



# **Superannuation Laws Amendment (2004 Measures No. 1) Act 2004**

**No. 92, 2004**

**An Act to amend the law relating to  
superannuation, and for other purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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## **An Act to amend the law relating to superannuation, and for other purposes**

[Assented to 29 June 2004]

The Parliament of Australia enacts:

### **1 Short title**

This Act may be cited as the *Superannuation Laws Amendment (2004 Measures No. 1) Act 2004*.

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## **2 Commencement**

This Act commences on the day on which it receives the Royal Assent.

## **3 Schedule(s)**

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Extension of eligibility**

### ***Income Tax Assessment Act 1936***

#### **1 Subsection 82AAT(1) (note)**

Repeal the note, substitute:

Note: See also section 26-80 of the *Income Tax Assessment Act 1997* for cases in which a deduction that a person is entitled to under this section is denied.

### ***Income Tax Assessment Act 1997***

#### **2 At the end of subsection 26-80(3)**

Add:

; and (c) you are not entitled to a Government co-contribution payable under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* in respect of the contribution.

#### **3 Application of item 2**

The amendment made by item 2 of this Schedule applies to assessments for the 2004-2005 income year and for subsequent income years.

### ***Superannuation (Government Co-contribution for Low Income Earners) Act 2003***

#### **4 Paragraph 6(1)(b)**

Repeal the paragraph, substitute:

(b) 10% or more of the person's total income for the income year is attributable to eligible employment of the person; and

#### **5 Subsection 6(2)**

Repeal the subsection, substitute:

(2) In this section:

*eligible employment* has the same meaning as in Subdivision AB of Division 3 of Part III of the *Income Tax Assessment Act 1936*.

## **6 Application of items 4 and 5**

The amendments made by items 4 and 5 of this Schedule apply to determinations as to whether a Government co-contribution is payable in respect of a person for the 2003-2004 income year and for subsequent income years.



## **Schedule 2—Administrative amendments**

### **Part 1—Interest on unpaid amounts**

#### ***Superannuation (Government Co-contribution for Low Income Earners) Act 2003***

##### **1 Paragraph 12(2)(d)**

Omit “rate specified in the regulations”, substitute “base interest rate for the day on which the interest is calculated”.

##### **2 Paragraph 21(3)(d)**

Omit “rate specified in the regulations”, substitute “base interest rate for the day on which the interest is calculated”.

##### **3 Paragraph 22(4)(d)**

Omit “rate specified in the regulations”, substitute “base interest rate for the day on which the interest is calculated”.

##### **4 Section 56**

Insert:

***base interest rate*** for a day has the same meaning as in section 8AAD of the *Taxation Administration Act 1953*.

## **Part 2—Repayment dates and general interest charge**

### ***Superannuation (Government Co-contribution for Low Income Earners) Act 2003***

#### **5 Subsection 5(2) (simplified explanation)**

Omit “(sections 19 to 25)”, substitute “(sections 19 to 24)”.

#### **6 Subsection 5(2) (simplified explanation)**

After the sentence starting “Part 5”, insert:

- Part 5A (section 25) sets out circumstances in which general interest charge is payable.

#### **7 Paragraph 16(1)(b)**

Repeal the paragraph, substitute:

- (b) the trustee or the provider has not credited the co-contribution to an account of that kind by the end of the 28th day after the day on which the co-contribution was paid to the trustee or the provider;

#### **8 At the end of subsection 16(1)**

Add:

Note: Section 25 provides for the imposition of general interest charge if the co-contribution is not repaid within a certain period.

#### **9 Paragraph 20(1)(b)**

Repeal the paragraph, substitute:

- (b) the trustee or the provider has not credited the underpaid amount to an account of that kind by the end of the 28th day after the day on which the co-contribution was paid to the trustee or the provider;

#### **10 At the end of subsection 20(1)**

Add:

Note: Section 25 provides for the imposition of general interest charge if the underpaid amount is not repaid within a certain period.

### **11 At the end of subsection 24(3) (after the table)**

Add:

Note: Section 25 provides for the imposition of general interest charge if an amount that the person must pay under a notice given to the person under item 3 or 4 of the above table is not repaid within a certain period.

### **12 After section 24**

Insert:

## **Part 5A—General interest charge**

### **13 Before subsection 25(1)**

Insert:

(1A) If:

- (a) a person is liable under subsection 16(1) or 20(1) to repay an amount; and
  - (b) the whole or a part of the amount remains unpaid after the time by which the amount is due to be paid;
- the person is liable to pay general interest charge on the unpaid amount.

Note: The heading to section 25 is altered by omitting “**on overpayment**”.

### **14 Subsection 25(2)**

Omit “The person”, substitute “A person who is liable under this section to pay general interest charge on an unpaid amount”.

### **15 Subsection 25(3)**

Repeal the subsection, substitute:

(3) For the purposes of this section:

- (a) an amount that a person becomes liable under subsection 16(1) or 20(1) to repay is due to be paid 7 days after the day on which the person first becomes liable to repay the amount; and

**Schedule 2** Administrative amendments

**Part 2** Repayment dates and general interest charge

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- (b) an amount payable under a notice given under item 3 or 4 of the table in subsection 24(3) is due to be paid 28 days after the day on which the notice is given.

## **Part 3—Reports**

### ***Superannuation (Government Co-contribution for Low Income Earners) Act 2003***

#### **16 Section 54**

Repeal the section, substitute:

#### **54 Reports**

- (1) After the end of each quarter the Commissioner must give the Minister a report, for presentation to the Parliament, on the working of this Act during the quarter. The report must include, for the quarter to which the report relates, the prescribed details about beneficiaries of, and amounts of, Government co-contributions.
- (2) After the end of each financial year the Commissioner must give the Minister a report, for presentation to the Parliament, that:
  - (a) is on the working of this Act during the financial year; and
  - (b) includes, for the financial year to which the report relates, the prescribed details about beneficiaries of, and amounts of, Government co-contributions; and
  - (c) specifies, for each prescribed range of total income, the number of beneficiaries of a Government co-contribution for the financial year whose total income that was used to determine the amount of their Government co-contribution fell within that range; and
  - (d) specifies, for each prescribed range of taxable income, the number of people who the Commissioner is satisfied:
    - (i) were, at the end of the financial year, the spouse of a beneficiary of a Government co-contribution for the financial year; and
    - (ii) had a taxable income for that financial year that fell within that range; and
  - (e) specifies the number of beneficiaries of Government co-contributions for the financial year who the Commissioner

was not satisfied had a spouse at the end of the financial year;  
and

(f) specifies the number of people:

- (i) who the Commissioner is satisfied were, at the end of the financial year, the spouse of a beneficiary of a Government co-contribution for the financial year; and
- (ii) whose taxable income for the financial year was not able to be determined by the Commissioner.

(3) In this section:

*spouse* of a beneficiary of a Government co-contribution includes a person who, although not legally married to the beneficiary, lives with the beneficiary on a genuine domestic basis as the beneficiary's husband or wife.

*taxable income* has the meaning given by section 4-15 of the *Income Tax Assessment Act 1997*.

## **17 Application of item 16**

The amendment made by item 16 of this Schedule applies to a report for any quarter, or financial year, that starts on or after 1 July 2004.

## **Part 4—Payments of co-contributions into accounts**

### ***Superannuation (Government Co-contribution for Low Income Earners) Act 2003***

#### **18 Paragraph 15(1)(e)**

Omit “Superannuation Holding Accounts Reserve”, substitute  
“Superannuation Holding Accounts Account”.

#### **19 Subsection 18(1) (paragraph (b) of the note)**

Omit “Superannuation Holding Accounts Reserve”, substitute  
“Superannuation Holding Accounts Account”.

#### **20 Paragraph 19(4)(e)**

Omit “Superannuation Holding Accounts Reserve”, substitute  
“Superannuation Holding Accounts Account”.

#### **21 Subsection 24(3) (table item 2)**

Omit “Superannuation Holding Accounts Reserve”, substitute  
“Superannuation Holding Accounts Account”.

#### **22 Section 56**

Insert:

***Superannuation Holding Accounts Account*** means the  
Superannuation Holding Accounts Account established by  
subsection 5(3) of the *Financial Management Legislation  
Amendment Act 1999*.

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*[Minister's second reading speech made in—  
House of Representatives on 27 May 2004  
Senate on 15 June 2004]*

(83/04)