





# **Retirement Savings Accounts (Consequential Amendments) Act 1997**

**Act No. 62 of 1997 as amended**

This compilation was prepared on 23 June 2003

**[This Act was amended by Act No. 41 of 2003]**

**Amendment from Act No. 41 of 2003**

[Schedule 2 (item 17) amended item 4 of Schedule 19  
Schedule 2 (item 17) commenced on 28 May 1997]

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# **An Act to amend various Acts because of the enactment of the *Retirement Savings Accounts Act 1997*, and for related purposes**

[Assented to 28 May 1997]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Retirement Savings Accounts (Consequential Amendments) Act 1997*.

## **2 Commencement**

This Act commences on the day on which the *Retirement Savings Accounts Act 1997* commences.

## **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Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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—Amendment of the Superannuation Entities (Taxation) Act 1987

### 1 The Title

After “**deposit funds**”, insert “, **retirement savings accounts**”.

### 2 Subsection 3(1) (definition of *reviewable decision*)

Insert:

(a) a decision of the Commissioner under section 15;

### 3 Subsection 3(1)

Insert:

*RSA provider* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### 4 Subsection 3(1)

Insert:

*year of income*, in relation to an RSA provider means a period that is, for the purposes of the Tax Act, the year of income of the RSA provider that commenced on 1 July 1997 or a subsequent year of income.

### 5 After Part III

Insert:

## **Part IIIAAA—Collection of Retirement Savings Accounts Supervisory Levy**

### **10 Liability to levy**

An RSA provider that lodges a return under section 44 of the *Retirement Savings Accounts Act 1997* is liable to pay a levy on that lodgment.

### **11 When levy due for payment**

- (1) Levy payable by an RSA provider on the lodgment of a particular return is due and payable on the day specified in a written notice given to the RSA provider by the Commissioner.
- (2) The specified day must not be earlier than 21 days after the day on which the notice is given.

### **12 Late payment penalty**

- (1) If any levy payable by an RSA provider in relation to a return for a year of income remains unpaid throughout the whole or part of:
  - (a) the calendar month beginning at the start of the day after the day on which the levy became due and payable; or
  - (b) a later calendar month;the RSA provider is liable to pay to the Commonwealth, in respect of that calendar month, by way of penalty, the late payment penalty worked out under subsection (2).

However, this rule does not apply if the levy was fully paid before the 15th day of the calendar month referred to in paragraph (a).
- (2) The late payment penalty for a calendar month is the greater of the following amounts:
  - (a) the amount worked out using the following formula and rounded up to the nearest whole dollar:
  
  - (b) the amount worked out using the following formula and rounded up to the nearest whole dollar:

- (3) In subsection (2):

*minimum basic levy amount*, in relation to a year of income, means the lowest basic levy amount applicable to returns for the year of income for RSA providers that are RSA providers at all times during the year of income.

*unpaid levy* means the amount of levy unpaid in relation to the return as at the beginning of the calendar month.

- (4) If the amounts worked out under subsection (2) for a calendar month are equal, the late payment penalty for that calendar month is that amount.
- (5) Late payment penalty for a calendar month is due and payable at the end of the calendar month.

### **13 Recovery of levy**

The following amounts may be recovered by the Commonwealth as debts due to the Commonwealth:

- (a) levy that is due and payable;
- (b) late payment penalty that is due and payable.

### **14 Payment of levy and late payment penalty**

Levy and late payment penalty are payable to the Commissioner.

### **15 Remission of levy and penalties**

The Commissioner may remit the whole or a part of the following:

- (a) an amount of levy;
- (b) an amount of late payment penalty.

### **15A Application of payments**

- (1) This section applies if:

- (a) 2 or more amounts payable to the Commissioner by a person under this Part would, apart from this section, be debts due to the Commonwealth under this Part; and
  - (b) an amount (the **debt payment**) is paid to the Commissioner in respect of one or more of those amounts; and
  - (c) the sum of the amounts payable exceeds the debt payment.
- (2) If this section applies:
- (a) despite any direction to the contrary by or on behalf of the person by whom the amounts are payable or the person making the debt payment, the Commissioner may apply the debt payment in partial discharge of the sum of the amounts payable; and
  - (b) the Commonwealth may recover as a debt due to the Commonwealth the amount by which the sum of the amounts payable exceeds the debt payment.

### **15B Exempting laws ineffective**

- (1) Nothing in a law passed before the commencement of this section exempts a person from liability to levy.
- (2) A law, or a provision of a law, passed after the commencement of this section that purports to exempt an RSA provider from liability to pay taxes under laws of the Commonwealth or to pay certain taxes under those laws that include levy, other than a law or a provision that expressly exempts an RSA provider from liability to pay levy, is not to be construed as exempting the RSA provider from liability to pay levy.

### **15C Definitions**

In this Part:

**basic levy amount** has the meaning given by section 6 of the *Retirement Savings Accounts Supervisory Levy Act 1997*.

**levy** means the levy imposed by the *Retirement Savings Accounts Supervisory Levy Act 1997*.

*RSA* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

**6 Subsection 16(1)**

After “Commissioner” (first occurring), insert “, or an RSA provider that is affected by such a decision,”.

**7 Subsection 16(1)**

After “unit trust” (second occurring), insert “, or the RSA provider,”.

**8 Subsection 17(1)**

After “reviewable decision” (first occurring), insert “, or an RSA provider affected by such a decision,”.

**9 Paragraph 17(1)(a)**

After “trustees”, insert “, or the RSA provider,”.

**10 Paragraph 17(1)(b)**

After “trustees”, insert “, or the RSA provider,”.

**11 Subsection 17(2)**

After “unit trust”, insert “, or the RSA provider,”.

**12 Subsection 17(2)**

After “the trustees” (second occurring), insert “, or the RSA provider,”.

**13 At the end of paragraph 22(2)(b)**

Add:

or (c) levy imposed by the *Retirement Savings Accounts Supervisory Levy Act 1997*.

## **Schedule 2—Amendment of the Superannuation (Resolution of Complaints) Act 1993**

### **1 Title**

After “**decisions**”, insert “**and conduct**”.

### **2 At the end of the Title**

Add “**and of RSA providers and insurers**”.

### **3 Subsection 3(2) (definition of *complainant*)**

Omit “or 15B”, substitute “, 15B, 15E, 15F, 15H or 15J”.

### **4 Subsection 3(2) (definition of *complaint*)**

Omit “or 15B”, substitute “, 15B, 15E, 15F, 15H or 15J”.

### **5 Subsection 3(2) (at the end of the definition of *death benefit*)**

Add:

; or (d) a benefit:

- (i) that is payable by an RSA provider in respect of the holder of an RSA provided by the RSA provider; and
- (ii) that is payable on or after the death of the RSA holder; and
- (iii) that is provided in accordance with subsection 15(3) or paragraph 15(4)(c) of the *Retirement Savings Accounts Act 1997*; or

(e) a benefit:

- (i) that is payable by an insurer, in relation to a contract of insurance where the premiums are paid from an RSA, in respect of the holder of an RSA provided by an RSA provider; and
- (ii) that is payable on or after the death of the RSA holder; and

- (iii) that is provided in accordance with subsection 15(3) or paragraph 15(4)(c) of the *Retirement Savings Accounts Act 1997*.

## 6 Subsection 3(2) (definition of *disability benefit*)

Repeal the definition, substitute:

*disability benefit* means:

- (a) a benefit that is:
  - (i) payable by the trustee of a regulated superannuation fund in the event of a temporary or permanent cessation of employment because of a partially or totally disabling physical or mental condition; and
  - (ii) provided in accordance with subparagraph 62(1)(b)(ii) of the Supervision Act; or
- (b) a benefit that is:
  - (i) payable by an RSA provider in the event of temporary or permanent cessation of employment because of a partially or totally disabling physical or mental condition; and
  - (ii) provided in accordance with paragraph 15(4)(b) of the *Retirement Savings Accounts Act 1997*; or
- (c) a benefit that is:
  - (i) payable by an insurer, in relation to a contract of insurance where the premiums are paid from an RSA in the event of temporary or permanent cessation of employment because of a partially or totally disabling physical or mental condition; and
  - (ii) provided in accordance with paragraph 15(4)(b) of the *Retirement Savings Accounts Act 1997*.

## 7 Subsection 3(2) (after paragraph (a) of the definition of *excluded complaint*)

Insert:

- (ab) a complaint about a decision of an RSA provider in relation to an RSA that is declared by the regulations to be an RSA provider to which this Act does not apply; or

**8 Subsection 3(2) (definition of *insurer*)**

Add at the end:

or (d) in relation to a complaint under section 15E, 15F, 15H or 15J, the life company that is a party to the policy to which the complaint relates.

**9 Subsection 3(2)**

Insert:

*holder*, in relation to an RSA, has the same meaning as in the *Retirement Savings Accounts Act 1997*.

**10 Subsection 3(2)**

Insert:

*RSA* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

**11 Subsection 3(2)**

Insert:

*RSA provider* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

**12 After paragraph 3(3)(b)**

Insert:

or (ba) a contract of insurance where the premiums are paid from an RSA;

**13 Paragraph 3(3)(c)**

After “policy”, insert “or contract”.

**14 After subsection 3(3)**

Insert:

(4) A reference in this Act to a representative of an RSA provider includes a reference to an agent, employee or officer of the RSA provider, or of an associate of the RSA provider, who engages in conduct in relation to an RSA.

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**15 Section 4**

After “an insurer”, insert “, an RSA provider”.

Note: The heading to section 4 is altered by inserting “, **RSA provider**”, after “**insurer**”.

**16 Section 4**

After “trustee, insurer” (wherever occurring), insert “, RSA provider”.

**17 After paragraph 8(2)(b)**

Insert:

- or (c) a director or employee of an RSA provider; or
- (d) a director or employee of an insurer;

**18 Subsection 9(1)**

Omit all the words from and including “either:”, substitute “by 3 Tribunal members selected by the Tribunal Chairperson.”.

**19 After subsection 9(3A)**

Insert:

- (3B) If neither the Chairperson nor the Deputy Chairperson is present at a particular meeting, the Tribunal member selected by the Chairperson is to preside at that meeting.”.

**20 After paragraph 10(1)(b)**

Insert:

- (ba) an RSA provider; or
- (bb) an insurer; or
- (bc) an RSA; or

**21 Subsection 13(2)**

Omit “and beneficiaries of approved deposit funds”, substitute “, beneficiaries of approved deposit funds, holders of RSAs and holders of annuity policies”.

**22 After section 15D**

Insert:

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**15E Complaints about conduct of RSA providers concerning opening of RSAs**

- (1) A person who is, or claims to be, the holder, or the former holder of an RSA may make a complaint (other than an excluded complaint) to the Tribunal, that the conduct of the RSA provider, or of a representative of the RSA provider, in respect of the opening of the RSA, was unfair or unreasonable.

Note: Although a complaint is about the conduct of an RSA provider, the Tribunal may join an insurer and any other person, as parties to the complaint (see subsection 18(3A)). The Tribunal may then review any conduct of the person joined that may be relevant to the complaint.

- (2) A complaint under this section is to be made by sending or delivering a written complaint to the office of the Tribunal.
- (3) When a complaint is made under this section concerning the conduct of the RSA provider, or of a representative of the RSA provider, in respect of the opening of an RSA, the Tribunal must, in determining whether the conduct of the RSA provider or of a representative of the RSA provider was unfair or unreasonable, have regard, in particular, to the question whether that conduct involved:
- (a) undue influence or pressure on the RSA holder; or
  - (b) material misrepresentation made to the RSA holder;
- in relation to the opening of the RSA.
- (4) For the purposes of subsection (3), the Tribunal may take into account:
- (a) the age, physical and mental condition, educational attainments and financial means of the RSA holder; and
  - (b) the relative bargaining positions of the RSA provider or the RSA provider's representative and of the RSA holder or any person acting for the RSA holder; and
  - (c) the insurance and personal superannuation needs of the RSA holder or of any other person having, or claiming to have, an interest in the RSA as known to, or reasonably ascertainable by, the RSA provider or the RSA provider's representative; and

- (d) the importance of ensuring that RSA providers act with fairness, openness and propriety in relation to the opening of RSAs and take reasonable steps to ensure that their representatives also act with fairness, openness and propriety in relation to the opening of RSAs; and
- (e) the objects of this Act; and
- (f) any other matter that the Tribunal considers relevant.

## **15F Complaints about decisions of RSA providers**

- (1) Subject to subsections (3) to (6) and section 15G, a person may, at any time, make a complaint (other than an excluded complaint) to the Tribunal, that a decision of an RSA provider in relation to a particular RSA holder or former RSA holder, is or was unfair or unreasonable.

Note: Although a complaint is about a decision of an RSA provider, the Tribunal may join an insurer and any other person, as parties to the complaint (see subsection 18(3A)). The Tribunal may then review any decision of the person joined that may be relevant to the complaint.

- (2) If a person is given a notice by an RSA provider in respect of an RSA setting out:
  - (a) the RSA provider's decision in relation to the person's objection to the proposed payment of a death benefit under the RSA; and
  - (b) the prescribed period within which the person must complain to the Tribunal about the decision;the person may only complain to the Tribunal within that period.
- (3) The Tribunal cannot deal with a complaint under this section that must be made within the prescribed period referred to in subsection (2) if the complaint is not made within that period.
- (4) The Tribunal cannot deal with a complaint under this section to the extent that it relates to the management as a whole of:
  - (a) an RSA provider; or
  - (b) an RSA provider's business; or
  - (c) an RSA provider's investments.

- (5) The Tribunal cannot deal with a complaint under this section about a decision of an RSA provider relating to the payment of a disability benefit because of total and permanent disability unless the complaint is made within a period of one year after the making of the decision to which the complaint relates.
- (6) The Tribunal cannot deal with a complaint under this section about a decision of an RSA provider relating to the payment of a disability benefit because of total and permanent disability if:
- (a) before the making of the decision, the person permanently ceased particular employment because of the physical or mental condition that gave rise to the claim for disability benefit; and
  - (b) the claim was not lodged, or is not lodged, with the RSA provider, within one year after the person permanently ceased that employment because of that physical or mental condition.
- (7) Without limiting the meaning of a decision of an RSA provider relating to the payment of a disability benefit in any other provision of this Act, that expression means, for the purposes of subsections (5) and (6), the original decision of the RSA provider in relation to the matter.
- (8) For the purposes of subsection (7), if, as a result of a complaint about the original decision of the RSA provider under arrangements made under section 47 of the *Retirement Savings Accounts Act 1997*, the original decision was confirmed or varied, or another decision was substituted for the original decision:
- (a) the decision as so confirmed or varied, or the substituted decision, is taken to be the original decision; and
  - (b) the decision as so confirmed or varied, or the substituted decision, is taken to have been made at the time when the original decision was made.
- (9) A complaint under this section is to be made by sending or delivering a written complaint to the office of the Tribunal.
- (10) When a complaint is made under this section about a decision of an RSA provider under an RSA, the Tribunal must, in determining
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whether that decision is or was unfair or unreasonable, have regard, in particular:

- (a) to the seriousness of any failure to discharge an obligation under the terms of the RSA; and
- (b) to any action taken by the RSA provider that is contrary to the best interests of the RSA holder or any other person having an interest under the RSA.

**15G Who may make a complaint under section 15F**

- (1) A person may make a complaint under section 15F concerning a decision of an RSA provider in relation to an RSA only if:
  - (a) in the case of a decision that relates to the payment of a death benefit:
    - (i) the person has an interest in the benefit; or
    - (ii) the person claims to be, or to be entitled to benefits through, a person referred to in subparagraph (i); or
    - (iii) the person is acting for a person referred to in subparagraph (i) or (ii); or
  - (b) in the case of a decision that does not relate to the payment of a death benefit—the person is:
    - (i) the holder or the former holder of the RSA; or
    - (ii) a person acting for the holder or the former holder of the RSA, or for the estate of such a person.
- (2) A person does not have an interest in a death benefit for the purposes of paragraph (1)(a) unless:
  - (a) the person:
    - (i) has been given written notice by the RSA provider of the proposed payment of the benefit; and
    - (ii) has been given written notice by the RSA provider of the prescribed period within which the person may object; and
    - (iii) has objected to the RSA provider within the prescribed period; or

- (b) the person has not been notified by the RSA provider of the proposed payment of the benefit and the failure to notify was unreasonable; or
- (c) the person has been notified by the RSA provider of the proposed payment of the benefit but was not notified of the prescribed period to object to the payment; or

- (d) the person has been notified by the RSA provider of the proposed payment of the benefit but was notified of a period less than the prescribed period for the purposes of subparagraph (a)(ii).

### **15H Complaints about conduct of insurers concerning sale of insurance benefits**

- (1) A person who is, or claims to be, the holder, or the former holder, of an RSA may complain to the Tribunal that the conduct of an insurer, or of a representative of an insurer, in respect of the sale of insurance benefits in relation to a contract of insurance where the premiums are paid from an RSA, was unfair or unreasonable.

Note: Although a complaint is about the conduct of an insurer, the Tribunal may join the RSA provider and any other person, as parties to the complaint (see subsection 18(3B)). The Tribunal may then review any conduct of the person joined that may be relevant to the complaint.

- (2) A complaint under this section is to be made by sending or delivering a written complaint to the office of the Tribunal.
- (3) When a complaint is made under this section concerning the conduct of the an insurer, or of a representative of an insurer, in respect of the entry into a contract of insurance in connection with an RSA, the Tribunal must, in determining whether the conduct of the insurer, or of a representative of the insurer, was unfair or unreasonable, have regard, in particular, to the question whether that conduct involved:
- (a) undue influence or pressure on the RSA holder; or
  - (b) material misrepresentation made to the RSA holder;
- in relation to entry into the contract.
- (4) For the purposes of subsection (3), the Tribunal may take into account:
- (a) the age, physical and mental condition, educational attainments and financial means of the RSA holder; and
  - (b) the relative bargaining positions of the insurer or the insurer's representative and of the RSA holder or any person acting for the RSA holder; and



- (b) an insurer's business; or
  - (c) an insurer's investments.
- (5) The Tribunal cannot deal with a complaint under this section about a decision of an insurer relating to the payment of a disability benefit because of total and permanent disability unless the complaint is made within a period of one year after the making of the decision to which the complaint relates.
- (6) The Tribunal cannot deal with a complaint under this section about a decision of an insurer relating to the payment of a disability benefit because of total and permanent disability if:
  - (a) before the making of the decision, the person permanently ceased particular employment because of the physical or mental condition that gave rise to the claim for disability benefit; and
  - (b) the claim was not lodged, or is not lodged, with the insurer, within one year after the person permanently ceased that employment because of the physical or mental condition.
- (7) Without limiting the meaning of a decision of an insurer relating to the payment of a disability benefit in any other provision of this Act, that expression means, for the purposes of subsections (5) and (6), the original decision of the insurer in relation to the matter.
- (8) For the purposes of subsection (7), if, as a result of a complaint about the original decision of the insurer under arrangements made for dealing with complaints, the original decision was confirmed or varied, or another decision was substituted for the original decision:
  - (a) the decision as so confirmed or varied, or the substituted decision, is taken to be the original decision; and
  - (b) the decision as so confirmed or varied, or the substituted decision, is taken to have been made at the time when the original decision was made.
- (9) A complaint under this section is to be made by sending or delivering a written complaint to the office of the Tribunal.



- (iii) has objected to the insurer within the prescribed period;  
or
- (b) the person has not been notified by the insurer of the proposed payment of the benefit and the failure to notify was unreasonable; or
- (c) the person has been notified by the insurer of the proposed payment of the benefit but was not notified of the prescribed period to object to the payment; or
- (d) the person has been notified by the insurer of the proposed payment of the benefit but was notified of a period less than the prescribed period for the purposes of subparagraph (a)(ii).

### **23 At the end of section 17**

Add:

- (3) If the complainant sends or delivers a complaint under section 15E or 15F to an office of the Tribunal, the Tribunal must:
  - (a) by notice in writing given to the complainant, acknowledge receipt of the complaint; and
  - (b) by notice in writing given to the RSA provider concerned:
    - (i) tell the RSA provider that a complaint has been made to the Tribunal and identify the complainant; and
    - (ii) give details of the complaint; and
    - (iii) tell the RSA provider of the RSA provider's obligations under section 24.
- (4) If the complainant sends or delivers a complaint under section 15H or 15J to an office of the Tribunal, the Tribunal must:
  - (a) by notice in writing given to the complainant, acknowledge receipt of the complaint; and
  - (b) by notice in writing given to the insurer concerned:
    - (i) tell the insurer that a complaint has been made to the Tribunal and identify the complainant; and
    - (ii) give details of the complaint; and
    - (iii) tell the insurer of the insurer's obligations under section 24.



- (c) if the subject matter of the complaint relates to a death benefit or a disability benefit in relation to a contract of insurance relating to an RSA and the Tribunal decides that the RSA provider should be a party to the complaint—the RSA provider; and

- (d) if the subject matter of the complaint relates to a disability benefit (whether in relation to a contract of insurance or otherwise) and the Tribunal decides that a person other than an RSA provider or insurer is responsible for determining either or both of the existence and the extent of the disability (whether total and permanent or otherwise)—that person; and
- (e) if any other person has applied to the Tribunal to be made a party to the complaint (whether under section 24A or otherwise) and the Tribunal decides that the person should be a party to the complaint—that person.

## **29 At the end of section 19**

Add:

- (3) The Tribunal cannot deal with a complaint under section 15E or 15F unless the complainant satisfies the Tribunal that:
  - (a) a complaint about the same subject matter was previously made to an appropriate person under arrangements for dealing with such complaints made under section 47 of the *Retirement Savings Accounts Act 1997*; and
  - (b) the complaint so made was not settled to the satisfaction of the complainant within 90 days or such longer period as the Tribunal allows.
- (4) The Tribunal cannot deal with a complaint under section 15H or 15J unless the complainant satisfies the Tribunal that the complainant has made all reasonable efforts to have the complaint resolved by the insurer who entered into the contract of insurance to which the complaint relates.

## **30 Paragraph 22(3)(a)**

After “trustee”, insert “, RSA provider, insurer or other decision maker”.

## **31 Subsection 24(1)**

Omit “or insurer” (wherever occurring), substitute “, insurer or RSA provider”.

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**32 Subsection 24(1)**

Omit “or 15B”, substitute “, 15B, 15E, 15F, 15H or 15J”.

**33 Subsections 24(2) and (3)**

Repeal the subsections, substitute:

- (2) Subject to subsection (4), if, in relation to a complaint under section 14, 14A, 15E, 15F, 15H, or 15J, a relevant person (as determined under subsection (3)) is notified under section 17A that the person has been joined as a party to the complaint under section 18, the person must, within 28 days after receiving notice of the joinder, or such longer period as the Tribunal allows, give to the Tribunal a copy of all documents or parts of documents:
- (a) that are in the possession, or under the control, of the person; and
  - (b) that are considered by the person to be relevant to the complaint.
- (3) The following table sets out the persons who are relevant persons for the purposes of subsection (2) in relation to particular complaints:

<b>Relevant persons for the purposes of subsection (2)</b>		
<b>Item</b>	<b>Section under which complaint is made</b>	<b>Relevant persons</b>
1	14	insurer or other decision-maker
2	14A	insurer
3	15E	insurer
4	15F	insurer or other decision-maker
5	15H	RSA provider
6	15J	RSA provider or other decision-maker

**34 Subsection 24(4)**

After “an insurer”, insert “, the RSA provider”.



**39 Subsections 24A(3) and (4)**

Omit “or (2)”, substitute “, (2), (2A) or (2B)”.

**40 Subsection 24A(4)**

Omit “or insurer”, wherever occurring, substitute “, insurer or RSA provider”.

**41 Paragraph 24A(6)(a)**

Omit “or 15B”, substitute “, 15B, 15F, or 15J”.

**42 Paragraph 24A(6)(b)**

After “15A”, insert “, 15E or 15H”.

**43 After subsection 26(1A)**

Insert:

- (1B) Subject to this section, making a complaint under section 15F to the Tribunal concerning a decision of an RSA provider in relation to an RSA does not affect the operation of the decision of the RSA provider or, if an insurer or other decision-maker is joined as a party to the complaint, of a decision of the insurer or other decision-maker, or prevent the taking of action to implement any such decision.
- (1C) Subject to this section, making a complaint under section 15J to the Tribunal concerning a decision of an insurer in relation to a contract of insurance entered in connection with an RSA does not affect the operation of the decision of the insurer or, if an RSA provider or other decision-maker is joined as a party to the complaint, of a decision of the RSA provider or other decision-maker, or prevent the taking of action to implement any such decision.

**44 After subsection 26(2A)**

Insert:

- (2B) The Tribunal may, on a request being made by a person making a complaint under section 15F concerning a decision of an RSA provider in relation to an RSA, if it thinks it is desirable to do so
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**50 Subparagraph 37C(5)(b)(ii)**

Omit “be or”, substitute “be, or”.

**51 After 37C**

Insert:

**37D Tribunal powers—complaints under section 15E**

- (1) For the purpose of reviewing the conduct of an RSA provider, or of a representative of an RSA provider, that is the subject of a complaint under section 15E concerning the opening of an RSA:
    - (a) the Tribunal has all the powers, obligations and discretions that are conferred on the RSA provider; and
    - (b) subject to subsection (4), must make a determination in accordance with subsection (3).
  - (2) If an insurer has been joined as a party to a complaint under section 15E:
    - (a) the Tribunal must, when reviewing the RSA provider’s conduct, also review any conduct of the insurer that is relevant to the complaint; and
    - (b) for that purpose, has all the powers, obligations and discretions that are conferred on the insurer; and
    - (c) must make a determination in accordance with subsection (5).
  - (3) On reviewing the conduct of an RSA provider, or a representative of an RSA provider, that is the subject of a complaint under section 15E, the Tribunal must make a determination in writing, so far as concerns the RSA to which the complaint relates, either:
    - (a) doing all or any of the following:
      - (i) setting aside the whole or a part of the terms and conditions of the RSA in their application to the complainant;
      - (ii) varying the terms and conditions of the RSA in their application to the complainant;
      - (iii) requiring any party to the RSA to repay all money or particular money received under the RSA;
-



- (4) The Tribunal must not make a determination under subsection (3) to take action of a kind referred to in paragraph (3)(a) in respect of a complaint under section 15E concerning the conduct of an RSA provider, or of a representative of an RSA provider, if the Tribunal is of the view that the conduct of the RSA provider, or of the representative, was fair and reasonable in all the circumstances.
- (5) On reviewing the conduct of an insurer, or a representative of an insurer, that has been joined as a party to a complaint under section 15E, the Tribunal must make a determination in writing, so far as concerns the contract of insurance to which the complaint relates, either:
  - (a) doing all or any of the following:
    - (i) setting aside the whole or a part of the terms and conditions of the contract of insurance in their application to the complainant;
    - (ii) varying the terms and conditions of the contract of insurance in their application to the complainant;
    - (iii) requiring any party to the contract of insurance to repay all money or particular money received under the contract;
    - (iv) requiring any party to the contract of insurance to pay any additional interest, worked out in a manner prescribed in the regulations; or
  - (b) declaring that, in all the circumstances of the case, action of a kind referred to in paragraph (a) is not appropriate.
- (6) The Tribunal may only exercise its determination-making power under paragraph (3)(a) or (5)(a) for the purpose of placing the complainant as nearly as practicable in such a position that the unfairness, unreasonableness or both, that the Tribunal has determined to exist in relation to the conduct that is the subject of the complaint, no longer exists.

### **37E Tribunal powers—complaints under section 15F**

- (1) For the purpose of reviewing the decision of an RSA provider in relation to an RSA where that decision is the subject of a complaint under section 15F:
-



- (a) the complainant; and
  - (b) so far as concerns a complaint regarding a payment of a death benefit—any person (other than the complainant or RSA provider) who:
    - (i) has become party to the complaint; and
    - (ii) has an interest in the death benefit or claims to be entitled to benefits through a person having an interest in the death benefit;
- was fair and reasonable in all the circumstances.

**37F Tribunal powers—complaints under section 15H**

- (1) For the purpose of reviewing the conduct of an insurer, or of a representative of an insurer, that is the subject of a complaint under section 15H concerning the entry into a contract of insurance in connection with an RSA:
  - (a) the Tribunal has all the powers, obligations and discretions that are conferred on the insurer; and
  - (b) subject to subsection (4), must make a determination in accordance with subsection (3).
- (2) If an RSA provider has been joined as a party to a complaint under section 15H:
  - (a) the Tribunal must, when reviewing the insurer’s conduct, also review any conduct of the RSA provider that is relevant to the complaint; and
  - (b) for that purpose, has all the powers, obligations and discretions that are conferred on the RSA provider; and
  - (c) must make a determination in accordance with subsection (5).
- (3) On reviewing the conduct of an insurer, or a representative of an insurer, that is the subject of a complaint under section 15H, the Tribunal must make a determination in writing, so far as concerns the contract of insurance to which the complaint relates, either:
  - (a) doing all or any of the following:



- (6) The Tribunal may only exercise its determination-making power under paragraph (3)(a) or (5)(a) for the purpose of placing the complainant as nearly as practicable in such a position that the

unfairness, unreasonableness or both, that the Tribunal has determined to exist in relation to the conduct that is the subject of the complaint, no longer exists.

### **37G Tribunal powers—complaints under section 15J**

- (1) For the purpose of reviewing the decision of an insurer in relation to a contract of insurance entered in connection with an RSA where that decision is the subject of a complaint under section 15J:
    - (a) the Tribunal has all of the powers, obligations and discretions that are conferred on the insurer; and
    - (b) subject to subsection (6), must make a determination in accordance with subsection (3).
  - (2) If an RSA provider or another person has been joined as a party to a complaint under section 15J:
    - (a) the Tribunal must, when reviewing the insurer's decision, also review any decision of the RSA provider or other person that is relevant to the complaint; and
    - (b) for that purpose, has all the powers, obligations and discretions that are conferred on the RSA provider or other person; and
    - (c) subject to subsection (6), must make a determination in accordance with subsection (3).
  - (3) On reviewing a decision of an insurer, RSA provider or other person that is the subject of, or relevant to, a complaint under section 15J, the Tribunal must make a determination in writing:
    - (a) affirming the decision; or
    - (b) remitting the matter to which the decision relates to the insurer, RSA provider or other person for reconsideration in accordance with the directions of the Tribunal; or
    - (c) varying the decision; or
    - (d) setting aside the decision and substituting a decision for the decision so set aside.
  - (4) The Tribunal may only exercise its determination-making power under subsection (3) for the purpose of placing the complainant as nearly as practicable in such a position that the unfairness,
-

unreasonableness or both, that the Tribunal has determined to exist in relation to the insurer's decision that is the subject of the complaint, no longer exists.

- (5) The Tribunal must not do anything under subsection (3) that would be contrary to law or to the terms and conditions of the contract of insurance or the RSA.
- (6) The Tribunal must affirm a decision referred to in subsection (3) if it is satisfied that the decision, in its operation in relation to:
  - (a) the complainant; and
  - (b) so far as concerns a complaint regarding a payment of a death benefit—any person (other than the complainant or insurer) who:
    - (i) has become party to the complaint; and
    - (ii) has an interest in the death benefit or claims to be entitled to benefits through a person having an interest in the death benefit;was fair and reasonable in all the circumstances.

## **52 Subsection 41(3)**

After “insurer” (wherever occurring), insert “, RSA provider”.

## **53 After subsection 44(2)**

Insert:

- (2A) If the determination was made as a result of a section 15E or 15F complaint, the Tribunal may direct the RSA provider to inform, if the Tribunal's determination was in relation to a particular holder of an RSA—all or any of the other holders of RSAs provided by the RSA provider of the Tribunal's determination.
- (2B) If the determination was made as a result of a section 15H or 15J complaint, the Tribunal may direct the insurer to inform, if the Tribunal's determination was in relation to a particular holder of an RSA—all or any of the other parties to contracts of insurance entered into with the insurer in connection with the provision of RSAs of the Tribunal's determination.

**54 Subsection 44(3)**

After “trustee”, insert “, RSA provider”.

**55 Paragraph 47(2A)(b)**

Omit “or 15A”, substitute “, 15A, 15E or 15H”.

**56 Subsection 47(2A)**

Omit “of implementation”, substitute “or implementation”.

**57 Paragraph 47(2B)(b)**

After “15B”, insert “, 15F or 15J”.

**58 Paragraph 47(2B)(d)**

After “insurer’s”, insert “ or RSA provider’s”.

**59 At the end of paragraph 53(2)(c)**

Add:

- (iii) a director or employee of an RSA provider; or
- (iv) a director or employee of an insurer; or

**60 Subsection 59(1)**

After “(3)(c)”, insert “, (3A)(c), (3A)(d), (3A)(e), (3B)(c), (3B)(d) or (3B)(e)”.

**61 Paragraph 59(2)(a)**

After “(2A),”, insert “(2B), (2C),”.

**62 After section 64**

Insert:

**64A Tribunal chairperson to refer breaches of terms and conditions  
to the Commissioner**

If, in connection with a complaint made to the Tribunal under this Act, a Tribunal member becomes aware of a breach in the terms and conditions relating to an annuity policy, a life policy or an RSA, he or she must, as soon as practicable:



## Schedule 3—Amendment of the Bankruptcy Act 1966

### 1 Subsection 5(1)

Insert:

*provider*, in relation to an RSA, has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### 2 Subsection 5(1)

Insert:

*RSA* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### 3 Subsection 5(1)

Insert:

*RSA holder* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### 4 At the end of paragraph 116(2)(d)

Add:

- (v) the amount of money a bankrupt holds in an RSA;
- (vi) a payment to a bankrupt from an RSA received on or after the date of the bankruptcy, if the payment is not a pension or annuity within the meaning of the *Retirement Savings Accounts Act 1997*.

### 5 After subsection 116(8)

Insert:

- (8A) The regulations may provide for the provider of an RSA to issue a written evidentiary certificate about the amount of money a bankrupt holds in an RSA. The regulations may provide that, in proceedings under this Act, the certificate is prima facie evidence



(e) executes a deed of assignment or a deed of arrangement under this Act.

(2) The provision is void.

## **Schedule 4—Amendment of the Superannuation Industry (Supervision) Act 1993**

### **1 Subsection 10(1)**

Insert:

*RSA* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### **2 Subsection 10(1)**

Insert:

*RSA provider* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### **3 Paragraph 15(1)(b)**

Repeal the paragraph, substitute:

- (b) on the request of the beneficiary, an amount equal to the beneficiary's interest is paid by the fund:
  - (i) to a life insurance company or registered organisation for the purchase of an annuity in the name of the beneficiary; or
  - (ii) into an RSA specified by the beneficiary;

### **4 After paragraph 153(1)(c)**

Insert:

- (ca) both:
    - (i) the interest was issued pursuant to an application under Part 9 of the *Retirement Savings Accounts Act 1997* made to the first trustee by an RSA provider on the first person's behalf; and
    - (ii) if the application is the first application under that Part made to the first trustee by the RSA provider on behalf of any person—the application is an eligible application; or
-

**5 At the end of subsection 157(4)**

Add “of this Act or Part 9 of the *Retirement Savings Accounts Act 1997*.”.

**6 Subsection 157A(1)**

After “under Part 24”, insert “, or Part 9 of the *Retirement Savings Accounts Act 1997*,”.

**7 Subsection 157A(1)**

Omit “that Part”, substitute “those Parts”.

**8 Subsection 157A(1)**

After “transferor fund”, insert “or RSA provider, as the case requires,”.

Note: The heading to section 157A is altered by adding at the end “**or Part 9 of the *Retirement Savings Accounts Act 1997***”.

**9 At the end of subsection 157A(1)**

Add “of this Act or section 89 of the *Retirement Savings Accounts Act 1997*”.

**10 At the end of subsection 248(1)**

Add “of this Act or section 89 of the *Retirement Savings Accounts Act 1997*”.

**11 Subsection 299M(2)**

After “amount to”, insert “an RSA, to”.

Note 1: The heading to section 299M is altered by inserting “**RSA provider or**”, after “**inform**”.

Note 2: The heading to subsection 299M(2) is altered by inserting “*an RSA,*”, after “*benefits to*”.

**12 Subsection 299M(2)**

After “inform”, insert “the RSA provider,”.

**13 Subsection 299M(3)**

After “transferred to”, insert “an RSA, to”.



**24 Paragraph 299R(1)(b)**

Before “second trustee”, insert “RSA provider or the”.

**25 Subsection 299R(2)**

After “informs”, insert “an RSA provider or”.

**26 Paragraph 299R(2)(a)**

Before “second trustee”, insert “RSA provider or the”.

**27 Paragraph 299R(2)(a)**

After “future operation of this Act”, insert “or the *Retirement Savings Accounts Act 1997*”.

**28 Paragraph 299R(2)(b)**

Before “second trustee”, insert “RSA provider or the”.



## **Schedule 6—Amendment of the Superannuation (Productivity Benefit) Act 1988**

### **1 Subsection 3(1)**

Insert:

*RSA* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### **2 At the end of subparagraph 6(7)(a)(i)**

Add “or”.

### **3 After subparagraph 6(7)(a)(ii)**

Insert:

(iia) an RSA nominated by the person, being an RSA that is held by the person; or

### **4 Paragraph 6(7)(b)**

Omit “or approved deposit fund”, substitute “approved deposit fund or RSA”.



## Schedule 8—Amendment of the Parliamentary Contributory Superannuation Act 1948

### 1 After paragraph 26B(4)(b)

Insert:

(ba) if the person nominates an RSA within 90 days after the benefit became payable—the RSA; or

Note: The heading to subsection 26B(4) is altered by omitting “*or an approved deposit fund*”, and substituting “*, an approved deposit fund or an RSA*”.

### 2 Subsection 26B(6)

Insert:

*RSA* has the same meaning as in the *Retirement Savings Accounts Act 1997*.



## Schedule 10—Amendment of the Insurance Contracts Act 1984

### 1 Subsection 11(1)

Insert:

*holder* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### 2 Subsection 11(1)

Insert:

*RSA* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### 3 Subsection 11(1)

Insert:

*RSA provider* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### 4 Subsection 26(3)

Repeal the subsection, substitute:

- (3) This section extends to the provision of insurance cover in respect of:
- (a) a person who is seeking to become a member of a superannuation or retirement scheme; or
  - (b) a person who is a holder, or is applying to become a holder, of an RSA.

### 5 After section 32

Insert:



**7 Subsection 64(1)**

After “superannuation contract”, insert “, or an RSA,”.



## Schedule 12—Amendment of the Life Insurance Act 1995

### 1 Subsection 151A(1)

Add at the end:

- ; (d) as a result of it being joined as a party to a complaint under section 15E or 15F of that Act, concerning insurance benefits under a contract of insurance, where the premiums are paid from an RSA (within the meaning of the *Retirement Savings Accounts Act 1997*); or
- (e) as a result of it being a party to a complaint under section 15H or 15J of that Act, concerning insurance benefits under a contract of insurance, where the premiums are paid from an RSA (within the meaning of the *Retirement Savings Accounts Act 1997*).

### 2 Subsection 216(1)

After “unclaimed money”, insert “, other than unclaimed money held in RSAs (within the meaning of the *Retirement Savings Accounts Act 1997*),”.



provided in breach of the *Retirement Savings Accounts Act 1997* or regulations under that Act, the assessable income of the taxpayer of the year of income is to include the amount or value of that benefit.

- (4B) Subsection (4A) does not apply to a benefit, or to a part of a benefit, if the Commissioner, having regard to any matters relating to the receiving or obtaining of the benefit by the taxpayer as the Commissioner considers relevant, is satisfied that it would be unreasonable for that subsection to apply to the whole or to that part of the benefit.

Note: The heading to section 26AFB is replaced by the heading: “**Assessable income to include certain benefits**”.

## **7 After paragraph 26AH(7)(a)**

Insert:

or (aa) the eligible policy is an RSA; or

## **8 After section 26D**

Insert:

### **26E Income from RSAs**

- (1) All benefits provided in respect of, and amounts that are paid from, an RSA (including amounts taken to be paid from an RSA under subsection (2)) are taken to have an Australian source.
- (2) If the premiums of an insurance policy are paid from an RSA, any amounts paid by the insurer under the policy are taken to be paid by the RSA provider as a benefit of the RSA.

## **9 Subsection 27A(1) (definition of *pension*)**

Repeal the definition, substitute:

*pension* means:

- (a) a pension, within the meaning of the *Superannuation Industry (Supervision) Act 1993*; or
- (b) a pension, within the meaning of the *Retirement Savings Accounts Act 1997*.

**10 Subsection 27A(1) (after paragraph (b) of the definition of *superannuation fund*)**

Insert:

and (c) an RSA;

Note: An RSA is a retirement savings account. It is regulated by the *Retirement Savings Accounts Act 1997*.

**11 Subsection 27A(1) (paragraph (a) of the definition of *taxed superannuation fund*)**

Repeal the paragraph, substitute:

(a) is, or has been:

(i) an eligible superannuation fund in relation to any year of income; or

(ii) an RSA; and

**12 Subsection 27A(1) (paragraph (c) of the definition of *taxed superannuation fund*)**

Before “is a resident”, insert “in the case of an eligible superannuation fund—”

**13 At the end of subsection 27A(12)**

Add:

; or (d) paid to an RSA held by the taxpayer.

**14 Paragraph 27A(13)(a)**

Omit “or (c)”, substitute “, (c) or (d)”.

**15 At the end of section 27A**

Add:

(22) For the purposes of this Subdivision:

(a) an RSA is taken to be a fund; and

(b) the holder of the RSA is taken to be a member of that fund.

**16 Subparagraph 27D(1)(b)(i)**

Omit “or (c)”, substitute “, (c) or (d)”.

**17 Subsection 46(1)**

Insert:

*standard component* has the same meaning as in Division 8.

**18 Subsection 46(1) (definition of *non-fund component*)**

Repeal the definition.

**19 Subsection 46(1A)**

Omit “non-fund”, substitute “standard”.

**20 Subsection 46(6AA)**

Omit “non-fund”, substitute “standard”.

**21 Subsection 46A(1)**

Insert:

*standard component* has the same meaning as in Division 8.

**22 Subsection 46A(1) (definition of *non-fund component*)**

Repeal the definition.

**23 Subsection 46A(6A)**

Omit “non-fund”(wherever occurring), substitute “standard”.

**24 Subsection 46A(8AA)**

Omit “non-fund”, substitute “standard”.

**25 After section 82AAD**

Insert:

**82AADA Deduction for contributions to RSAs**

If a taxpayer pays an amount as a contribution to an RSA for the purpose of making provision for superannuation benefits for an eligible employee, the amount is taken, for the purposes of section 82AAC, to be a contribution paid to a complying superannuation fund.

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The deduction cannot be more than the amount covered by the notice under subsection (1CB), and is also subject to the limits in subsection (2).

(1CB) A person who is making, or has made, a contribution to an RSA may give a written notice to the provider of the RSA, stating that the person intends to claim a deduction under this section for the whole or a specified part of the contribution. The RSA provider must, without delay, give the person a notice acknowledging receipt of the person's notice.

(1CC) The following restrictions apply to notices under subsection (1CB):

- (a) a person cannot give a notice that covers the whole or any part of an amount covered by a previous notice;
- (b) a person cannot give a notice to the provider of an RSA after the person has ceased to hold the RSA;
- (c) a person cannot revoke or withdraw a notice (but may vary it under subsection (1CD)).

(1CD) A person may at any time give written notice to the provider of an RSA reducing the amount covered by a notice under subsection (1CB), but not below the amount that has been allowed as a deduction to the person under this section for contributions covered by the notice.

### **29 Subsection 82AAT(1E)**

After "(1A)", insert "or (1CB)".

### **30 Subsection 82AAT(1F)**

After "complying superannuation fund", insert ", or to an RSA,".

### **31 Paragraph 82AAT(2A)(a)**

Omit "paragraph (1)(d) and subsection (1A)", substitute "paragraphs (1)(d) and (1CA)(c) and subsections (1A) and (1CB)".

### **32 Subsection 82AAT(3)**

After "27A(12)(a)", insert "or 27A(12)(d)".



*general fund component* means the component of the taxable income determined under section 116CJ for the general fund class.

**39 Subsection 110(1) (definition of *life assurance policy*)**

Repeal the definition, substitute:

*life assurance policy* includes:

- (a) an instrument securing the grant of an annuity, whether or not for a term dependent upon human life; and
- (b) an RSA where the provider is a life assurance company.

**40 Subsection 110(1) (definition of *non-fund assessable income*)**

Repeal the definition.

**41 Subsection 110(1) (definition of *non-fund component*)**

Repeal the definition.

**42 Subsection 110(1)**

Insert:

*RSA component* means the component of the general fund component worked out under section 116DAD.

**43 Subsection 110(1)**

Insert:

*standard component* means the component of the general fund component worked out under section 116DAD.

**44 Subsection 110(1)**

Insert:

*taxable contribution* has the same meaning as in Part IX.

**45 After subsection 111(1A)**

Insert:



**55 Subsection 113(5) (paragraph (a) of the definition of  
*assessable income*)**



**65 Paragraph 116CE(2)(a)**

Omit “116CC(2)”, substitute “116CB(3) or 116CC(2)”.

**66 After paragraph 116CE(2)(a)**

Insert:

- (aa) any assessable income allocated to that class under subsection (5) of this section; and
- (ab) any amounts covered by paragraph 116DAC(2)(a) or (b); and

**67 Paragraph 116CF(4)(a)**

After “superannuation premiums”, insert “and RSA contributions”.

**68 At the end of section 116CF**

Add:

- (8) For the purposes of the application of subsection (2) to the general fund class of assessable income, the definition of *income of class* has effect as if RSA contributions to which section 111AC applies were assessable income of that class.

**69 Paragraph 116CH(1)(a)**

Omit “non-fund”, substitute “general fund”.

**70 Before paragraph 116CH(2)(a)**

Insert:

- (aa) general fund;

**71 After Subdivision A of Division 8 of Part III**

Insert:

**Subdivision AA—RSA providers**

**116DAA Overview**

This Subdivision sets out how to calculate the taxable income of an RSA provider that is a life assurance company and the components of that taxable income.



### **116DAD Components of general fund component**

- (1) The general fund component of an RSA provider that is a life assurance company is divided into the ***RSA component*** and the ***standard component***.
- (2) The RSA component is equal to the RSA amount worked out under section 116DAC.
- (3) The standard component is the amount (if any) remaining after deducting the RSA component from the general fund component.

### **116DADA Taxable income and amount of components in certain cases**

- (1) This section applies if:
    - (a) an RSA provider has no taxable income; or
    - (b) the RSA provider has no general fund component; or
    - (c) the general fund component of an RSA provider is less than the RSA amount.
  - (2) If, apart from this subsection, an RSA provider has no taxable income, or the taxable income is less than the RSA amount:
    - (a) the RSA provider is taken to have both a taxable income and a tax loss in relation to the year of income; and
    - (b) the taxable income is taken to equal the RSA amount; and
    - (c) the tax loss is taken to be the amount that would have been the RSA provider's tax loss if the RSA amount were not income derived; and
    - (d) the general fund component and the RSA component of that component are taken to be equal to the RSA amount; and
    - (e) all other components of taxable income are taken to be nil.
  - (3) If, apart from this subsection, the taxable income of an RSA provider is equal to or greater than the RSA amount:
    - (a) the general fund component and the RSA component of that component are taken to be equal to the RSA amount; and
    - (b) an amount equal to the difference between the RSA amount and the amount that would, apart from this subsection, have
-



- (a) a pension, within the meaning of the *Superannuation Industry (Supervision) Act 1993*; or
- (b) a pension, within the meaning of the *Retirement Savings Accounts Act 1997*.

**76 Subsection 159SJ(1) (definition of *rebatable superannuation pension*)**

After “a superannuation pension”, insert “paid from an RSA or paid from a fund”.

**77 Subsection 159SZ(2) (definition of *eligible personal superannuation contributions*)**

Omit the definition, substitute:

*eligible personal superannuation contributions*, in relation to a taxpayer, means:

- (a) contributions made by the taxpayer to a fund where:
  - (i) the fund is a complying superannuation fund in relation to the year of income of the fund in which the contributions are made; and
  - (ii) the contributions are made to obtain superannuation benefits for the taxpayer or, in the event of the death of the taxpayer, for dependants of the taxpayer; and
- (b) contributions made by the taxpayer to an RSA where the contributions are made to obtain superannuation benefits for the taxpayer or, in the event of the death of the taxpayer, for dependants of the taxpayer.

**78 Section 160APA**

Insert:

*general fund component* has the same meaning as in Division 8 of Part III.

**79 Section 160APA (definition of *non-fund component*)**

Repeal the definition.



**85 Section 160APVA**

Omit “non-fund” (wherever occurring), substitute “general fund”.

**86 Subsection 160APVBA(2)**

Omit “Non-fund” (wherever occurring), substitute “General fund”.

**87 Subsection 160APVBA(2)**

Omit “non-fund”, substitute “general fund”.

**88 Subsection 160APVBB(2)**

Omit “Non-fund” (wherever occurring), substitute “General fund”.

**89 Subsection 160APVBB(2)**

Omit “non-fund”, substitute “general fund”.

**90 Section 160APVC**

Omit “Non-fund” (wherever occurring), substitute “General fund”.

**91 Section 160APVC**

Omit “non-fund” (wherever occurring), substitute “general fund”.

**92 Section 160APVD**

Omit “Non-fund” (wherever occurring), substitute “General fund”.

**93 Section 160APVD**

Omit “non-fund” (wherever occurring), substitute “general fund”.

**94 Section 160AQCCA**

Omit “Non-fund” (wherever occurring), substitute “General fund”.

**95 Section 160AQCCA**

Omit “non-fund” (wherever occurring), substitute “general fund”.

**96 Section 160AQCD**

Omit “Non-fund” (wherever occurring), substitute “General fund”.



in the payment of an amount to a person out of an RSA constitutes the disposal of the right of the person to the amount.

**107 At the end of section 202**

Add:

; and (k) to facilitate:

- (i) the administration of Part 8 and 11 of the *Retirement Savings Accounts Act 1997* in relation to individuals; and
- (ii) the administration of that Act in relation to RSA providers.

**108 Section 202A (definition of *interest-bearing account*)**

After “any facility”, insert “, other than an RSA,”.

**109 Section 202A (definition of *interest-bearing deposit*)**

After “deposit of money”, insert “, other than into an RSA,”.

**110 At the end of Division 4 of Part VA**

Add:

**202DI Tax file number quoted for RSA purposes taken to be quoted for purposes of the taxation eligible termination payments**

If a person (the *first person*) who is the holder of an RSA has quoted his or her tax file number to the provider of the RSA in connection with the operation or possible future operation of the *Retirement Savings Accounts Act 1997*, the first person is taken, so long as he or she continues to be the holder of the RSA, to have quoted that tax file number to the provider of the RSA as mentioned in subregulation 98(8) and regulation 100 of the Income Tax Regulations.

**111 Subsection 221AK(1)**

Insert:

*general fund component* has the same meaning as in Division 8 of Part III.



**120 Subsection 267(1) (at the end of the definition of *standard component*)**

Add:

; or (d) in relation to an RSA—has the meaning given by section 299D.

**121 Subsection 274(1)**

After “PST”, insert “or an RSA”.

**122 After paragraph 274(1)(b)**

Insert:

(ba) in the case of an RSA:

- (i) contributions made for the purpose of making provision for superannuation benefits for another person; and
- (ii) a specified roll-over amount; and
- (iii) a contribution of the kind mentioned in paragraph 82AAT(1CA)(b), to the extent to which the contribution:
  - (A) is covered by a notice under subsection 82AAT(1CB) received by the RSA provider before the date on which the RSA provider lodges its return of income for the contribution year; and
  - (B) has not been rolled-over as mentioned in paragraph 27A(13)(a); and
- (iv) a contribution made under section 65 of the *Superannuation Guarantee (Administration) Act 1992*;

**123 After subsection 274(2)**

Insert:

- (3) Subject to this Division, if:
  - (a) in a year of income (the *notice year*) an RSA provider receives a notice under subsection 82AAT(1CB) in relation to contributions that were made to an RSA provided by the RSA provider during a year of income (the *contribution year*); and

(b) the RSA provider receives the notice after the date on which the RSA provider lodged its return of income for the contribution year;

the contributions, to the extent to which they are covered by the notice, are taxable contributions in relation to the notice year.

#### **124 After subsection 276(1)**

Insert:

(2) Subject to this section, if:

(a) in a year of income (the *notice year*) an RSA provider receives a notice under subsection 82AAT(1CD) in relation to contributions that were made to an RSA provided by the RSA provider in an earlier year of income (the *contribution year*); and

(b) the RSA provider receives the notice after the date on which the RSA provider lodged its return of income for the contribution year; and

(c) apart from this section, the assessable income of the RSA provider of the contribution year would include an amount (the *clawback amount*) that would not have been included if the RSA provider had received the notice before that date;

the clawback amount is allowable as a deduction from the assessable income of the RSA provider for the notice year.

#### **125 Subsections 276(3) and (4)**

After “fund” (wherever occurring), insert “or RSA provider”.

#### **126 After section 277**

Insert:

#### **277AA Deposits treated as assessable in determining deductions for RSA providers who are not life assurance companies**

In determining the deductions allowable from the assessable income of an RSA provider that is not a life assurance company, any amount that is paid to the RSA provider as mentioned in subsection 274(1), or is a contribution to which subsection

82AAT(1CA) applies, is taken to be assessable income of the RSA provider (whether or not it is a taxable contribution).

## **127 After Division 7 of Part IX**

Insert:

### **Division 7A—RSA providers**

#### **299A Overview**

This Division sets out how to calculate the taxable income of an RSA provider, other than one that is a life assurance company.

Note: RSA providers that are life assurance companies are covered by Division 8 of Part III.

#### **299B RSA amount of taxable income**

The taxable income of an RSA provider (other than a life assurance company) includes all taxable contributions made during the year of income to RSAs provided by the RSA provider.

#### **299C Calculation of RSA amount**

- (1) This section sets out how to calculate the RSA amount of an RSA provider's taxable income.
- (2) The RSA amount is the sum of:
  - (a) all taxable contributions made; and
  - (b) other amounts (other than contributions) credited; during the year of income, to RSAs provided by the RSA provider, reduced by any amounts paid from the RSA other than benefits paid to, or in respect of, the holder of the RSA.
- (3) In calculating the RSA amount, any amount of tax paid in respect of an RSA is taken not to have been an amount paid from the RSA.
- (4) In calculating the sum, the amounts set out in subsections (5) and (6) are taken not to have been credited.



**299E Deductions from assessable income of RSA providers**

- (1) Any amounts paid, during a year of income, as premiums for an insurance policy that is wholly to provide death or disability benefits under RSAs provided by the RSA provider are allowable as deductions in calculating the taxable income for the year of income of the RSA provider.
- (2) No deduction is allowable in respect of amounts withdrawn from, or benefits paid in relation to, RSAs.
- (3) No deduction is allowable for amounts credited to RSAs.

**299F Clawback of rebates or refunds of deductible premiums**

- (1) If an RSA provider receives in a year of income a rebate or refund of a premium which has, in whole or in part, been allowed or is allowable as a deduction under subsection 299E(1), so much of that rebate or refund as is attributable to that deduction is to be included in the assessable income of the RSA provider for the year of income.
- (2) Nothing in subsection (1) limits the circumstances in which other rebates or refunds are included in the assessable income.

**299G Exempt income of RSA providers**

Any amounts that, but for the operation of subsection 299C(4), would have been taken into account under paragraph 299C(2)(b) in calculating the RSA component of the RSA provider's income for the year of income are exempt.



## Schedule 15—Amendment of the Superannuation Guarantee (Administration) Act 1992

### 1 Subsection 6(1)

Insert:

*RSA* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### 2 Subsection 6(1)

Insert:

*RSA provider* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### 3 Subsection 14(1)

After “a superannuation fund”, insert “, or the holder of an RSA,”.

### 4 Paragraphs 14(1)(a), (ab) and (b)

After “the fund”, insert “or the RSA”.

### 5 Paragraph 14(2)(c)

After “the fund”, insert “or the RSA”.

### 6 Subsection 14(3)

After “the fund”, insert “or the RSA”.

### 7 Paragraph 15A(4)(a)

After “superannuation fund”, insert “or an RSA provider”.

### 8 Subsection 15A(6) (definition of *benefit body*)

After “company”, insert “, an RSA provider”.

**9 Subsection 15A(6) (definition of *pension*)**

Repeal the definition, substitute:

*pension* means a pension within the meaning of the  
*Superannuation Industry (Supervision) Act 1993* or the *Retirement*  
*Savings Accounts Act 1997*.

**10 Subsection 23(1)**

After “relation”, insert “to RSAs and”.

Note: The heading to section 23 is altered by inserting “**RSA or to**” after “**made to**”.

**11 Paragraph 23(2)(a)**

After “superannuation fund”, insert “or an RSA”.

**12 Paragraph 23(2)(c)**

After “superannuation fund”, insert “or an RSA”.

**13 Subsection 23(2) (definition of A)**

After “the fund”, insert “or the RSA”.

**14 Paragraph 23(3)(a)**

After “superannuation fund”, insert “or an RSA”.

**15 Paragraph 23(3)(c)**

After “superannuation fund”, insert “or an RSA”.

**16 Subsection 23(3) (definition of A)**

After “the fund”, insert “or the RSA”.

**17 Paragraph 23(4)(a)**

After “superannuation fund”, insert “or an RSA”.

**18 Subsection 23(4) (definition of A)**

After “the fund”, insert “or the RSA,”.

**19 Subsection 23(4) (sub-subparagraph (A) of the definition of A)**

After “superannuation fund”, insert “or the RSA”.

**20 Subsection 23(4) (sub-subparagraph (B) of the definition of A)**

After “the fund”, insert “or the RSA”.

**21 Subsection 23(4) (sub-subparagraph (B) of the definition of B)**

After “the fund” (wherever occurring), insert “or the RSA”.

**22 Paragraph 23(4A)(a)**

After “a superannuation fund”, insert “or an RSA”.

**23 Paragraph 23(4A)(e)**

After “superannuation fund”, insert “or the RSA”.

**24 Paragraph 23(5)(a)**

After “superannuation fund”, insert “or an RSA”.

**25 Subsection 23(5) (definition of A)**

After “the fund”, insert “or the RSA”.

**26 Subsection 23(5) (sub-subparagraph (A) of the definition of A)**

After “superannuation fund”, insert “or the RSA”.

**27 Subsection 23(5) (sub-subparagraph (B) of the definition of A)**

After “the fund”, insert “or the RSA”.

**28 Subsection 23(5) (sub-subparagraph (B) of the definition of B)**

After “the fund” (wherever occurring), insert “or the RSA”.

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After “superannuation fund”, insert “or an RSA”.

**32 Subsection 23(8A)**

After “fund” (wherever occurring), insert “or RSA”.

**33 Subsection 23(9A)**

After “superannuation fund” (wherever occurring), insert “or RSA”.

**34 Paragraph 65(1)(a)**

After “of the employee,”, insert “to an RSA,”.

## Schedule 16—Amendment of the Small Superannuation Accounts Act 1995

### 1 Section 3

After “superannuation fund”, insert “or RSA”.

### 2 Section 4

Insert:

*provider*, in relation to an RSA, has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### 3 Section 4

Insert:

*RSA* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### 4 Section 4

Insert:

*RSA provider* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### 5 Section 4 (definition of *superannuation contribution*)

After “superannuation fund”, insert “, an RSA”.

### 6 Section 14

After “*to superannuation fund*”, insert “*or RSA*”

### 7 Section 14

After “to a superannuation fund”, insert “or RSA”.

### 8 Section 56

After “superannuation funds”, insert “or RSAs”.

**9 Heading to Division 4 of Part 7**



## **Schedule 17—Amendment of the Fringe Benefits Tax Assessment Act 1986**

### **1 Subsection 136(1) (at the end of paragraph (j) of the definition of *fringe benefit*)**

Add:

- or (iii) the making of a payment of money to an RSA (within the meaning of the *Retirement Savings Accounts Act 1997*);



**6 After paragraph 23(4A)(b)**

Insert:

- (ba) in respect of the RSA component of the general fund component—15%;

**7 Paragraph 23(4A)(c)**

Omit “non-fund component”, substitute “standard component of the general fund component”.

**8 After subsection 23(4B)**

Insert:

- (4BA) The rates of tax in respect of the taxable income of a company, other than a life assurance company that is an RSA provider are:
  - (a) in respect of the RSA component—15%; and
  - (b) in respect of the standard component—36%.

## **Schedule 19—Amendment of the Financial Transaction Reports Act 1988**

### **1 Subsection 3(1)**

Insert:

*RSA* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

### **2 After subsection 18(3)**

Insert:

(3A) Subsection (3) does not apply in relation to accounts that are RSAs.

### **3 After subsection 18(4A)**

Insert:

(4B) Subsections (2), (2A), (4) and (4A) do not apply in relation to withdrawals:

- (a) made as a result of a request under paragraph 50(1)(a) of the *Retirement Savings Accounts Act 1997*; or
- (b) made as a result of the death of the person who is the holder of the account for the purposes of the *Retirement Savings Accounts Act 1997*; or
- (c) made under section 83, 84, 89, 195 or 196 of the *Retirement Savings Accounts Act 1997*; or
- (d) that are used to make payments of insurance premiums in accordance with the terms and conditions of the account.

### **4 Subsection 18(8)**

Omit “the account (first occurring)”, substitute “an account other than an RSA”.

### **5 Paragraph 18(8A)(a)**

Omit “an account”, substitute “an account other than an RSA”.

**6 At the end of section 24**

Add:

- (8) This section does not apply in relation to a person (the *employer*) in relation to an account if:
- (a) the account is an RSA; and
  - (b) the employer made the application for the account on behalf of another person (the *employee*) under section 51 of the *Retirement Savings Accounts Act 1997*; and
  - (c) the employer is the employer of the employee for the purposes of the *Retirement Savings Accounts Act 1997*.
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*[Minister's second reading speech made in—  
House of Representatives on 4 December 1996  
Senate on 5 March 1997]*

(193/96)

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