



## **Superannuation (Resolution of Complaints) Regulations 2018**

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I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 21 June 2018

Peter Cosgrove  
Governor-General

By His Excellency's Command

Kelly O'Dwyer  
Minister for Revenue and Financial Services

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## 1 Name

This instrument is the *Superannuation (Resolution of Complaints) Regulations 2018*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	23 June 2018

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the *Superannuation (Resolution of Complaints) Act 1993*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## 5 Definitions

In this instrument:

*Act* means the *Superannuation (Resolution of Complaints) Act 1993*.

*AFCA scheme* has the same meaning as in Chapter 7 of the *Corporations Act 2001*.

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

For the purposes of section 4A of the Act, an exempt public sector superannuation scheme specified in the following table is taken to be a regulated superannuation fund for the purposes of the Act.

## Section 7

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### Exempt public sector superannuation schemes taken to be a regulated super fund

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Item	Exempt Public Sector Superannuation Scheme
1	Parliamentary Contributory Superannuation Fund (Queensland)
2	State Public Sector Superannuation Scheme (QSuper) (Queensland)
3	Schemes established by or under the <i>State Superannuation Act 2000</i> (WA), including the schemes continued by section 29 of that Act
4	SA Metropolitan Fire Service Superannuation Scheme (South Australia)
5	Electricity Industry Superannuation Scheme (South Australia)

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### 7 Persons to be treated as beneficiaries, members etc

- (1) For the purposes of subsection 4B(1) of the Act, the following persons are to be treated as members of regulated superannuation funds for the purposes of paragraph 14(1)(a) and subparagraph 15(1)(b)(i) of the Act:
  - (a) a non-member spouse in relation to whom a splitting order under the *Family Law Act 1975* has been made, from the day on which a copy of the order is served on the trustee;
  - (b) a non-member spouse who is a party to a superannuation agreement under the *Family Law Act 1975*, from the day on which a copy of the agreement is served on the trustee;
  - (c) a party to a marriage in relation to which an order of a kind referred to in Part VIII AA of the *Family Law Act 1975* has been made, if the order relates to a superannuation interest;
  - (d) an eligible person within the meaning of section 90M ZB of the *Family Law Act 1975*.
- (2) For the purposes of subsection 4B(1) of the Act, the following persons are to be treated as beneficiaries of approved deposit funds for the purposes of paragraph 14(1)(b) and subparagraph 15(1)(b)(ii) of the Act:
  - (a) a non-member spouse in relation to whom a splitting order under the *Family Law Act 1975* has been made, from the day on which a copy of the order is served on the trustee;
  - (b) a non-member spouse who is a party to a superannuation agreement under the *Family Law Act 1975*, from the day on which a copy of the agreement is served on the trustee;
  - (c) a party to a marriage in relation to which an order of a kind referred to in Part VIII AA of the *Family Law Act 1975* has been made, if the order relates to a superannuation interest;
  - (d) an eligible person within the meaning of section 90M ZB of the *Family Law Act 1975*.
- (3) For the purposes of subsection 4B(1) of the Act, the following persons are to be treated as holders of RSAs for the purposes of subsection 15F(1) and paragraph 15G(1)(b) of the Act:
  - (a) a non-member spouse in relation to whom a splitting order under the *Family Law Act 1975* has been made, from the day on which a copy of the order is served on the trustee;

- (b) a non-member spouse who is a party to a superannuation agreement under the *Family Law Act 1975*, from the day on which a copy of the agreement is served on the trustee;
- (c) a party to a marriage in relation to which an order of a kind referred to in Part VIII A A of the *Family Law Act 1975* has been made, if the order relates to a superannuation interest;
- (d) an eligible person within the meaning of section 90M Z B of the *Family Law Act 1975*.

## 8 Payment of death benefits—period for objections and complaints

For the purposes of the following provisions of the Act, the prescribed period is 28 days:

- (a) paragraph 14(3)(b);
- (b) subparagraph 15(2)(a)(ii);
- (c) paragraph 15B(2)(b);
- (d) subparagraph 15C(2)(a)(ii);
- (e) paragraph 15F(2)(b);
- (f) subparagraph 15G(2)(a)(ii);
- (g) paragraph 15J(2)(b);
- (h) subparagraph 15K(2)(a)(ii).

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

For the purposes of subsection 15CA(2) of the Act, the prescribed period is 12 months.

## 10 Complaint handling bodies

- (1) For the purposes of subsection 22A(1) of the Act, a body responsible for dealing with disputes under an external dispute resolution scheme that complies with paragraph 912A(2)(b) of the *Corporations Act 2001* is prescribed for the period that:
  - (a) starts on the commencement of this section; and
  - (b) ends immediately before the day that the amendments made by Part 5 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018* start to apply.

Note: The repeal of paragraph 912A(2)(b) of the *Corporations Act 2001* by item 59 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018* applies on and after when the amendments made by Part 5 of that Schedule start to apply. For when the amendments made by Part 5 of that Schedule start to apply, see item 72 of that Schedule.

- (2) For the purposes of subsection 22A(1) of the Act, the operator of the AFCA scheme is prescribed from the start of the day that the amendments made by Part 4 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers*

## Section 11

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*First—Establishment of the Australian Financial Complaints Authority) Act 2018* start to apply.

Note: For when the amendments made by Part 4 of Schedule 1 to the *Treasury Laws Amendment (Putting Consumers First—Establishment of the Australian Financial Complaints Authority) Act 2018* start to apply, see item 58 of that Schedule.

### 11 Method of calculation of interest

For the purposes of subparagraph 37A(3)(a)(iii), paragraph 37A(4)(c) and subparagraphs 37B(2)(a)(iii), 37D(3)(a)(iv), 37D(5)(a)(iv), 37F(3)(a)(iv) and 37F(5)(a)(iv) of the Act, interest on any:

- (a) money received under a life policy; or
- (b) money received in relation to a life policy fund; or
- (c) money received under an annuity policy; or
- (d) money received under an RSA; or
- (e) money received under a contract of insurance, the premiums for which are paid from an RSA;

that is required by the Tribunal to be repaid is to be worked out in accordance with the formula:

$$p \times [(1 + i)^n - 1]$$

where:

*i* means 0.05 divided by 12, worked out to 5 decimal places.

*n* means the number of whole calendar months since the end of that calendar month to the date of the repayment.

*p* means the amount of money received in a particular calendar month.



## **Schedule 1—Repeals**

### ***Superannuation (Resolution of Complaints) Regulations 1994***

#### **1 The whole of the instrument**

Repeal the instrument.