

EXPLANATORY STATEMENT

Issued by authority of the Assistant Minister for Superannuation, Financial Services and Financial Technology, Parliamentary Secretary to the Treasurer

Superannuation (Unclaimed Money and Lost Members) Act 1999

Superannuation (Unclaimed Money and Lost Members) Regulations 2019

Section 50 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (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 (Unclaimed Money and Lost Members) Regulations 2019* (the Amending Regulations) is to remake and improve the operation of the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999* (the Regulations) before they sunset. The *Legislation Act 2003* provides that all legislative instruments, other than exempt instruments, progressively sunset according to the timetable in section 50 of that Act. Sunsetting legislative instruments generally cease to have effect after ten years unless their operation is extended such as by remaking the instrument.

The Regulations were originally due to sunset on 1 April 2019, however, a twelve-month deferral was granted by the Attorney-General under section 51 of the *Legislation Act 2003* on 17 October 2018 (F2018L01509) and the Regulations are now due to sunset on 1 April 2020.

As with the Regulations, the Amending Regulations support the operation of the Act.

The Amending Regulations remake and improve the Regulations by repealing redundant provisions, simplifying language and restructuring provisions for ease of navigation. These changes do not affect the substantive meaning or operation of the provisions.

The Amending Regulations and explanatory material were released for a four week public consultation between 30 September 2019 and 25 October 2019. Very limited feedback was received but where feedback was received, changes were made to the Amending Regulations to reflect this.

Further details of the Amending Regulations are set out in [Attachment A](#).

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

The Amending Regulations commence on the day after it is registered.

A statement of Compatibility with Human Rights is at [Attachment B](#).

Details of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019*

Part 1 – Preliminary

Section 1 – Name

Section 1 provides that the name of the regulations is the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* (the Amending Regulations).

Section 2 – Commencement

Section 2 provides that the Amending Regulations commence on the day after it is registered on the Federal Register of Legislation.

Section 3 – Authority

Section 3 provides that the Amending Regulations are made under the Act.

Section 4 – Definitions

Section 4 replicates regulation 3 in the Regulations.

Section 5 – Eligibility age

Section 5 replicates regulation 4A in the Regulations.

Part 2 – Information to be included in notices

Section 6 replicates regulation 4C in the Regulations.

The provisions that set out how to calculate interest on unclaimed money have been moved to Part 4 of the Amending Regulations.

Part 3 – Prescribed Visas

Section 7 replicates regulation 4B in the Regulations.

Part 4 – Interest on unclaimed amounts

Section 8 replicates regulation 4E in the Regulations.

Section 9 replicates regulation 4F in the Regulations. This section now also applies to the payment of unclaimed amounts in relation to inactive low balance accounts.

Part 5 – Payment of low balances in inactive accounts to the Commissioner

Sections 10, 11 and 12 are new and there are no corresponding provisions in the Regulations.

These provisions prescribe conditions of release whereby an account will not be an inactive low balance account and therefore the balance of the account will not be payable to the Commissioner of Taxation if the member has met one of the conditions specified.

This recognises that there are some circumstances where a member may no longer be making contributions but has chosen to leave the balance in the account.

Part 6 – Reunification of superannuation balances

Section 13 replicates regulation 10 in the Regulations.

Section 14 replicates regulation 10A in the Regulations.

Part 7 – Prescribed public sector superannuation schemes

Section 15 replicates regulation 11 in the Regulations.

Section 16 replicates regulation 12 in the Regulations.

Section 17 is new and there is no corresponding provision in the Regulations. This section prescribes certain public sector superannuation schemes for the purposes of the inactive low-balance account provisions.

Section 18 replicates regulation 11A in the Regulations.

Statement of Compatibility with Human Rights

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

Superannuation (Unclaimed Money and Lost Members) Regulations 2019

This Legislative Instrument is 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 Legislative Instrument

The purpose of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* is to remake and improve the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999* by repealing redundant provisions, simplifying language and restructuring provisions for ease of navigation.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.