

EXPOSURE DRAFT

EXPOSURE DRAFT EXPLANATORY STATEMENT

Issued by authority of the Assistant Minister for Superannuation, Financial Services and Financial Technology

Superannuation (Unclaimed Money and Lost Members) Act 1999

Superannuation (Unclaimed Money and Lost Members) Regulations 2019

Section 50 of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* is to remake and improve the operation of the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999* before they sunset. The *Legislation Act 2003* provides that all legislative instruments, other than exempt instruments, progressively sunset according to the timetable in section 50 of that Act. Sunsetting legislative instruments generally cease to have effect after ten years unless their operation is extended such as by remaking the instrument. *The Superannuation (Unclaimed Money and Lost Members) Regulations 1999* are scheduled to sunset on 1 April 2020.

As with the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*, the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* support the operation of the *Superannuation (Unclaimed Money and Lost Members) Act 1999* by establishing a scheme under which superannuation providers are required to give statements about funds belonging to ‘lost members’ to the Commissioner of Taxation.

The *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* remake and improve the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999* by repealing redundant provisions, simplifying language and restructuring provisions for ease of navigation. These changes do not affect the substantive meaning or operation of the provisions.

Further details of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* are set out in Attachment A.

The regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

The regulations commence on the day after they are registered.

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ATTACHMENT A

Details of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019*

This attachment sets out further details of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019*.

Changes of a minor or machinery nature, such as renumbering and references to ‘section’ rather than ‘regulation’ in accordance with current drafting practice, are generally not specifically identified in this Attachment. Where changes are made that are intended to apply in a different way or require further explanation, these are explained in this Attachment.

Except as specifically provided below, all sections in the regulations replicate corresponding provisions in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*.

Part 1 – Preliminary

Section 1 – Name

Section 1 provides that the name of the regulations is the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019*.

Section 2 – Commencement

Section 2 provides that the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* commence on the day after they are registered.

Section 3 – Authority

Section 3 provides that the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019* are made under the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

Section 4 – Definitions

Section 4 replicates regulation 3 in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*.

Section 5 – Eligibility age

Section 5 replicates regulation 4A in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*.

Part 2 – Information to be included in notices

Section 6 replicates regulation 4C in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*.

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The provisions that set out how to calculate interest on unclaimed money have been moved to part 4 of the *Superannuation (Unclaimed Money and Lost Members) Regulations 2019*.

Part 3 – Prescribed Visas

Section 7 replicates regulation 4B in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*.

Part 4 – Interest on unclaimed amounts

Section 8 replicates the regulation 4E in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*.

Section 9 replicates regulation 4F in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*. This section now also applies to the payment of unclaimed amounts in relation to inactive low balance accounts.

Part 5 – Payment of low balances in inactive accounts to the Commissioner

Sections 10, 11 and 12 are new and there are no corresponding provisions in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*.

These provisions prescribe conditions of release whereby an account will not be an inactive low balance account and therefore will not be payable to the Commissioner of Taxation if the member has met one of the conditions specified.

This recognises that there are some circumstances where a member may no longer be making contributions but has chosen to leave the balance in the account.

Part 6 – Reunification of superannuation balances

Section 13 replicates regulation 10 in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*.

Section 14 replicates regulation 10A in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*.

Part 7 – Prescribed public sector superannuation schemes

Section 15 replicates regulation 11 in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*.

Section 16 replicates regulation 12 in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*.

Section 17 replicates regulation 11A in the *Superannuation (Unclaimed Money and Lost Members) Regulations 1999*.