



Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021

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

Dated 01 April 2021

David Hurley
Governor-General

By His Excellency's Command

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

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1 Name

This instrument is the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information | | |
|---------------------------------|---|---|
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this instrument | The later of: (a) the start of the day after this instrument is registered; and (b) the commencement of Schedule 2 to the <i>Treasury Laws Amendment (Reuniting More Superannuation) Act 2021</i> . | 2 April 2021 (paragraph (a) applies) |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following Acts:

- (a) the *Retirement Savings Accounts Act 1997*;
- (b) the *Superannuation Industry (Supervision) Act 1993*;
- (c) the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Retirement Savings Accounts Regulations 1997

1 Regulation 4.23B

After “*Superannuation (Unclaimed Money and Lost Members) Act 1999*”, insert “, or chooses to pay an amount to the Commissioner of Taxation under Part 3D of that Act.”.

2 Regulation 4.23B (note)

After “An amount”, insert “required”.

3 Subregulations 4A.10(3) and (4)

Repeal the subregulations, substitute:

- (3) If paragraph (2)(b) or (c) applies, the RSA provider must:
- (a) roll over or transfer the amount to an RSA provided by another RSA provider, or to another superannuation entity or an EPSSS, nominated by the non-member spouse; or
 - (b) if there has been no such nomination by the non-member spouse—consider whether it would be in the best interests of the non-member spouse to pay the amount of the withdrawal benefits to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

4 Before paragraph 4A.11(1)(a)

Insert:

- (aa) open a new RSA for the non-member spouse in the non-member spouse’s name; or

5 Paragraph 4A.11(1)(b)

Omit “rollover or transfer that amount to an eligible rollover fund”, substitute “consider whether it would be in the best interests of the non-member spouse to pay that amount to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*”.

6 Paragraph 4A.11(2)(b)

Omit “rollover or transfer the amount to an eligible rollover fund”, substitute “consider whether it would be in the best interests of the non-member spouse to pay that amount to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*”.

7 Subregulation 4A.11(3)

Repeal the subregulation.

8 Paragraph 4A.13(2)(b)

Omit “subregulation 4A.11(2);”, substitute “subregulation 4A.11(2).”.

9 Paragraphs 4A.13(2)(c) and (3)(b)

Repeal the paragraphs.

10 Subregulations 4A.20(3) and (4)

Repeal the subregulations, substitute:

- (3) If paragraph (2)(b) or (c) applies in relation to a request, the RSA provider must:
 - (a) roll over or transfer the transferable benefits to an RSA provided by another RSA provider, or another superannuation entity or EPSSS, nominated by the non-member spouse; or
 - (b) if there has been no such nomination by the non-member spouse—consider whether it would be in the best interests of the non-member spouse to pay the amount of the transferable benefits to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

11 Before paragraph 4A.21(1)(a)

Insert:

- (aa) open a new RSA for the non-member spouse in the non-member spouse's name; or

12 Paragraph 4A.21(1)(b)

Omit “roll over or transfer the transferable benefits to an eligible rollover fund”, substitute “consider whether it would be in the best interests of the non-member spouse to pay the amount of the transferable benefits to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*”.

13 Paragraph 4A.21(2)(b)

Omit “roll over or transfer the transferable benefits to an eligible rollover fund”, substitute “consider whether it would be in the best interests of the non-member spouse to pay the transferable benefits to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*”.

14 Subregulation 4A.21(3)

Repeal the subregulation.

15 Subregulation 4A.22(1)

Repeal the subregulation, substitute:

- (1) This regulation applies if the RSA provider opens a new RSA in the non-member spouse's name:
 - (a) to give effect to a request under regulation 4A.16; or
 - (b) on the RSA provider's initiative under paragraph 4A.11(1)(aa) or 4A.21(1)(aa).

16 Subregulation 4A.27(6)

Repeal the subregulation, substitute:

- (6) If the transferor RSA provider believes, on reasonable grounds and after making reasonable inquiries, that the non-member spouse has not given a consent mentioned in subregulation (5), the RSA provider must:

- (a) consider whether it would be in the best interests of the non-member spouse to pay the amount to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*; and
- (b) if the RSA provider does not pay the amount to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*—roll over or transfer the transferable benefits to a MySuper product.

17 Paragraph 4A.28(5)(b)

Repeal the paragraph, substitute:

- (b) if paragraph (a) does not apply—roll over or transfer the amount to an RSA provided by another RSA provider, or to a regulated superannuation fund, an approved deposit fund, or an EPSSS, nominated by the non-member spouse; or
- (c) if paragraph (a) does not apply and there has been no such nomination by the non-member spouse—consider whether it would be in the best interests of the non-member spouse to pay the amount to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

18 Paragraph 4A.28(6)(b)

Repeal the paragraph, substitute:

- (b) if paragraph (a) does not apply—roll over or transfer the amount to an RSA provided by another RSA provider, or to a regulated superannuation fund, an approved deposit fund, or an EPSSS, nominated by the non-member spouse; or
- (c) if paragraph (a) does not apply and there has been no such nomination by the non-member spouse—consider whether it would be in the best interests of the non-member spouse to pay the amount to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

19 Regulations 6.05, 6.06 and 6.07

Repeal the regulations.

20 Regulation 6.12

Omit “regulations 4.34 and 6.05”, substitute “regulation 4.34”.

21 In the appropriate position in Part 7

Insert:

7.10 Amendments made by the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021*

- (1) The amendment made by item 3 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* applies in relation to requests made under Division 4A.2 on or after 1 May 2021.
- (2) The amendments made by items 4 to 9 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* apply in relation to non-member spouse interests in relation to which requests have not, as

at 1 May 2021, been made under Division 4A.2 within the time allowed under subregulation 4A.09(1).

- (3) The amendment made by item 10 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* applies in relation to requests made under Division 4A.3 on or after 1 May 2021.
- (4) The amendments made by items 11 to 14 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* apply in relation to non-member spouse interests in relation to which requests have not, as at 1 May 2021, been made under Division 4A.3 within the time allowed under subregulation 4A.19(1).
- (5) The amendment made by item 15 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* applies in relation to:
 - (a) non-member spouse interests in relation to which requests have not, as at 1 May 2021, been made under Division 4A.2 within the time allowed under subregulation 4A.09(1); and
 - (b) non-member spouse interests in relation to which requests have not, as at 1 May 2021, been made under Division 4A.3 within the time allowed under subregulation 4A.19(1); and
- (6) The amendment made by item 16 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* applies in relation to non-member spouse interests in relation to which a belief is formed in accordance with subregulation 4A.27(6) on or after 1 May 2021.
- (7) The amendments made by items 17 and 18 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* apply in relation to requests mentioned in paragraph 4A.28(2)(b) on or after 1 May 2021.

22 Schedule 2 (table item 104A, column headed “Conditions of release”)

After “*Superannuation (Unclaimed Money and Lost Members) Act 1999*”, insert “, or may pay an amount to the Commissioner of Taxation under Part 3D of that Act,”.

23 Schedule 2 (table item 104A, column headed “Cashing restrictions”)

After “*Superannuation (Unclaimed Money and Lost Members) Act 1999*”, insert “, or may pay to the Commissioner of Taxation under Part 3D of that Act,”.

Superannuation Industry (Supervision) Regulations 1994

24 Regulation 6.20C

After “*Superannuation (Unclaimed Money and Lost Members) Act 1999*”, insert “, or chooses to pay an amount to the Commissioner of Taxation under Part 3D of that Act,”.

25 Regulation 6.20C (note)

After “An amount”, insert “required”.

26 Regulation 6.24B

After “*Superannuation (Unclaimed Money and Lost Members) Act 1999*”, insert “, or chooses to pay an amount to the Commissioner of Taxation under Part 3D of that Act,”.

27 Regulation 6.24B (note)

After “An amount”, insert “required”.

28 After subregulation 6.29(1)

Insert:

(1A) Paragraph (1)(c) does not apply to a transfer to a successor fund that is an eligible rollover fund if the transfer takes place on or after the later of:

- (a) 1 May 2021; and
- (b) the seventh day after Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Act 2021* commences.

29 Paragraph 7A.03G(3)(b)

Repeal the paragraph, substitute:

- (b) roll over or transfer the withdrawal benefit to another regulated superannuation fund, approved deposit fund, EPSSS or RSA nominated by the non-member spouse; or
- (c) if there has been no such nomination by the non-member spouse—consider whether it would be in the best interests of the non-member spouse to pay the amount of the withdrawal benefit to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

30 Subregulations 7A.03G(3A) and (4)

Repeal the subregulations, substitute:

(3A) If subparagraph (2)(b)(ii), or paragraph (2)(c), applies in relation to a request, the trustee must:

- (a) roll over or transfer the withdrawal benefit to another regulated superannuation fund, approved deposit fund, EPSSS or RSA nominated by the non-member spouse; or
- (b) if there has been no such nomination by the non-member spouse—consider whether it would be in the best interests of the non-member spouse to pay the amount of the withdrawal benefit to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

31 Before paragraph 7A.03H(1)(a)

Insert:

- (aa) create a new interest for the non-member spouse in the regulated superannuation fund in which the original interest is held; or

32 Paragraph 7A.03H(1)(b)

Omit “roll over or transfer the withdrawal benefit from the non-member spouse interest to an eligible rollover fund”, substitute “consider whether it would be in the best interests of the non-member spouse to pay the amount of the withdrawal benefits to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*”.

33 Paragraph 7A.03H(2)(b)

Omit “roll over or transfer the amount to an eligible rollover fund”, substitute “consider whether it would be in the best interests of the non-member spouse to pay the amount to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*”.

34 Subregulation 7A.03H(3)

Repeal the subregulation.

35 Subregulations 7A.03H(3A) and (3B)

Omit “paragraphs (1)(a) and (b)”, substitute “paragraphs (1)(aa), (a) and (b)”.

36 Paragraph 7A.09(3)(b)

Repeal the paragraph, substitute:

- (b) roll over or transfer the transferable benefits to another regulated superannuation fund, approved deposit fund, EPSSS or RSA nominated by the non-member spouse; or
- (c) if there has been no such nomination by the non-member spouse—consider whether it would be in the best interests of the non-member spouse to pay the amount of the transferable benefits to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

37 Subregulation 7A.09(3A)

Repeal the subregulation, substitute:

- (3A) If subparagraph (2)(b)(ii), or paragraph (2)(c), applies in relation to a request, the trustee must:
 - (a) roll over or transfer the transferable benefits to another regulated superannuation fund, approved deposit fund, EPSSS or RSA nominated by the non-member spouse; or
 - (b) if there has been no such nomination by the non-member spouse—consider whether it would be in the best interests of the non-member spouse to pay the amount of the transferable benefits to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

38 Paragraph 7A.10(1)(c)

Omit “roll over or transfer the transferable benefits to an eligible rollover fund”, substitute “consider whether it would be in the best interests of the non-member spouse to pay the amount of the transferable benefits to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*”.

39 Paragraph 7A.10(2)(b)

Omit “roll over or transfer the transferable benefits to an eligible rollover fund”, substitute “consider whether it would be in the best interests of the non-member spouse to pay the transferable benefits to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*”.

40 Subregulation 7A.10(3)

Repeal the subregulation.

41 Paragraph 7A.11(1)(b)

After “paragraph”, insert “7A.03H(1)(aa) or”.

42 Subregulation 7A.11(9)

After “paragraph”, insert “7A.03H(1)(aa) or”.

43 Paragraph 7A.12(4)(b)

Omit “subregulation 7A.10(2);”, substitute “subregulation 7A.10(2).”.

44 Paragraph 7A.12(4)(c)

Repeal the paragraph.

45 Subparagraph 7A.12(5)(c)(ii)

Omit “time; and”, substitute “time.”.

46 Paragraph 7A.12(5)(d)

Repeal the paragraph.

47 Subregulation 7A.16(6)

Repeal the subregulation, substitute:

- (6) If the trustee of the transferor fund believes, on reasonable grounds and after making reasonable inquiries, that the non-member spouse has not given a consent mentioned in subregulation (5), the trustee must:
 - (a) consider whether it would be in the best interests of the non-member spouse to pay the amount to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*; and
 - (b) if the trustee does not pay the amount to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*—allocate the amount to an interest that the trustee creates for the non-member spouse in the regulated superannuation fund or approved deposit fund.

48 Paragraph 7A.17(5)(b)

Repeal the paragraph, substitute:

- (b) if the trustee does not give effect to the request and the non-member spouse asks the trustee to pay the amount to which the non-member spouse is entitled to the non-member spouse—the trustee must pay the amount to the non-member spouse; or
- (c) if the trustee does not give effect to the request and paragraph (b) of this subregulation does not apply—the trustee must:
 - (i) roll over or transfer the amount to which the non-member spouse is entitled to another regulated superannuation fund, approved deposit fund, EPSSS or RSA nominated by the non-member spouse; or
 - (ii) if there has been no such nomination by the non-member spouse—consider whether it would be in the best interests of the non-member spouse to pay the amount to which the non-member spouse is entitled to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

49 Paragraph 7A.17(6)(b)

Repeal the paragraph, substitute:

- (b) in any other case:
 - (i) roll over or transfer the amount to which the non-member spouse is entitled to another regulated superannuation fund, approved deposit fund, EPSSS or RSA nominated by the non-member spouse; or
 - (ii) if there has been no such nomination by the non-member spouse—consider whether it would be in the best interests of the non-member spouse to pay the amount to which the non-member spouse is entitled to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

50 Paragraph 7A.18(3)(b)

Repeal the paragraph, substitute:

- (b) if the trustee does not give effect to the request and the non-member spouse asks the trustee to pay the amount to which the non-member spouse is entitled to the non-member spouse—the trustee must pay the amount to the non-member spouse; or
- (c) if the trustee does not give effect to the request and paragraph (b) of this subregulation does not apply—the trustee must:
 - (i) roll over or transfer the amount to which the non-member spouse is entitled to another regulated superannuation fund, approved deposit fund, EPSSS or RSA nominated by the non-member spouse; or
 - (ii) if there has been no such nomination by the non-member spouse—consider whether it would be in the best interests of the non-member spouse to pay the amount to which the non-member spouse is entitled to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

51 Paragraph 7A.18(4)(b)

Repeal the paragraph, substitute:

- (b) in any other case:
 - (i) roll over or transfer the amount to which the non-member spouse is entitled to another regulated superannuation fund, approved deposit fund, EPSSS or RSA nominated by the non-member spouse; or
 - (ii) if there has been no such nomination by the non-member spouse—consider whether it would be in the best interests of the non-member spouse to pay the amount to which the non-member spouse is entitled to the Commissioner under section 22 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

52 Regulation 10.03

Repeal the regulation.

53 In the appropriate position in Part 14

Insert:

Division 14.23—Transitional arrangements arising out of the Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021

14.23 Arrangements

- (1) The amendments made by items 29 and 30 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* apply in relation to requests made under Division 7A.1A on or after 1 May 2021.
- (2) The amendments made by items 31 to 35, 41 and 42 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* apply in relation to non-member spouse interests in relation to which requests have not, as at 1 May 2021, been made under Division 7A.1A within the time allowed under subregulation 7A.03F(1).
- (3) The amendments made by items 36, 37, 45 and 46 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* apply in relation to requests made under Division 7A.2 on or after 1 May 2021.
- (4) The amendments made by items 38, 39, 40, 43 and 44 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* apply in relation to which requests have not, as at 1 May 2021, been made under Division 7A.2 within the time allowed under subregulation 7A.08(1).
- (5) The amendment made by item 47 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* applies in relation to non-member spouse interests in relation to which a belief is formed in accordance with subregulation 7A.16(6) on or after 1 May 2021.
- (6) The amendments made by items 48 to 51 of Schedule 1 to the *Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021* apply in relation to requests made under subregulation 7A.17(3) on or after 1 May 2021.

54 Part 1 of Schedule 1 (table item 103B, column 2)

After “*Superannuation (Unclaimed Money and Lost Members) Act 1999*”, insert “, or may pay an amount to the Commissioner of Taxation under Part 3D of that Act,”.

55 Part 1 of Schedule 1 (table item 103B, column 3)

After “*Superannuation (Unclaimed Money and Lost Members) Act 1999*”, insert “, or may pay to the Commissioner of Taxation under Part 3D of that Act,”.

56 Part 2 of Schedule 1 (table item 204A, column 2)

After “*Superannuation (Unclaimed Money and Lost Members) Act 1999*”, insert “, or may pay an amount to the Commissioner of Taxation under Part 3D of that Act,”.

57 Part 2 of Schedule 1 (table item 204A, column 3)

After “*Superannuation (Unclaimed Money and Lost Members) Act 1999*”, insert “, or may pay to the Commissioner of Taxation under Part 3D of that Act,”.

***Superannuation (Unclaimed Money and Lost Members)
Regulations 2019***

58 Subregulation 6(1)

After “20QK(4)(a)”, insert “, 21G(3)(a), 22E(3)(a)”.

59 Subregulation 9(1)

After “20QF(5) and (6),”, insert “21E(5) and (6), 22B(5) and (6),”.

60 Paragraph 9(1)(a)

Repeal the paragraph, substitute:

(a) a superannuation provider:

- (i) is required, or before the commencement of this instrument was required, to pay to the Commissioner under section 17, 20F, 20QD, 21C or 24E of the Act; or
- (ii) pays to the Commissioner under section 22 of the Act; and

61 Paragraph 9(1)(b)

After “20QD”, insert “, 21C, 22”.

62 Paragraph 9(1)(c)

After “20QF(2),”, insert “21E(2), 22B(2),”.

63 Paragraph 9(2)(a)

After “20QJ”, insert “, 21F, 22C”.

64 Subparagraph 9(3)(a)(ii)

After “20QD”, insert “, 21C”.

65 Subparagraph 9(3)(a)(ii)

After “the Act”, insert “, or paid the unclaimed amount to the Commissioner under section 22 of the Act”.

66 Paragraph 9(3)(b)

After “20QF(2),”, insert “21E(2), 22B(2),”.

67 Paragraph 14(2)(a)

After “20QF,”, insert “21E, 22B,”.