





## **Treasury Laws Amendment (Reuniting More Superannuation) Regulations 2021**

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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Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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).”.

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**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

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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*”.

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**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.

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**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*.

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**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,”.

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***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,”.