

First print



New South Wales

# Unclaimed Money Amendment Bill 2000

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

This Bill is cognate with the *Appropriation Bill 2000*.

## Overview of Bill

The object of this Bill is to amend the *Unclaimed Money Act 1995* (***the NSW Act***) so as to make the scheme under that Act more consistent with the scheme provided for by the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth (***the Commonwealth Act***).

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent.

**Clause 3** is a formal provision giving effect to the amendments to the *Unclaimed Money Act 1995* set out in Schedule 1.

## Schedule 1 Amendments

### Tax file numbers

The amendments:

- (a) allow the Chief Commissioner of State Revenue to require a return relating to unclaimed superannuation benefits to include the tax file number of the fund that lodges the return and any member of the fund to whom the return relates (**Schedule 1 [12]**), and
- (b) allow the Chief Commissioner of State Revenue to request a person who is claiming an unclaimed superannuation benefit to provide his or her tax file number (**Schedule 1 [19]**).

This is consistent with Part 5 of the Commonwealth Act.

### Deduction of tax from unclaimed superannuation benefits

The amendments make it clear that the Chief Commissioner of State Revenue can deduct any tax required to be deducted under a Commonwealth law from any repayment of an unclaimed superannuation benefit (**Schedule 1 [25]**).

### Use of Commonwealth register as “central register”

The NSW Act requires the Chief Commissioner of State Revenue to keep a register of unclaimed superannuation benefits paid to the Chief Commissioner.

The amendments allow the Chief Commissioner of State Revenue to give information contained in the register to the Commonwealth Commissioner of Taxation (**Schedule 1 [22]**). The Commonwealth Commissioner of Taxation is also required to keep a register of unclaimed money under the Commonwealth Act, and that register may include information provided by State authorities.

**Date for submission of returns**

Under the NSW Act, superannuation funds must lodge a twice-yearly return with the Chief Commissioner of State Revenue relating to unclaimed superannuation benefits.

The amendments change the deadline for submission of that return from 31 October and 30 April to 1 November and 1 May respectively (**Schedule 1 [8]**), as required by section 18 of the Commonwealth Act.

**Other amendments**

The other amendments in Schedule 1:

- (a) merge the treatment of unclaimed superannuation benefits and unclaimed RSA (retirement savings account) benefits, consistent with the scheme of the Commonwealth Act, and
- (b) update references to Commonwealth legislation, and
- (c) provide for transitional matters.



New South Wales

# Unclaimed Money Amendment Bill 2000

## Contents

---

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Unclaimed Money Act 1995 No 75	2
Schedule 1 Amendments	3



New South Wales

# Unclaimed Money Amendment Bill 2000

No. , 2000

---

## A Bill for

An Act to amend the *Unclaimed Money Act 1995* to make further provision with respect to unclaimed superannuation benefits and retirement savings account benefits; and for other purposes.

---

<b>The Legislature of New South Wales enacts:</b>	1
<b>1 Name of Act</b>	2
This Act is the <i>Unclaimed Money Amendment Act 2000</i> .	3
<b>2 Commencement</b>	4
This Act commences on the date of assent.	5
<b>3 Amendment of Unclaimed Money Act 1995 No 75</b>	6
The <i>Unclaimed Money Act 1995</i> is amended as set out in Schedule 1.	7

<b>Schedule 1</b>	<b>Amendments</b>	1
	(Section 3)	2
<b>[1]</b>	<b>Section 3 Definitions</b>	3
	Omit “, trustee or RSA provider” wherever occurring from the definition of <i>officer</i> .	4
	Insert instead “or superannuation provider”.	5
		6
<b>[2]</b>	<b>Section 3</b>	7
	Insert in alphabetical order:	8
	<i>superannuation provider</i> means a superannuation provider within the meaning of Part 3A.	9
		10
<b>[3]</b>	<b>Section 3</b>	11
	Omit the definitions of <i>trustee</i> and <i>unclaimed RSA benefit</i> .	12
<b>[4]</b>	<b>Section 3, definition of “unclaimed superannuation benefit”</b>	13
	Omit the definition. Insert instead:	14
	<i>unclaimed superannuation benefit</i> means an amount that is taken to be unclaimed money under the <i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i> of the Commonwealth.	15
		16
		17
		18
<b>[5]</b>	<b>Part 3A, heading</b>	19
	Omit “and RSA benefits”.	20
<b>[6]</b>	<b>Section 13A Definitions</b>	21
	Insert in alphabetical order:	22
	<i>fund</i> means:	23
	(a) a superannuation fund, or	24
	(b) a retirement savings account.	25

---

	<i>member</i> means:	1
	(a) a member of, or depositor with, a superannuation fund,	2
	or	3
	(b) a holder of an RSA.	4
	<i>superannuation provider</i> means:	5
	(a) a trustee of a superannuation fund, or	6
	(b) an RSA provider.	7
	<i>tax file number</i> has the same meaning as it has in the	8
	<i>Superannuation (Unclaimed Money and Lost Members) Act</i>	9
	<i>1999</i> of the Commonwealth.	10
<b>[7]</b>	<b>Part 3A, Division 2, heading</b>	11
	Omit “and RSA benefits”.	12
<b>[8]</b>	<b>Section 13B Return and payment of unclaimed superannuation benefits to Chief Commissioner</b>	13
	Omit section 13B (1) and (2). Insert instead:	14
	(1) A superannuation provider must lodge with the Chief	15
	Commissioner a return, in a form approved by the Chief	16
	Commissioner, of all unclaimed superannuation benefits in the	17
	fund that is managed or provided by the superannuation	18
	provider as at the end of each half-year.	19
	(2) The superannuation provider must lodge the return:	20
	(a) in relation to a half-year ending on 30 June, on or before	21
	the following 1 November, and	22
	(b) in relation to a half-year ending on 31 December, on or	23
	before the following 1 May,	24
	or on or before such later date as the Chief Commissioner may	25
	in a particular case allow by notice in writing to the	26
	superannuation provider whether before or after 1 November	27
	or 1 May, as the case requires.	28
<b>[9]</b>	<b>Section 13B (3)</b>	29
	Omit “trustee” wherever occurring.	30
	Insert instead “superannuation provider”.	31
		32





Unclaimed Money Amendment Bill 2000

Schedule 1 Amendments

---

<b>[15] Section 13C (3) and (4)</b>	1
Omit “trustee or RSA provider” wherever occurring.	2
Insert instead “superannuation provider”.	3
<b>[16] Section 13D Publication of information relating to unclaimed benefits</b>	4
Omit “or unclaimed RSA benefits” from section 13D (a).	5
<b>[17] Section 13E Payment of unclaimed benefits where money later claimed</b>	6
Omit “Part 22 of the Commonwealth Superannuation Act” from section 13E (1) (b).	7
Insert instead “the <i>Superannuation (Unclaimed Money and Lost Members) Act 1999</i> of the Commonwealth”.	8
	9
	10
<b>[18] Section 13E (1) (b)</b>	11
Omit “trustee”. Insert instead “superannuation provider”.	12
<b>[19] Section 13E (2)</b>	13
Omit the subsection. Insert instead:	14
(2) The approved form of application may include a request that the applicant provide his or her tax file number to the Chief Commissioner.	15
	16
	17
(3) A person is not obliged to comply with the request to provide his or her tax file number, and non-compliance with the request does not prevent the person from being paid an unclaimed superannuation benefit.	18
	19
	20
	21
<b>[20] Section 13F</b>	22
Omit the section. Insert instead:	23
<b>13F Chief Commissioner must repay excess</b>	24
If a superannuation provider, after paying an amount to the Chief Commissioner under this Part, satisfies the Chief Commissioner that the amount so paid exceeds the amount that would have been paid to the person concerned, or is not	25
	26
	27
	28

	unclaimed superannuation benefits that are required to be paid to the Chief Commissioner under this Act, the Chief Commissioner must refund to the superannuation provider the amount of the excess.	1 2 3 4
<b>[21]</b>	<b>Section 13H Register of unclaimed superannuation benefits</b>	5
	Omit “trustee of a superannuation fund” from section 13H (2) (a). Insert instead “superannuation provider”.	6 7
<b>[22]</b>	<b>Section 13H (3)</b>	8
	Insert after section 13H (2):	9
	(3) The Chief Commissioner may give information contained in the register to the Commissioner of Taxation holding office under a law of the Commonwealth.	10 11 12
<b>[23]</b>	<b>Section 13HA Register of unclaimed RSA benefits</b>	13
	Omit the section.	14
<b>[24]</b>	<b>Section 13I</b>	15
	Omit the section. Insert instead:	16
	<b>13I Discharge of liability</b>	17
	A superannuation provider is, on payment to the Chief Commissioner of an amount as required by this Part, discharged from further liability in his or her capacity as superannuation provider in respect of that amount.	18 19 20 21
<b>[25]</b>	<b>Section 13M</b>	22
	Insert after section 13L:	23
	<b>13M Deduction of tax from payments</b>	24
	Nothing in this Act prevents the Chief Commissioner from deducting from a payment of an unclaimed superannuation benefit to any person any tax payable to the Commonwealth on the unclaimed superannuation benefit that the Chief Commissioner is required to deduct from the unclaimed superannuation benefit under a law of the Commonwealth.	25 26 27 28 29 30

Unclaimed Money Amendment Bill 2000

Schedule 1 Amendments

---

<b>[26] Section 27 Application of certain provisions of Taxation Administration Act 1996</b>	1 2
Omit “, the trustee of a superannuation fund or an RSA provider” from section 27 (1) (b).	3 4
Insert instead “or a superannuation provider”.	5
<b>[27] Section 27 (1) (e)</b>	6
Omit the paragraph. Insert instead:	7
(e) a reference to a person’s tax liability is to be read as a reference to the liability of an enterprise or a superannuation provider to pay unclaimed money or unclaimed superannuation benefits under this Act.	8 9 10 11
<b>[28] Section 27 (2)</b>	12
Omit “the trustee of a superannuation fund or an RSA provider”.	13
Insert instead “a superannuation provider”.	14
<b>[29] Section 28 General power to make assessment</b>	15
Omit section 28 (1) and (2). Insert instead:	16
(1) The Chief Commissioner may make an assessment of the liability of an enterprise to pay unclaimed money, or of a superannuation provider to pay unclaimed superannuation benefits, to the Chief Commissioner.	17 18 19 20
(2) The Chief Commissioner may make one or more assessments of the liability of an enterprise to pay unclaimed money, or of a superannuation provider to pay unclaimed superannuation benefits.	21 22 23 24
<b>[30] Section 28 (3) and (5)</b>	25
Omit “, trustee or RSA provider” wherever occurring.	26
Insert instead “or superannuation provider”.	27

<b>[31] Section 28 (4)</b>	1
Omit “, unclaimed superannuation benefits or unclaimed RSA benefits”.	2
Insert instead “or unclaimed superannuation benefits”.	3
<b>[32] Section 28 (6)</b>	4
Omit “, 13B (1) or 13BA (1)”. Insert instead “or 13B (1)”.	5
<b>[33] Section 29</b>	6
Omit section 29. Insert instead:	7
<b>29 Enterprises and superannuation providers that are not natural persons</b>	8
	9
Any act or thing that an enterprise or a superannuation provider is required or permitted to do by or under this Act may, in the case of an enterprise or superannuation provider that is not a natural person, be done on behalf of the enterprise or superannuation provider by an officer of the enterprise or superannuation provider.	10
	11
	12
	13
	14
	15
<b>[34] Schedule 2 Savings, transitional and other provisions</b>	16
Insert at the end of clause 1 (1):	17
<i>Unclaimed Money Amendment Act 2000</i>	18
<b>[35] Schedule 2, Part 4</b>	19
Insert after Part 3 of Schedule 2:	20
<b>Part 4 Provisions consequent on enactment of Unclaimed Money Amendment Act 2000</b>	21
	22
<b>10 Amendments do not affect existing obligations</b>	23
(1) The amendments made to this Act by the <i>Unclaimed Money Amendment Act 2000</i> , do not affect any liability that arises before the commencement of those amendments.	24
	25
	26

Unclaimed Money Amendment Bill 2000

Schedule 1 Amendments

---

- (2) In particular, any obligation: 1
- (a) to pay unclaimed superannuation benefits or RSA 2  
        benefits to the Chief Commissioner, or 3
- (b) to lodge a return with the Chief Commissioner, or 4
- (c) to retain a copy of the return, 5
- that arose before the commencement of those amendments 6  
continues as if the amendments had not been made. 7