





**Superannuation Legislation Amendment  
(Early Release of Superannuation) Act  
2011**

**No. 108, 2011**

**An Act to amend the law relating to  
superannuation, and for related purposes**



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**An Act to amend the law relating to  
superannuation, and for related purposes**

*[Assented to 14 October 2011]*

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Superannuation Legislation  
Amendment (Early Release of Superannuation) Act 2011*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	14 October 2011
2. Schedule 1	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Amendments**

### **Part 1—Administration of early release of superannuation on compassionate grounds**

#### ***Retirement Savings Accounts Act 1997***

##### **1 Paragraph 3(1)(b)**

Repeal the paragraph, substitute:

- (b) APRA also has the general administration of sections 37 to 39 and section 49 to the extent that it is not conferred on either of the following:
  - (i) the Chief Executive Medicare by paragraph (ba);
  - (ii) ASIC by paragraph (d); and
- (ba) the Chief Executive Medicare has the general administration of regulations made under section 38 to the extent that the regulations relate to making determinations that an amount of benefits in an RSA may be released on compassionate grounds; and

##### **2 Section 16**

Insert:

*Chief Executive Medicare* has the same meaning as in the *Human Services (Medicare) Act 1973*.

##### **3 Section 16 (at the end of the definition of *Regulator*)**

Add:

- ; and (c) the Chief Executive Medicare if the provision in which it occurs is, or is being applied for the purposes of, a provision that is administered by the Chief Executive Medicare under paragraph 3(1)(ba).

##### **4 At the end of section 168**

Add:

- (4) A reference in this section to the Regulator does not include the Chief Executive Medicare.

**Schedule 1** Amendments

**Part 1** Administration of early release of superannuation on compassionate grounds

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Note: For the definition of *Regulator*, see section 16.

**5 Section 173**

Before “In this Part”, insert “(1)”.

**6 At the end of section 173**

Add:

- (2) A reference in this Part to the Regulator does not include the Chief Executive Medicare.

Note: For the definition of *Regulator*, see section 16.

**7 After section 197**

Insert:

**198 Additional functions of the Chief Executive Medicare**

In addition to the functions of the Chief Executive Medicare under the *Human Services (Medicare) Act 1973*, the Chief Executive Medicare has such additional functions as are conferred on the Chief Executive Medicare under this Act.

Note: Paragraph 3(1)(ba) of this Act confers functions on the Chief Executive Medicare.

***Superannuation Industry (Supervision) Act 1993***

**8 Paragraph 6(1)(b)**

Repeal the paragraph, substitute:

- (b) APRA also has the general administration of Parts 3 and 6 (other than section 60A) and section 105 to the extent that that administration is not conferred on any of the following:
- (i) the Chief Executive Medicare by paragraph (ba);
  - (ii) ASIC by paragraph (d);
  - (iii) the Commissioner of Taxation by paragraph (f); and
- (ba) the Chief Executive Medicare has the general administration of regulations made under Part 3 to the extent that the regulations relate to making determinations that an amount of benefits in a superannuation entity may be released on compassionate grounds; and

**9 After subparagraph 6(1)(f)(i)**

Insert:

- (ia) to the extent that administration is not conferred on the Chief Executive Medicare by paragraph (ba); and

**10 Subsection 10(1)**

Insert:

*Chief Executive Medicare* has the same meaning as in the *Human Services (Medicare) Act 1973*.

**11 Subsection 10(1) (at the end of the definition of *Regulator*)**

Add:

- ; and (d) the Chief Executive Medicare if the provision in which it occurs is, or is being applied for the purposes of, a provision that is administered by the Chief Executive Medicare under paragraph 6(1)(ba).

**12 At the end of section 320**

Add:

- (4) A reference in this section to the Regulator does not include the Chief Executive Medicare.

Note: For the definition of *Regulator*, see subsection 10(1).

**13 Subsection 326(1)**

Omit “(1)”.

**14 Section 327**

Before “In this Part”, insert “(1)”.

**15 At the end of section 327**

Add:

- (2) A reference in this Part to the Regulator does not include the Chief Executive Medicare.

Note: For the definition of *Regulator*, see subsection 10(1).

**16 After section 350**

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**Schedule 1** Amendments

**Part 1** Administration of early release of superannuation on compassionate grounds

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Insert:

**351 Additional functions of the Chief Executive Medicare**

In addition to the functions of the Chief Executive Medicare under the *Human Services (Medicare) Act 1973*, the Chief Executive Medicare has such additional functions as are conferred on the Chief Executive Medicare under this Act.

Note: Paragraph 6(1)(ba) of this Act confers functions on the Chief Executive Medicare.

## **Part 2—Amendment of the Australian Prudential Regulation Authority Act 1998**

### *Australian Prudential Regulation Authority Act 1998*

#### **17 Paragraphs 50(1)(a) and (b)**

Repeal the paragraphs, substitute:

- (a) a determination specifying the amount of the levy money payable to the Commonwealth, in respect of levy for that financial year, to cover the costs to the Commonwealth of:
  - (i) providing market integrity and consumer protection functions for prudentially regulated institutions; and
  - (ii) administering the function of making determinations about the release on compassionate grounds of benefits that are in a superannuation entity or retirement savings account;
- (b) a determination, in respect of each class of levy for that financial year, specifying the amount of the levy money payable to the Commonwealth in respect of that class of levy for that financial year, to cover the costs to the Commonwealth of:
  - (i) providing market integrity and consumer protection functions for prudentially regulated institutions; and
  - (ii) administering the function of making determinations about the release on compassionate grounds of benefits that are in a superannuation entity or retirement savings account.

Note: Regulations made under the *Superannuation Industry (Supervision) Act 1993* and the *Retirement Savings Accounts Act 1997* provide for the making of determinations about the release of benefits on compassionate grounds.

#### **18 Subsection 50(6)**

Insert:

*retirement savings account* has the same meaning as in the *Retirement Savings Accounts Act 1997*.

**19 Subsection 50(6)**

Insert:

*superannuation entity* has the same meaning as in the  
*Superannuation Industry (Supervision) Act 1993*.

## **Part 3—Application and transitional provisions**

### **20 Application provision—determinations about release on compassionate grounds**

The amendments made by Part 1 of this Schedule apply in relation to any application for a determination that an amount of benefits be released on compassionate grounds that is made after this Schedule commences.

### **21 Transitional—pending applications for determinations**

- (1) This item applies to an application for a determination that an amount of benefits be released on compassionate grounds:
  - (a) that is made to APRA before Part 1 of this Schedule commences; and
  - (b) for which no determination has been made immediately before Part 1 of this Schedule commences.
- (2) After this Schedule commences, the application is taken to have been made to the Chief Executive Medicare.

### **22 Application provision—determinations about amount of levy money to cover Commonwealth costs**

The amendments made by Part 2 of this Schedule apply to:

- (a) the financial year that includes the day this Schedule commences; and
- (b) any financial year that commences after this Schedule commences.

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*[Minister's second reading speech made in—  
House of Representatives on 6 July 2011  
Senate on 12 September 2011]*

(145/11)

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*10 Superannuation Legislation Amendment (Early Release of Superannuation) Act 2011  
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