



Treasury Laws Amendment (Enhancing Superannuation Outcomes) Regulations 2022

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 03 March 2022

David Hurley
Governor-General

By His Excellency's Command

Jane Hume
Minister for Superannuation, Financial Services and the Digital Economy

Contents

| | | |
|------------------------------|---|----------|
| 1 | Name..... | 1 |
| 2 | Commencement | 1 |
| 3 | Authority..... | 1 |
| 4 | Schedules..... | 1 |
| Schedule 1—Amendments | | 2 |
| | <i>Income Tax Assessment (1997 Act) Regulations 2021</i> | 2 |
| | <i>Retirement Savings Accounts Regulations 1997</i> | 2 |
| | <i>Superannuation Industry (Supervision) Regulations 1994</i> | 3 |

1 Name

This instrument is the *Treasury Laws Amendment (Enhancing Superannuation Outcomes) Regulations 2022*.

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 later of: (a) the start of the day after this instrument is registered; and (b) immediately after the commencement of Schedules 3 and 4 to the <i>Treasury Laws Amendment (Enhancing Superannuation Outcomes For Australians and Helping Australian Businesses Invest) Act 2022</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur. | 1 April 2022 (paragraph (b) applies) |

Note: This table relates only to the provisions of this instrument as originally made.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 following:

- (a) the *Income Tax Assessment Act 1997*;
- (b) the *Retirement Savings Accounts Act 1997*;
- (c) the *Superannuation Industry (Supervision) 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Income Tax Assessment (1997 Act) Regulations 2021

1 After section 290-155.05

Insert:

290-165.01 Age-related conditions—prescribed provisions relating to previous work test exemptions

For the purposes of subparagraph 290-165(1A)(b)(iv) of the Act, the following provisions as in force immediately before the commencement of the *Treasury Laws Amendment (Enhancing Superannuation Outcomes) Regulations 2022* are prescribed:

- (a) paragraph (d) of items 2 and 3 of the table in subregulation 7.04(1) of the SIS Regulations;
- (b) paragraph (d) of items 2 and 3 of the table in subregulation 5.03(1) of the RSA Regulations.

Retirement Savings Accounts Regulations 1997

2 Subregulation 5.02(2)

Omit “Part”, substitute “Division”.

3 Subregulation 5.03(1)

After “subregulations”, insert “(1A),”.

4 Subregulation 5.03(1) (table)

Repeal the table, substitute:

| Item | If an RSA holder ... | the RSA institution may accept contributions made in respect of the RSA holder that are ... |
|------|----------------------------------|--|
| 1 | is under 60 | (a) employer contributions; or (b) RSA holder contributions |
| 2 | is not under 60, but is under 75 | (a) employer contributions; or (b) RSA holder contributions (including downsizer contributions) |
| 3 | is not under 75 | (a) mandated employer contributions; or (b) downsizer contributions |

5 Subregulation 5.03(1A)

Repeal the subregulation, substitute:

- (1A) Despite items 2 and 3 of the table in subregulation (1), the RSA institution may also accept contributions made in respect of an RSA holder, and received on or before the day that is 28 days after the end of the month in which the RSA holder turns 75, that are:

- (a) employer contributions other than mandated employer contributions; or
- (b) RSA holder contributions other than downsizer contributions.

Note: Other rules may be relevant to making certain contributions in respect of an RSA holder. For example:

- (a) downsizer contributions are limited to persons aged 60 or over (see paragraph 292-102(1)(a) of the 1997 Tax Act); and
- (b) there are rules about deducting personal contributions to an RSA (see Subdivision 290-C of the 1997 Tax Act). In particular, work test conditions apply to deducting certain contributions made from age 67 until the day referred to in subregulation (1A) (see subsection 290-165(1A) of the 1997 Tax Act).

6 Subregulation 5.03(2)

Omit “subregulation (1)”, substitute “subregulations (1) and (1A)”.

7 Subregulation 5.03(4)

After “subregulation (1)” (first occurring), insert “, (1A)”.

8 Paragraph 5.03(4)(a)

After “subregulation (1)”, insert “, (1A)”.

9 Sub-subparagraph 5.03(4)(b)(v)(D)

After “subregulation (1)”, insert “, (1A)”.

10 Subregulation 5.03(6)

After “subregulation (1)”, insert “or under subregulation (1A)”.

11 In the appropriate position in Part 7

Insert:

7.12 Amendments made by the Treasury Laws Amendment (Enhancing Superannuation Outcomes) Regulations 2022

- (1) The amendments made by items 2 to 10 of Schedule 1 to the *Treasury Laws Amendment (Enhancing Superannuation Outcomes) Regulations 2022* apply in relation to contributions made in the 2022-23 financial year and later financial years.
- (2) Despite the amendments made by those items in that Schedule, regulation 5.03, as in force immediately before the commencement of that Schedule, continues to apply in relation to contributions made on or after that commencement but before 1 July 2022.

Superannuation Industry (Supervision) Regulations 1994

12 Subregulation 7.01(1A)

Repeal the subregulation.

13 Subregulation 7.01(3)

Repeal the subregulation (including the note).

14 Subregulation 7.04(1)

After “subregulations”, insert “(1A)”.

15 Subregulation 7.04(1) (table)

Repeal the table, substitute:

| Item | If a member ... | the fund may accept contributions made in respect of the member that are... |
|------|----------------------------------|--|
| 1 | is under 60 | (a) employer contributions; or (b) member contributions |
| 2 | is not under 60, but is under 75 | (a) employer contributions; or (b) member contributions (including downsizer contributions) |
| 3 | is not under 75 | (a) mandated employer contributions; or (b) downsizer contributions |

16 Subregulation 7.04(1A)

Repeal the subregulation, substitute:

(1A) Despite items 2 and 3 of the table in subregulation (1), the fund may also accept contributions made in respect of a member, and received on or before the day that is 28 days after the end of the month in which the member turns 75, that are:

- (a) employer contributions other than mandated employer contributions; or
- (b) member contributions other than downsizer contributions.

Note: Other rules may be relevant to making certain contributions in respect of a member. For example:

- (a) downsizer contributions are limited to persons aged 60 or over (see paragraph 292-102(1)(a) of the 1997 Tax Act); and
- (b) there are rules about deducting personal contributions to a superannuation fund (see Subdivision 290-C of the 1997 Tax Act). In particular, work test conditions apply to deducting certain contributions made from age 67 until the day referred to in subregulation (1A) (see subsection 290-165(1A) of the 1997 Tax Act).

17 Subregulation 7.04(2)

Omit “subregulation (1)”, substitute “subregulations (1) and (1A)”.

18 Subregulation 7.04(4)

After “subregulation (1)” (first occurring), insert “, (1A)”.

19 Paragraph 7.04(4)(a)

After “subregulation (1)”, insert “, (1A)”.

20 Sub-subparagraph 7.04(4)(b)(v)(D)

After “subregulation (1)”, insert “, (1A)”.

21 Subregulation 7.04(6)

After “subregulation (1)”, insert “or under subregulation (1A)”.

22 Subregulation 7.04(6A)

Omit “subregulation (1)”, substitute “subregulations (1) and (1A)”.

23 Subregulation 7.04(7) (definition of *superannuation provider*)

Repeal the definition.

24 Subregulations 7.05(2) and (3)

Repeal the subregulations, substitute:

- (2) Subject to subregulation (5), a defined benefit fund may grant an accrual of benefits in respect of a member of the fund who has reached age 65 but not age 75 only if the accrual is attributable to contributions made in respect of the member that are:
 - (a) employer contributions; or
 - (b) member contributions.

25 Subregulation 7.05(5)

Omit “, (3)”.

26 In the appropriate position in Part 14

Insert:

Division 14.30—Transitional arrangements arising out of the Treasury Laws Amendment (Enhancing Superannuation Outcomes) Regulations 2022**14.32 Arrangements**

- (1) The amendments made by items 12 to 25 of Schedule 1 to the *Treasury Laws Amendment (Enhancing Superannuation Outcomes) Regulations 2022* apply in relation to contributions made in the 2022-23 financial year and later financial years.
- (2) Despite the amendments made by those items in that Schedule, regulations 7.01, 7.04 and 7.05, as in force immediately before the commencement of that Schedule, continue to apply in relation to contributions made on or after that commencement but before 1 July 2022.