





# Treasury Laws Amendment (Military Superannuation Benefits) Regulations 2023

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I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 19 June 2023

David Hurley  
Governor-General

By His Excellency's Command

Stephen Jones  
Assistant Treasurer  
Minister for Financial Services

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## 1 Name

This instrument is the *Treasury Laws Amendment (Military Superannuation Benefits) Regulations 2023*.

## 2 Commencement

- (1) Each provision of this instrument 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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The later of: (a) the start of the day after this instrument is registered; and (b) immediately after the commencement of Schedule 9 to the <i>Treasury Laws Amendment (2022 Measures No. 4) Act 2023</i> .  However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	24 June 2023

Note: This table relates only to the provisions of this instrument as originally made.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

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

## 3 Authority

This instrument is made under the following:

- (a) the *Income Tax Assessment Act 1997*;
- (b) the *Superannuation Industry (Supervision) Act 1993*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

## Schedule 1—Amendments

### Part 1—Components of a superannuation benefit

#### *Income Tax Assessment (1997 Act) Regulations 2021*

##### **1 At the end of Subdivision 307-C**

Add:

##### **307-125.03 Components of certain military superannuation benefits**

- (1) For the purposes of paragraph 307-125(4)(a) of the Act, subsection (3) specifies an alternative method for determining the components of a superannuation benefit covered by subsection (2).
- (2) For the purposes of subsection (1), this subsection covers a superannuation benefit if:
  - (a) the superannuation benefit is a superannuation lump sum that is a payment of invalidity pay, an invalidity pension or a pension mentioned in subparagraph 301-275(1)(b)(i), (ii) or (iii) of the Act; and
  - (b) the invalidity pay, invalidity pension or pension commenced at a time (the *commencement time*) that is on or after 20 September 2007.
- (3) Determine the components, according to the following method:
  - (a) first, assume that:
    - (i) the superannuation benefit is a superannuation income stream benefit; and
    - (ii) the relevant superannuation income stream commenced at the commencement time;
  - (b) next, determine the components, making the assumptions mentioned in paragraph (a), in accordance with subsections 307-125(1), (2) and (3) of the Act.

Note: The components may be modified under sections 307-145 and 307-150 of the Act (see subsection 307-120(3) of the Act).

### Part 2—Capped defined benefit income streams and the transfer balance cap

#### *Income Tax Assessment (1997 Act) Regulations 2021*

##### **2 Subsection 294-130.01(1)**

Omit “or (6)”, substitute “, (6) or (7)”.

##### **3 At the end of section 294-130.01**

Add:

- (7) This subsection applies to a superannuation income stream if it is a superannuation income stream because of paragraph 307-70.02(1)(ba).

## **Part 3—Cashing requirements**

### *Superannuation Industry (Supervision) Regulations 1994*

#### **4 After paragraph 6.21(2)(a)**

Insert:

- (aa) a series of payments, each of which is a payment of a superannuation lump sum mentioned in paragraph 301-275(1)(b) of the 1997 Tax Act;

## **Part 4—Application**

### *Income Tax Assessment (1997 Act) Regulations 2021*

#### **5 In the appropriate position in Chapter 7**

Insert:

## **Part 1000-4—Transitional matters relating to the Treasury Laws Amendment (Military Superannuation Benefits) Regulations 2023**

### **1000-4.01 Definitions**

In this Part:

*2021 commencement time* means the commencement time (within the meaning of Part 1000-1).

*amending instrument* means the *Treasury Laws Amendment (Military Superannuation Benefits) Regulations 2023*.

*old regulations* has the same meaning as in Part 1000-1.

### **1000-4.02 Application of amendments**

- (1) The amendments made by Part 1 of Schedule 1 to the amending instrument apply in relation to income years starting on or after 1 July 2023.
- (2) The amendments made by Part 2 of Schedule 1 to the amending instrument apply in relation to superannuation income streams that commenced on or after the 2021 commencement time.

### **1000-4.03 Modified continuing application of old regulations**

- (1) This section applies for the purposes of the continuing application of the old regulations, in relation to superannuation income streams that commenced before the 2021 commencement time.
- (2) This section applies despite subsection 1000-1.06(1).
- (3) For the purposes mentioned in subsection (1), treat a superannuation income stream as being prescribed by the old regulations for the purposes of

subsection 294-130(2) of the Act (as a capped defined benefit income stream) if the superannuation income stream:

- (a) would *not* be so prescribed under that continuing application (apart from this subsection); but
- (b) would be so prescribed under subsection 294-130.01(7) (as inserted by Part 2 of Schedule 1 to the amending instrument), on the assumption that the superannuation income stream commenced on or after the 2021 commencement time.

### ***Superannuation Industry (Supervision) Regulations 1994***

#### **6 In the appropriate position in Part 14**

Insert:

### **Division 14.33—Transitional arrangements arising out of the Treasury Laws Amendment (Military Superannuation Benefits) Regulations 2023**

#### **14.35 Arrangements**

The amendments made by Part 3 of Schedule 1 to the *Treasury Laws Amendment (Military Superannuation Benefits) Regulations 2023* apply in relation to superannuation lump sums paid on or after 1 July 2017.