

Passed by both Houses



New South Wales

Unclaimed Money Amendment Bill 2000

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I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.

*Clerk of the Legislative Assembly.
Legislative Assembly,
Sydney, , 2000*



New South Wales

Unclaimed Money Amendment Bill 2000

Act No , 2000

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.

I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.

Chairman of Committees of the Legislative Assembly.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Unclaimed Money Amendment Act 2000*.

2 Commencement

This Act commences on the date of assent.

3 Amendment of Unclaimed Money Act 1995 No 75

The *Unclaimed Money Act 1995* is amended as set out in Schedule 1.

Schedule 1 Amendments

(Section 3)

[1] Section 3 Definitions

Omit “, trustee or RSA provider” wherever occurring from the definition of *officer*.

Insert instead “or superannuation provider”.

[2] Section 3

Insert in alphabetical order:

superannuation provider means a superannuation provider within the meaning of Part 3A.

[3] Section 3

Omit the definitions of *trustee* and *unclaimed RSA benefit*.

[4] Section 3, definition of “unclaimed superannuation benefit”

Omit the definition. Insert instead:

unclaimed superannuation benefit means an amount that is taken to be unclaimed money under the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.

[5] Part 3A, heading

Omit “and RSA benefits”.

[6] Section 13A Definitions

Insert in alphabetical order:

fund means:

- (a) a superannuation fund, or
- (b) a retirement savings account.

member means:

- (a) a member of, or depositor with, a superannuation fund, or
- (b) a holder of an RSA.

superannuation provider means:

- (a) a trustee of a superannuation fund, or
- (b) an RSA provider.

tax file number has the same meaning as it has in the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth.

[7] Part 3A, Division 2, heading

Omit “and RSA benefits”.

[8] Section 13B Return and payment of unclaimed superannuation benefits to Chief Commissioner

Omit section 13B (1) and (2). Insert instead:

- (1) A superannuation provider must lodge with the Chief Commissioner a return, in a form approved by the Chief Commissioner, of all unclaimed superannuation benefits in the fund that is managed or provided by the superannuation provider as at the end of each half-year.
- (2) The superannuation provider must lodge the return:
 - (a) in relation to a half-year ending on 30 June, on or before the following 1 November, and
 - (b) in relation to a half-year ending on 31 December, on or before the following 1 May,

or on or before such later date as the Chief Commissioner may in a particular case allow by notice in writing to the superannuation provider whether before or after 1 November or 1 May, as the case requires.

[9] Section 13B (3)

Omit “trustee” wherever occurring.

Insert instead “superannuation provider”.

[10] Section 13B (4)

Omit “The trustee of a superannuation fund”.
Insert instead “The superannuation provider”.

[11] Section 13B (4)

Omit “by the trustee”. Insert instead “by the superannuation provider”.

[12] Section 13B (6)

Omit the subsection. Insert instead:

- (6) An approval by the Chief Commissioner of a form or return for the purposes of this section:
 - (a) may require the return to contain the tax file number of:
 - (i) the fund, and
 - (ii) a member of the fund if the return relates to the member and the member has quoted his or her tax file number to the superannuation provider, and
 - (b) may require or permit the return to be given on a specified kind of data processing device in accordance with specified software requirements.

[13] Section 13BA Return and payment of unclaimed RSA benefits to Chief Commissioner

Omit the section.

[14] Section 13C Copies and inspection of returns

Omit section 13C (1) and (1A). Insert instead:

- (1) A superannuation provider that lodges a return must retain a copy of the return at the superannuation provider’s registered office or principal place of operation in the State (or, if the superannuation provider is a natural person, at a place nominated by the person specified in the return).

Maximum penalty: 2 penalty units.

[15] Section 13C (3) and (4)

Omit “trustee or RSA provider” wherever occurring.
Insert instead “superannuation provider”.

[16] Section 13D Publication of information relating to unclaimed benefits

Omit “or unclaimed RSA benefits” from section 13D (a).

[17] Section 13E Payment of unclaimed benefits where money later claimed

Omit “Part 22 of the Commonwealth Superannuation Act” from section 13E (1) (b).
Insert instead “the *Superannuation (Unclaimed Money and Lost Members) Act 1999* of the Commonwealth”.

[18] Section 13E (1) (b)

Omit “trustee”. Insert instead “superannuation provider”.

[19] Section 13E (2)

Omit the subsection. Insert instead:

- (2) The approved form of application may include a request that the applicant provide his or her tax file number to the Chief Commissioner.
- (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.

[20] Section 13F

Omit the section. Insert instead:

13F Chief Commissioner must repay excess

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

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.

[21] Section 13H Register of unclaimed superannuation benefits

Omit “trustee of a superannuation fund” from section 13H (2) (a).
Insert instead “superannuation provider”.

[22] Section 13H (3)

Insert after section 13H (2):

- (3) The Chief Commissioner may give information contained in the register to the Commissioner of Taxation holding office under a law of the Commonwealth.

[23] Section 13HA Register of unclaimed RSA benefits

Omit the section.

[24] Section 13I

Omit the section. Insert instead:

13I Discharge of liability

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.

[25] Section 13M

Insert after section 13L:

13M Deduction of tax from payments

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.

[26] Section 27 Application of certain provisions of Taxation Administration Act 1996

Omit “, the trustee of a superannuation fund or an RSA provider” from section 27 (1) (b).

Insert instead “or a superannuation provider”.

[27] Section 27 (1) (e)

Omit the paragraph. Insert instead:

- (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.

[28] Section 27 (2)

Omit “the trustee of a superannuation fund or an RSA provider”.

Insert instead “a superannuation provider”.

[29] Section 28 General power to make assessment

Omit section 28 (1) and (2). Insert instead:

- (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.
- (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.

[30] Section 28 (3) and (5)

Omit “, trustee or RSA provider” wherever occurring.

Insert instead “or superannuation provider”.

[31] Section 28 (4)

Omit “, unclaimed superannuation benefits or unclaimed RSA benefits”.
Insert instead “or unclaimed superannuation benefits”.

[32] Section 28 (6)

Omit “, 13B (1) or 13BA (1)”. Insert instead “or 13B (1)”.

[33] Section 29

Omit section 29. Insert instead:

29 Enterprises and superannuation providers that are not natural persons

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.

[34] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

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[35] Schedule 2, Part 4

Insert after Part 3 of Schedule 2:

Part 4 Provisions consequent on enactment of Unclaimed Money Amendment Act 2000

10 Amendments do not affect existing obligations

(1) The amendments made to this Act by the *Unclaimed Money Amendment Act 2000*, do not affect any liability that arises before the commencement of those amendments.

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Schedule 1 Amendments

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