



Retirement Savings Accounts Amendment Regulations 2003 (No. 2)¹

Statutory Rules 2003 No. 195²

I, GUY STEPHEN MONTAGUE GREEN, Administrator of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Retirement Savings Accounts Act 1997*.

Dated 30 July 2003

G. S. M. GREEN
Administrator

By His Excellency's Command

HELEN COONAN
Minister for Revenue and Assistant Treasurer

1 Name of Regulations

These Regulations are the *Retirement Savings Accounts Amendment Regulations 2003 (No. 2)*.

2 Commencement

These Regulations commence on 1 July 2004.

3 Amendment of *Retirement Savings Accounts Regulations 1997*

Schedule 1 amends the *Retirement Savings Accounts Regulations 1997*.

Schedule 1 Amendments

(regulation 3)

[1] Subregulation 1.03 (1), definition of *protected RSA holder*

substitute

protected RSA holder has the meaning given by regulation 1.03A.

[2] Subregulation 1.03 (2)

omit

[3] After regulation 1.03

insert

1.03A Meaning of *protected RSA holder*

- (1) A *protected RSA holder* is an RSA holder who has a withdrawal benefit, or benefits of any other type that are payable on closing the RSA otherwise than voluntarily, net of any applicable exit fee, that:
 - (a) are less than \$1 000; and
 - (b) contain, or have contained, benefits that are mandated employer-financed benefits.
- (2) If an RSA provider has transferred an amount that is the whole or part of an RSA holder's withdrawal benefit in accordance with section 50 of the Act, the RSA holder is not a protected RSA holder for the RSA from which the amount was transferred.
- (3) For subregulation (1), a benefit in an RSA is taken to contain or to have contained mandated employer-financed benefits unless the RSA provider knows otherwise.

[4] Subparagraph 4.20 (1) (a) (ii)

substitute

- (ii) being rolled over or transferred under section 50 of the Act or Division 4.4 or Part 4A; and

[5] Paragraphs 4.20 (1) (b) and (c)

omit

under this Part or Part 4A

insert

under section 50 of the Act or this Part or Part 4A

[6] After Division 4.4

insert

Division 4.5 Duty to transfer balance of RSA

4.35 Amount to be transferred (Act s 50)

- (1) For subsection 50 (3) of the Act, the amount of the RSA to be transferred is the amount of the RSA holder's withdrawal benefit specified by the RSA holder in the request.
- (2) The amount specified by the RSA holder may be the whole, or part, of the RSA holder's withdrawal benefit.

4.36 Operating standard

- (1) For subsection 38 (1) of the Act, the standard set out in subregulation (2) is applicable to the operation of RSAs.
- (2) Before an RSA provider transfers an amount mentioned in regulation 4.35, the RSA provider must be satisfied that the RSA holder:
 - (a) is aware that the RSA holder may ask the trustee for information that the RSA holder reasonably requires for the purpose of understanding any benefit entitlements that the RSA holder may have, including:
 - (i) information about any fees or charges that may apply to the proposed transfer; and
 - (ii) information about the effect of the proposed transfer on any benefit entitlements the RSA holder may have; and
 - (b) does not require such information.

Note Under section 1017C of the *Corporations Act 2001*, an RSA provider must, on request by an RSA holder, give the RSA holder the information and documents mentioned in subsections 1017C (3) and (5). See also regulations 7.9.02, 7.9.45, 7.9.46 and 7.9.83 of the *Corporations Regulations 2001*.

[7] Regulation 6.15

omit

Notes

1. These Regulations amend Statutory Rules 1997 No. 116, as amended by 1997 Nos. 150, 151, 242, 294, 308 and 342; 1998 Nos. 82, 176, 178 and 192; 1999 Nos. 13 and 315; 2000 No. 279; 2002 Nos. 20, 47, 90, 149, 200 and 352; 2003 No. 41.
2. Notified in the *Commonwealth of Australia Gazette* on 31 July 2003.