





# **Treasury Legislation Amendment (Unclaimed Money and Other Measures) Regulation 2013**

## **Select Legislative Instrument No. 117, 2013**

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I, Professor Marie Bashir AC CVO, Administrator of the Government of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the Acts mentioned in section 3.

Dated 13 June 2013

Marie Bashir  
Administrator

By Her Excellency's Command

William Richard Shorten  
Minister for Financial Services and Superannuation

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## **1 Name of regulation**

This regulation is the *Treasury Legislation Amendment (Unclaimed Money and Other Measures) Regulation 2013*.

## **2 Commencement**

This regulation commences on the day after it is registered.

## **3 Authority**

This regulation is made under:

- (a) the *Banking Act 1959*; and
- (b) the *Corporations Act 2001*; and
- (c) the *First Home Saver Accounts Act 2008*; and
- (d) the *Life Insurance Act 1995*; and
- (e) the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

## **4 Schedule(s)**

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Banking Regulations 1966*

#### 1 Subregulation 2(1)

Insert:

*CPI* means the Consumer Price Index number (being the weighted average of the 8 capital cities) published by the Australian Bureau of Statistics.

#### 2 At the end of Part 7

Add:

#### 22 Unclaimed money—interest payable

- (1) This regulation sets out how to work out the interest for paragraph 69(7AA)(a) of the Act.
- (2) If the unclaimed money is paid to the Commonwealth in more than one payment, the interest is to be worked out separately for each payment.
- (3) The interest is to be worked out for the period (the *interest period*) that:
  - (a) starts on the later of:
    - (i) 1 July 2013; and
    - (ii) the day when the unclaimed money was paid to the Commonwealth; and
  - (b) ends on the 14th day after the Commonwealth last authorised the unclaimed money to be paid under subsection 69(7) of the Act.

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- (4) The interest is to be worked out by adding together the interest for each financial year during the interest period.
- (5) The interest for each financial year is worked out using the following formula, and rounding the result to the nearest cent:

$$\frac{\text{Amount} \times \text{Days interest payable} \times \text{Interest rate}}{\text{Days in the financial year}}$$

where:

**amount** means the amount of unclaimed money plus the interest (if any) worked out for each earlier financial year for which interest is payable.

**days interest payable** means the number of days in the financial year for which interest is payable.

**days in the financial year** means the number of days in the financial year.

**interest rate**, for a financial year, means:

- (a) the percentage change in the All Groups CPI between the 2 March quarters most recently published before the first day of the financial year (rounded up to 4 decimal places); or
- (b) if that percentage change is less than 0%—0%.

## ***Corporations Regulations 2001***

### **3 Subregulation 1.0.02(1)**

Insert:

**CPI** means the Consumer Price Index number (being the weighted average of the 8 capital cities) published by the Australian Bureau of Statistics.

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## 4 After Part 9.5 of Chapter 9

Insert:

### Part 9.7—Unclaimed property

#### 9.7.01 Entitlement to unclaimed property

- (1) This regulation sets out how to work out the interest for paragraph 1341(3A)(a) of the Act.
- (2) If the unclaimed money is paid to ASIC in more than one payment, the interest is to be worked out separately for each payment.
- (3) The interest is to be worked out for the period (the *interest period*) that:
  - (a) starts on the later of:
    - (i) 1 July 2013; and
    - (ii) the day when the unclaimed money was paid to ASIC; and
  - (b) ends on the 14th day after ASIC last authorised the unclaimed money to be paid under subsection 1341(1) or (2) of the Act.
- (4) The interest is to be worked out by adding together the interest for each financial year during the interest period.
- (5) The interest for each financial year is worked out using the following formula, and rounding the result to the nearest cent:

$$\frac{\text{Amount} \times \text{Days interest payable} \times \text{Interest rate}}{\text{Days in the financial year}}$$

where:

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**amount** means the amount of unclaimed money plus the interest (if any) worked out for each earlier financial year for which interest is payable.

**days interest payable** means the number of days in the financial year for which interest is payable.

**days in the financial year** means the number of days in the financial year.

**interest rate**, for a financial year, means:

- (a) the percentage change in the All Groups CPI between the 2 March quarters most recently published before the first day of the financial year (rounded up to 4 decimal places); or
- (b) if that percentage change is less than 0%—0%.

## ***First Home Saver Accounts Regulations 2008***

### **5 Regulation 3**

Insert:

**CPI** means the Consumer Price Index number (being the weighted average of the 8 capital cities) published by the Australian Bureau of Statistics.

### **6 After Part 4**

Insert:

## **Part 4A—Unclaimed money**

### **13A Payment where money later claimed etc.**

- (1) This regulation sets out how to work out the interest for subsection 51C(1A) of the Act.

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- (2) If the unclaimed money is paid to ASIC in more than one payment, the interest is to be worked out separately for each payment.
- (3) The interest is to be worked out for the period (the *interest period*) that:
  - (a) starts on the later of:
    - (i) 1 July 2013; and
    - (ii) the day when the unclaimed money was paid to ASIC; and
  - (b) ends on the 14th day after ASIC last authorised the unclaimed money to be paid under subsection 51C(1) of the Act.
- (4) The interest is to be worked out by adding together the interest for each financial year during the interest period.
- (5) The interest for each financial year is worked out using the following formula, and rounding the result to the nearest cent:

$$\frac{\text{Amount} \times \text{Days interest payable} \times \text{Interest rate}}{\text{Days in the financial year}}$$

where:

*amount* means the amount of unclaimed money plus the interest (if any) worked out for each earlier financial year for which interest is payable.

*days interest payable* means the number of days in the financial year for which interest is payable.

*days in the financial year* means the number of days in the financial year.

*interest rate*, for a financial year, means:

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- (a) the percentage change in the All Groups CPI between the 2 March quarters most recently published before the first day of the financial year (rounded up to 4 decimal places); or
- (b) if that percentage change is less than 0%—0%.

## ***Life Insurance Regulations 1995***

### **7 Regulation 1.03**

Insert:

*CPI* means the Consumer Price Index number (being the weighted average of the 8 capital cities) published by the Australian Bureau of Statistics.

### **8 After regulation 10.05A**

Insert:

#### **10.05AA Unclaimed money—interest payable**

- (1) This regulation sets out how to work out the interest for paragraph 216(7A)(a) of the Act.
- (2) If the unclaimed money is paid to the Commonwealth in more than one payment, the interest is to be worked out separately for each payment.
- (3) The interest is to be worked out for the period (the *interest period*) that:
  - (a) starts on the later of:
    - (i) 1 July 2013; and
    - (ii) the day when the unclaimed money was paid to the Commonwealth; and
  - (b) ends on the 14th day after the Treasurer last authorised the unclaimed money to be paid under subsection 216(7) of the Act.

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- (4) The interest is to be worked out by adding together the interest for each financial year during the interest period.
- (5) The interest for each financial year is worked out using the following formula, and rounding the result to the nearest cent:

$$\frac{\text{Amount} \times \text{Days interest payable} \times \text{Interest rate}}{\text{Days in the financial year}}$$

where:

**amount** means the amount of unclaimed money plus the interest (if any) worked out for each earlier financial year for which interest is payable.

**days interest payable** means the number of days in the financial year for which interest is payable.

**days in the financial year** means the number of days in the financial year.

**interest rate**, for a financial year, means:

- (a) the percentage change in the All Groups CPI between the 2 March quarters most recently published before the first day of the financial year (rounded up to 4 decimal places); or
- (b) if that percentage change is less than 0%—0%.

## ***Superannuation (Unclaimed Money and Lost Members) Regulations 1999***

### **9 Regulation 4**

Insert:

**CPI** means the Consumer Price Index number (being the weighted average of the 8 capital cities) published by the Australian Bureau of Statistics.

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**Treasury bond rate**, for a particular day, means:

- (a) if any Treasury bonds with a 10 year term were issued on that day—the annual yield on those bonds; or
- (b) otherwise—the annual yield on Treasury bonds with a 10 year term, as published by the Reserve Bank of Australia for that day.

## 10 After regulation 4C

Insert:

### 4D Temporary residents—unclaimed amount paid before 1 July 2013

- (1) This regulation is made for subsection 20H(2B) of the Act.
- (2) This regulation sets out how to work out the interest on an amount (the **unclaimed amount**) that:
  - (a) the Commissioner receives under subsection 20F(1) of the Act; and
  - (b) the Commissioner pays under subsection 20H(2) of the Act before 1 July 2013.

Note: See regulations 4E and 4F for an unclaimed amount that is paid on or after 1 July 2013.

- (3) However, this regulation does not apply to an amount:
  - (a) to which section 18A, 20K or 24J of the Act applies; or
  - (b) mentioned in subsection 65AA(2) of the *Superannuation Guarantee (Administration) Act 1992*.
- (4) The interest is to be worked out for the period (the **interest period**) that:
  - (a) starts on the later of:
    - (i) the day when the superannuation provider was required to pay the unclaimed amount to the Commissioner under subsection 20F(1) of the Act; and

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- (ii) the day when the superannuation provider was required to pay the unclaimed amount to the Commissioner in accordance with a notice under subsection 255-10(2) of Schedule 1 to the *Taxation Administration Act 1953*; and
- (b) ends on the earlier of:
  - (i) the third day after the Commissioner last authorised the unclaimed amount to be paid under subsection 20H(2) of the Act; and
  - (ii) 30 June 2013.
- (5) The interest is to be worked out by adding together the interest for each financial year during the interest period.
- (6) The interest for each financial year is worked out using the following formula, and rounding the result to the nearest cent:

$$\frac{\text{Amount} \times \text{Days interest payable} \times \text{Interest rate}}{\text{Days in the financial year}}$$

where:

**amount** means the unclaimed amount plus the interest (if any) worked out for each earlier financial year for which interest is payable.

**days interest payable** means the number of days in the financial year for which interest is payable.

**days in the financial year** means the number of days in the financial year.

**interest rate**, for a financial year, means:

- (a) the Treasury bond rate for the last working day of the financial year immediately before the financial year for which interest is payable; or
- (b) if that rate is less than 0%—0%.

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**4E Temporary residents—unclaimed amount paid on or after 1 July 2013**

- (1) This regulation is made for subsection 20H(2AA) of the Act.
- (2) This regulation sets out how to work out the interest on the excess (the *unclaimed amount*) that the Commissioner receives under subsection 20F(1) of the Act if the Commissioner:
  - (a) pays the unclaimed amount to, or on behalf of a person, under subsection 20H(2) of the Act on or after 1 July 2013; and
  - (b) is satisfied the person is (or was just before dying):
    - (i) an Australian citizen; or
    - (ii) the holder of a permanent visa under the *Migration Act 1958*.
- Note 1: See regulation 4D for an unclaimed amount that the Commissioner pays before 1 July 2013.
- Note 2: See regulation 4F for the entitlement to interest on an amount to which subsection 17(1), or section 20H or 24E, of the Act applies.
- (3) However, this regulation does not apply to an amount:
  - (a) to which section 18A, 20K or 24J of the Act applies; or
  - (b) mentioned in subsection 65AA(2) of the *Superannuation Guarantee (Administration) Act 1992*.
- (4) The interest is to be worked out for the period (the *interest period*) that:
  - (a) starts on the later of:
    - (i) the day when the superannuation provider was required to pay the unclaimed amount to the Commissioner under subsection 20F(1) of the Act; and
    - (ii) the day when the superannuation provider was required to pay the unclaimed amount to the Commissioner in accordance with a notice under subsection 255-10(2) of

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Schedule 1 to the *Taxation Administration Act 1953*;  
and

(b) ends on 30 June 2013.

- (5) The interest is to be worked out by adding together the interest for each financial year during the interest period.
- (6) The interest for each financial year is worked out using the following formula, and rounding the result to the nearest cent:

$$\frac{\text{Amount} \times \text{Days interest payable} \times \text{Interest rate}}{\text{Days in the financial year}}$$

where:

**amount** means the unclaimed amount plus the interest (if any) worked out for each earlier financial year for which interest is payable.

**days interest payable** means the number of days in the financial year for which interest is payable.

**days in the financial year** means the number of days in the financial year.

**interest rate**, for a financial year, means:

- (a) the Treasury bond rate for the last working day of the financial year immediately before the financial year for which interest is payable; or
- (b) if that rate is less than 0%—0%.

#### **4F Other unclaimed amounts paid on or after 1 July 2013**

- (1) This regulation is made for the following provisions of the Act:
- (a) subsections 17(2AB) and (2AC);
- (b) subsection 20H(2AA);
- (c) subsections 24G(3A) and (3B).

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- (2) This regulation sets out how to work out the interest on an amount (the ***unclaimed amount***) that:
- (a) the Commissioner receives under subsection 17(1), or section 20F or 24E, of the Act; and
  - (b) the Commissioner pays under subsection 17(2), 20H(2) or 24G(2) of the Act on or after 1 July 2013.
- (3) However, this regulation does not apply to an amount:
- (a) to which section 18A, 20K or 24J of the Act applies; or
  - (b) mentioned in subsection 65AA(2) of the *Superannuation Guarantee (Administration) Act 1992*.
- (4) The interest is to be worked out for the period (the ***interest period***) that:
- (a) starts on the later of:
    - (i) 1 July 2013; and
    - (ii) the day when the superannuation provider was required to pay the unclaimed amount to the Commissioner under section 17, 20F or 24E of the Act; and
    - (iii) the day when the superannuation provider was required to pay the unclaimed amount to the Commissioner in accordance with a notice under subsection 255-10(2) of Schedule 1 to the *Taxation Administration Act 1953*; and
  - (b) ends on the third day after the Commissioner last authorised the unclaimed amount to be paid under subsection 17(2), 20H(2) or 24G(2) of the Act.
- (5) The interest is to be worked out by adding together the interest for each financial year during the interest period.
- (6) The interest for each financial year is worked out using the following formula, and rounding the result to the nearest cent:

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$$\frac{\text{Amount} \times \text{Days interest payable} \times \text{Interest rate}}{\text{Days in the financial year}}$$

where:

**amount** means the unclaimed amount plus the interest (if any) worked out for each earlier financial year for which interest is payable.

**days interest payable** means the number of days in the financial year for which interest is payable.

**days in the financial year** means the number of days in the financial year.

**interest rate**, for a financial year, means:

- (a) the percentage change in the All Groups CPI between the 2 March quarters most recently published before the first day of the financial year (rounded up to 4 decimal places); or
- (b) if that percentage change is less than 0%—0%.

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