations. The provisions have been restructured into a table format to reflect modern instrument drafting techniques.

Section 7 - Persons to be treated as beneficiaries, members etc

This section remakes former regulation 4B, with minor formatting changes and updated language.

Section 8 - Payment of death benefits—period for objections and complaints

This section remakes former regulation 5, restructuring the provision to improve readability as well as making minor formatting changes.

Section 9 - Statement of amount or amounts in respect of person's contributed amounts—period to make complaint

This section remakes former regulation 5A, with minor formatting changes.

Section 10 - Complaint handling bodies

This section ensures that amendments made to the former Regulations by the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Regulations 2018* (the AFCA regulations) apply at the times set out in the AFCA regulations. That is, this section ensures that the transitional application rules included in the AFCA regulations are still effective following the remaking of the Regulations.

Section 11 - Method of calculation of interest

This section remakes former regulation 7, with minor formatting changes and updated language.

Schedule 1—Repeals

This section repeals the former Regulations.