





# Income Tax Assessment Amendment Regulations 2007 (No. 9)<sup>1</sup>

**Select Legislative Instrument 2007 No. 330**

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I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Income Tax Act Assessment Act 1997*.

Dated 26 September 2007

P. M. JEFFERY  
Governor-General

By His Excellency's Command

PETER CRAIG DUTTON  
Minister for Revenue and Assistant Treasurer

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**1 Name of Regulations**

These Regulations are the *Income Tax Assessment Amendment Regulations 2007 (No. 9)*.

**2 Commencement**

These Regulations commence on the day after they are registered.

**3 Amendment of *Income Tax Assessment Regulations 1997***

Schedule 1 amends the *Income Tax Assessment Regulations 1997*.

**Schedule 1 Amendments**

(regulation 3)

**[1] Paragraph 292-170.05 (2) (b)**

*substitute*

(b) either:

- (i) the member has not moved to a new benefit category; or
- (ii) if the member has moved to a new benefit category, the new benefit category does not provide the member with an improved level of benefit.

**[2] Subregulation 292-170.05 (5)**

*substitute*

- (5) If the rate of superannuation salary has increased, since 5 September 2006, by:
  - (a) more than 50% in 1 year; or
  - (b) more than 75% over 3 years;

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a condition is that the employer-sponsor advises the trustee that the increase in the rate is on an arm's length basis.

**[3] Paragraph 292-170.06 (2) (b)**

*substitute*

(b) either:

- (i) the member has not moved to a new benefit category; or
- (ii) if the member has moved to a new benefit category, the new benefit category does not provide the member with an improved level of benefit.

**[4] Subregulation 292-170.06 (5)**

*substitute*

(5) If the rate of superannuation salary has increased, since 5 September 2006, by:

- (a) more than 50% in 1 year; or
- (b) more than 75% over 3 years;

a condition is that the employer-sponsor advises the trustee that the increase in the rate is on an arm's length basis.

**[5] Schedule 1A, paragraph 1.3 (a)**

*omit*

; and

*insert*

; or

**[6] Schedule 1A, subsection 2.5 (2)**

*substitute*

- (2) Subject to subsection (2A), if the fund rules provide a discretion to pay, on voluntary exit, a benefit that is higher than the standard benefit, the actuary must assume that a higher benefit is always paid on voluntary exit on or after age 55.
- (2A) If the higher benefit mentioned in subsection (2) exceeds the accrued retirement benefit, the actuary may assume that the benefit is an amount:
  - (a) greater than or equal to the accrued retirement benefit; and
  - (b) less than or equal to the higher benefit.

**[7] Schedule 1A, after subsection 3.6 (2)**

*insert*

- (2A) If:
  - (a) on 1 July 2007, the defined benefit members of the fund include persons who have been, before becoming members of the fund, members of a predecessor fund; and
  - (b) the actuary considers that it is reasonable to do so;the actuary may use the age of entry of those members into the predecessor fund in determining the average age of entry.
- (2B) For this section:

***defined benefit member*** does not include a person who:

  - (a) is receiving only a pension benefit from the fund; or
  - (b) has deferred his or her benefit entitlement in the fund.

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**Note**

- 1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).