



Superannuation Industry (Supervision) Amendment Regulations 2005 (No.)¹

Select Legislative Instrument 2005 No.

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 *Superannuation Industry (Supervision) Act 1993*.

Dated 2005

Governor-General

By His Excellency's Command

[DRAFT ONLY – NOT FOR SIGNATURE]

Minister for Revenue and Assistant Treasurer

DRAFT ONLY

1 Name of Regulations

These Regulations are the *Superannuation Industry (Supervision) Amendment Regulations 2005 (No.)*.

2 Commencement

These Regulations commence on 1 January 2006.

3 Amendment of *Superannuation Industry (Supervision) Regulations 1994*

Schedule 1 amends the *Superannuation Industry (Supervision) Regulations 1994*.

Schedule 1 Amendments

(regulation 3)

[1] Paragraph 1.05 (4) (f)

substitute

- (f) for an annuity that has a commencement day on or after 22 December 1992 and before 1 January 2006 — the payments in a year (excluding payments by way of commutation but including payments made under a payment split) are not larger or smaller in total than, respectively, the maximum and minimum limits calculated in accordance with Schedule 1A; and

[2] After paragraph 1.05 (4) (f), before the note

insert

- (g) for an annuity that has a commencement day on or after 1 January 2006 — the payments in a year (excluding payments by way of commutation but including payments made under a payment split) are not larger or smaller in total than the following:
- (i) for payments of an annuity that has a commencement day during the period starting on 1 January 2006 and ending on 30 June 2006 — the respective maximum and minimum limits for the year calculated in accordance with 1 of the following Schedules:
 - (A) Schedule 1A;
 - (B) Schedule 1AA;
- provided that, after a Schedule has been chosen, only that Schedule may be used for the payments in that year and all subsequent years;

-
- (ii) for payments of an annuity that has a commencement day on or after 1 July 2006 — the respective maximum and minimum limits for the year calculated in accordance with Schedule 1AA.

[3] After subparagraph 1.05 (9) (b) (ii)

insert

- (ia) if the annuity has a commencement day on or after 1 January 2006 — the annuity is paid at least annually to the primary beneficiary or reversionary beneficiary throughout a period that is not less than the period available under subparagraph 1.05 (9) (b) (i), and not more than the greater of the following periods:
- (A) the maximum period available under subparagraph 1.05 (9) (b) (ii);
 - (B) the period of years equal to the number that is the difference between the age attained by the primary beneficiary at his or her most recent birthday before the commencement day, and 100; or

[4] Sub-subparagraph 1.05 (9) (b) (iii) (C)

omit

subparagraph (i) or (ii)

insert

subparagraph (i), (ii) or (ia)

[5] Sub-subparagraph 1.05 (9) (b) (iii) (E)

omit

day;

insert

day; or

[6] After sub-subparagraph 1.05 (9) (b) (iii) (E)

insert

(F) if the annuity has a commencement day on or after 1 January 2006 — a period that is not less than the period available under sub-subparagraph 1.05 (9) (b) (iii) (D), and not more than the greater of the following periods:

- (I) the maximum period available under sub-subparagraph 1.05 (9) (b) (iii) (E);
- (II) the period of years equal to the number that is the difference between the age attained by the spouse at his or her most recent birthday before the commencement day, and 100;

[7] Subparagraph 1.05 (9) (b) (iii)

omit

if the life expectancy of the spouse does not

insert

if the life expectancy of the spouse, or the period, does not

[8] After subparagraph 1.05 (10) (a) (ii)

insert

(ia) if the annuity has a commencement day on or after 1 January 2006 — the annuity is paid at least annually to the primary beneficiary or reversionary beneficiary throughout a period that is not less than the period available under subparagraph 1.05 (10) (a) (i), and not more than the greater of the following periods:

- (A) the maximum period available under subparagraph 1.05 (10) (a) (ii);

-
- (B) the period of years equal to the number that is the difference between the age attained by the primary beneficiary at his or her most recent birthday before the commencement day, and 100; or

[9] Sub-subparagraph 1.05 (10) (a) (iii) (C)

omit

subparagraph (i) or (ii)

insert

subparagraph (i), (ii) or (iia)

[10] Sub-subparagraph 1.05 (10) (a) (iii) (E)

omit

day;

insert

day; or

[11] After sub-subparagraph 1.05 (10) (a) (iii) (E)

insert

- (F) if the annuity has a commencement day on or after 1 January 2006 — a period that is not less than the period available under sub-subparagraph 1.05 (10) (a) (iii) (D), and not more than the greater of the following periods:
- (A) the maximum period available under sub-subparagraph 1.05 (10) (a) (iii) (E);
 - (B) the period of years equal to the number that is the difference between the age attained by the spouse at his or her most recent birthday before the commencement day, and 100;

[12] Subparagraph 1.05 (10) (a) (iii)

omit

if the life expectancy of the spouse does not

insert

if the life expectancy of the spouse, or the period, does not

[13] Paragraph 1.06 (4) (e)

substitute

- (e) for a pension that has a commencement day on or after 22 December 1992 and before 1 January 2006 — the payments in a year (excluding payments by way of commutation but including payments made under a payment split) are not larger or smaller in total than, respectively, the maximum and minimum limits calculated in accordance with Schedule 1A; and

[14] After paragraph 1.06 (4) (e), before the note

insert

- (f) for a pension that has a commencement day on or after 1 January 2006 — the payments in a year (excluding payments by way of commutation but including payments made under a payment split) are not larger or smaller in total than the following:
- (i) for payments of a pension that has a commencement day during the period starting on 1 January 2006 and ending on 30 June 2006 — the respective maximum and minimum limits for the year calculated in accordance with 1 of the following Schedules:
 - (A) Schedule 1A;
 - (B) Schedule 1AA;
- provided that, after a Schedule has been chosen, only that Schedule may be used for the payments in that year and all subsequent years;

-
- (ii) for payments of a pension that has a commencement day on or after 1 July 2006 — the respective maximum and minimum limits for the year calculated in accordance with Schedule 1AA.

[15] After subparagraph 1.06 (8) (a) (ii)

insert

- (ia) if the pension has a commencement day on or after 1 January 2006 — the pension is paid at least annually to the primary beneficiary or reversionary beneficiary throughout a period that is not less than the period available under subparagraph 1.06 (8) (a) (i), and not more than the greater of the following periods:
- (A) the maximum period available under subparagraph 1.06 (8) (a) (ii);
 - (B) the period of years equal to the number that is the difference between the age attained by the primary beneficiary at his or her most recent birthday before the commencement day, and 100; or

[16] Sub-subparagraph 1.06 (8) (a) (iii) (C)

omit

subparagraph (i) or (ii)

insert

subparagraph (i), (ii) or (ia)

[17] Sub-subparagraph 1.06 (8) (a) (iii) (E)

omit

day;

insert

day; or

[18] After sub-subparagraph 1.06 (8) (a) (iii) (E)

insert

(F) if the pension has a commencement day on or after 1 January 2006 — a period that is not less than the period available under sub-subparagraph 1.06 (8) (a) (iii) (D), and not more than the greater of the following periods:

- (I) the maximum period available under sub-subparagraph 1.06 (8) (a) (iii) (E);
- (II) the period of years equal to the number that is the difference between the age attained by the spouse at his or her most recent birthday before the commencement day, and 100;

[19] Subparagraph 1.06 (8) (a) (iii)

omit

if the life expectancy of the spouse does not

insert

if the life expectancy of the spouse, or the period, does not

[20] Paragraph 1.07A (2) (ba)

omit

applicable under Schedule 1A,

insert

under Schedule 1A or Schedule 1AA, whichever is applicable to the annuity or pension under subregulation 1.05 (4) or 1.06 (4) as the case may be,

[21] **Subregulation 1.07A (3), paragraph (a) of definition of *Minimum annual amount***

omit

Schedule 1A

insert

Schedule 1A or 1AA as the case may be,

[22] **Subregulation 1.07A (3), paragraph (b) of definition of *Minimum annual amount***

omit

Schedule 1A;

insert

Schedule 1A or 1AA as the case may be;

[23] **Schedule 1A, heading**

substitute

**Schedule 1A Payment limits for annuities
and pensions with a
commencement day before
1 January 2006**

(subregulations 1.05 (4) and 1.06 (4))

[24] **Schedule 1A, clauses 1 and 2, definition of *AB***

substitute

AB means the amount of:

- (a) the annuity account balance; or
- (b) the pension account balance (including fund reserves attributable to the pension benefit);

as the case requires:

-
- (c) on 1 July in the financial year in which the payments are made; or
 - (d) if that year is the year in which the annuity payments, or pension payments, commence — on the commencement day.

[25] Schedule 1A, clause 1, definition of *PVF*

substitute

PVF means the maximum pension valuation factor set out in Column 3 of Table 1 in this Schedule in relation to the item in the Table that represents the age of the beneficiary (or, subject to clause 5, in the case of the death of the original beneficiary, the age of the reversionary beneficiary) on:

- (a) 1 July in the financial year in which the payments are made; or
- (b) if that is the year in which the annuity payments, or pension payments, commence — the commencement day.

[26] Schedule 1A, clause 2, definition of *PVF*

substitute

PVF means the minimum pension valuation factor set out in Column 4 of Table 1 to this Schedule in relation to the item in the Table that represents the age of the beneficiary (or, subject to clause 5, in the case of the death of the original beneficiary, the age of the reversionary beneficiary) on:

- (a) 1 July in the financial year in which the payments are made; or
- (b) if that is the year in which the annuity payments, or pension payments, commence — the commencement day.

[27] Schedule 1A, clause 3

omit

Column 4

insert

Column 4 of Table 1 or Table 2, as the case requires,

[28] Schedule 1A, after clause 4

insert

5. If the reversionary beneficiary mentioned in clause 1 or 2 is a child beneficiary at the time of the first payment, the maximum and minimum pension valuation factors set out in Column 3 and Column 4 of Table 2 in this Schedule must be used.
6. In the case of a reversionary beneficiary mentioned in clause 1 or 2, the maximum and minimum limits for reversionary benefits must be calculated:
 - (a) on or before the 1 July next after the death of the original beneficiary; or
 - (b) if the death of the original beneficiary occurs in the period from 1 April to 30 June (inclusive) in a year, recalculation may be extended beyond 1 July in that year to 1 July in the following year.
7. For the purposes of clause 5, a reversionary beneficiary is a child beneficiary until:
 - (a) his or her 16th birthday; or
 - (b) if the reversionary beneficiary is a full-time student at age 16 — the earlier of:
 - (i) the end of his or her full-time studies; or
 - (ii) his or her 25th birthday.

[29] Schedule 1A, table, heading

substitute

Table 1

Factors for allocated pensions — general

[30] Schedule 1A, table, after the example

insert

Table 2

**Factors for allocated pensions — child beneficiary
(reversion)**

Column 1 Item	Column 2 Age of Beneficiary	Column 3 Maximum Pension Valuation Factor	Column 4 Minimum Pension Valuation Factor
1	0	8.3	17.4
2	1	8.1	16.9
3	2	7.9	16.4
4	3	7.6	15.9
5	4	7.3	15.4
6	5	7.0	14.8
7	6	6.6	14.3
8	7	6.2	13.7
9	8	5.8	13.1
10	9	5.4	12.4
11	10	4.8	11.8
12	11	4.3	11.1
13	12	3.7	10.5
14	13	3.0	9.7
15	14	2.2	9.0
16	15	1.4	8.3
17	16	0	7.5
18	17	0	6.7
19	18	0	5.9
20	19	0	5.1

Column 1 Item	Column 2 Age of Beneficiary	Column 3 Maximum Pension Valuation Factor	Column 4 Minimum Pension Valuation Factor
21	20	0	4.2
22	21	0	3.3
23	22	0	2.4
24	23	0	1.5
25	24	0	1.0

[31] After Schedule 1A

insert

**Schedule 1AA Payment limits for annuities
and pensions with a
commencement day on and
after 1 January 2006**

(subregulations 1.05 (4) and 1.06 (4))

1. Subject to clauses 3 and 4, the maximum limits mentioned in paragraph 1.05 (4) (f) or 1.06 (4) (e) are determined under the formula:

$$\frac{AB}{PVF}$$

where:

AB means the amount of:

- (a) the annuity account balance; or
- (b) the pension account balance (including fund reserves attributable to the pension benefit);

as the case requires:

- (c) on 1 July in the financial year in which the payments are made; or

-
- (d) if that year is the year in which the annuity payments, or pension payments, commence — on the commencement day.

PVF means the maximum pension valuation factor set out in Column 3 of Table 1 in this Schedule in relation to the item in the Table that represents the age of the beneficiary (or, subject to clause 5, in the case of the death of the original beneficiary, the age of the reversionary beneficiary) on:

- (a) 1 July in the financial year in which the payments are made; or
- (b) if that is the year in which the annuity payments, or pension payments, commence — the commencement day.

2. Subject to clauses 3 and 4, the minimum limits mentioned in paragraph 1.05 (4) (f) or 1.06 (4) (e) are determined under the formula:

$$\frac{AB}{PVF}$$

where:

AB means the amount of:

- (a) the annuity account balance; or
- (b) the pension account balance (including fund reserves attributable to the pension benefit);

as the case requires:

- (c) on 1 July in the financial year in which the payments are made; or
- (d) if that year is the year in which the annuity payments, or pension payments, commence — on the commencement day.

PVF means the minimum pension valuation factor set out in Column 4 of Table 1 to this Schedule in relation to the item in the Table that represents the age of the beneficiary (or, subject to clause 5, in the case of the death of the original beneficiary, the age of the reversionary beneficiary) on:

- (a) 1 July in the financial year in which the payments are made; or

-
- (b) if that is the year in which the annuity payments, or pension payments, commence — the commencement day.
3. For a calculation of the maximum or minimum limit in the year in which the commencement day of the pension or annuity occurs if that day is a day other than 1 July, the appropriate value set out in Column 3 or Column 4 of Table 1 or Table 2, as the case requires, must be applied proportionally to the number of days in the financial year that include and follow the commencement day.
4. An amount determined under the formula in clause 1 or clause 2, is rounded to the nearest 10 whole dollars.
5. If the reversionary beneficiary mentioned in clause 1 or 2 is a child beneficiary at the time of the first payment, the maximum and minimum pension valuation factors set out in Column 3 and Column 4 of Table 2 in this Schedule must be used.
6. In the case of a reversionary beneficiary mentioned in clause 1 or 2, the maximum and minimum limits for reversionary benefits must be calculated:
- (a) on or before the 1 July next after the death of the original beneficiary; or
- (b) if the death of the original beneficiary occurs in the period from 1 April to 30 June (inclusive) in a year, recalculation may be extended beyond 1 July in that year to 1 July in the following year.
7. For the purposes of clause 5, a reversionary beneficiary is a child beneficiary until:
- (a) his or her 16th birthday; or
- (b) if the reversionary beneficiary is a full-time student at age 16 — the earlier of:
- (i) the end of his or her full-time studies; or
- (ii) his or her 25th birthday.

Table 1

Factors for allocated pensions — general

Column 1 Item	Column 2 Age of Beneficiary	Column 3 Maximum Pension Valuation Factor	Column 4 Minimum Pension Valuation Factor
1	20 or less	12.0	29.2
2	21	12.0	29.0
3	22	12.0	28.9
4	23	12.0	28.7
5	24	12.0	28.6
6	25	12.0	28.4
7	26	12.0	28.3
8	27	12.0	28.1
9	28	12.0	27.9
10	29	12.0	27.8
11	30	12.0	27.6
12	31	12.0	27.4
13	32	12.0	27.2
14	33	12.0	27.0
15	34	12.0	26.8
16	35	12.0	26.6
17	36	12.0	26.4
18	37	12.0	26.2
19	38	12.0	26.0
20	39	12.0	25.8
21	40	12.0	25.5
22	41	12.0	25.3
23	42	12.0	25.0
24	43	12.0	24.8

Column 1 Item	Column 2 Age of Beneficiary	Column 3 Maximum Pension Valuation Factor	Column 4 Minimum Pension Valuation Factor
25	44	12.0	24.5
26	45	12.0	24.2
27	46	12.0	24.0
28	47	12.0	23.7
29	48	12.0	23.4
30	49	12.0	23.1
31	50	12.0	22.8
32	51	11.9	22.5
33	52	11.8	22.2
34	53	11.8	21.8
35	54	11.7	21.5
36	55	11.5	21.1
37	56	11.4	20.8
38	57	11.3	20.4
39	58	11.2	20.1
40	59	11.0	19.7
41	60	10.9	19.3
42	61	10.7	18.9
43	62	10.5	18.5
44	63	10.3	18.1
45	64	10.1	17.7
46	65	9.9	17.3
47	66	9.6	16.8
48	67	9.3	16.4
49	68	9.1	16.0
50	69	8.7	15.5

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Column 1 Item	Column 2 Age of Beneficiary	Column 3 Maximum Pension Valuation Factor	Column 4 Minimum Pension Valuation Factor
51	70	8.4	15.1
52	71	8.0	14.6
53	72	7.6	14.2
54	73	7.2	13.7
55	74	6.7	13.3
56	75	6.2	12.8
57	76	5.7	12.3
58	77	5.1	11.9
59	78	4.5	11.4
60	79	3.8	10.9
61	80	3.1	10.5
62	81	2.3	10.0
63	82	1.4	9.6
64	83	0	9.1
65	84	0	8.7
66	85	0	8.3
67	86	0	7.9
68	87	0	7.5
69	88	0	7.2
70	89	0	6.9
71	90	0	6.6
72	91	0	6.3
73	92	0	6.0
74	93	0	5.8
75	94	0	5.5
76	95	0	5.3

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Column 1 Item	Column 2 Age of Beneficiary	Column 3 Maximum Pension Valuation Factor	Column 4 Minimum Pension Valuation Factor
77	96	0	5.1
78	97	0	4.9
79	98	0	4.7
80	99	0	4.5
81	100 or more	0	4.4

Example

Clive Long, who turns 65 on 8 February 2006, invests \$100,000 in an allocated pension fund on 1 March 2006. The date of the first payment to Mr Long is 1 April 2006.

2005/06: The maximum and minimum payments for 2005/06 are based on:

- (a) the account balance on the day of purchase; and
- (b) the beneficiary's age of 65 on the day of purchase:

$$\frac{\$100,000}{9.9} \times \frac{122}{365} = \$3,376.23 \text{ (maximum limit, rounded to } \$3,380)$$

$$\frac{\$100,000}{17.3} \times \frac{122}{365} = \$1,932.06 \text{ (minimum limit, rounded to } \$1,930)$$

Assume that total payments to Mr Long at 30 June 2006 are \$3,000.

2006/07: The maximum and minimum payments for 2006/07 are based on:

- (a) the account balance on 1 July 2006 which is \$99,300 (residue \$97,000 + earnings of \$2,300); and
- (b) the beneficiary's age of 65 on 1 July 2006:

$$\frac{\$99,300}{9.9} = \$10,030.30 \text{ (maximum limit, rounded to } \$10,030)$$

$$\frac{\$99,300}{17.3} = \$5,739.88 \text{ (minimum limit, rounded to } \$5,740)$$

Table 2

**Factors for allocated pensions — child beneficiary
(reversion)**

Column 1 Item	Column 2 Age of Beneficiary	Column 3 Maximum Pension Valuation Factor	Column 4 Minimum Pension Valuation Factor
1	0	9.3	17.4
2	1	9.1	16.9
3	2	8.7	16.4
4	3	8.4	15.9
5	4	8.0	15.4
6	5	7.6	14.8
7	6	7.2	14.3
8	7	6.7	13.7
9	8	6.2	13.1
10	9	5.7	12.4
11	10	5.1	11.8
12	11	4.5	11.1
13	12	3.8	10.5
14	13	3.1	9.7
15	14	2.3	9.0
16	15	1.4	8.3
17	16	1.0	7.5
18	17	0	6.7
19	18	0	5.9
20	19	0	5.1
21	20	0	4.2
22	21	0	3.3
23	22	0	2.4

Column 1 Item	Column 2 Age of Beneficiary	Column 3 Maximum Pension Valuation Factor	Column 4 Minimum Pension Valuation Factor
24	23	0	1.5
25	24	0	1.0

[32] Schedule 6, clause 1, definition of *AB*

substitute

AB means the amount of:

- (a) the market linked annuity account balance; or
- (b) the market linked pension account balance (including fund reserves attributable to the pension benefit);

as the case requires:

- (c) on 1 July in the financial year in which the payments are made; or
- (d) if that year is the year in which the market linked annuity, or market linked pension, commences — on the commencement day.

[33] Schedule 6, after clause 7

insert

- 8. An amount is taken to have been determined in accordance with clause 1 of this Schedule if the amount is:
 - (a) not less than the amount determined in accordance with clause 1 of this Schedule, less 10 per cent of that amount; and
 - (b) not greater than the amount determined in accordance with clause 1 of this Schedule, plus 10 per cent of that amount.

Note

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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.

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