

1998
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Treasurer)

Unclaimed Moneys (Amendment) Bill 1998

A BILL

FOR

An Act to amend the *Unclaimed Moneys Act 1950*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1. Short title

5 This Act may be cited as the *Unclaimed Moneys (Amendment) Act 1998*.

2. Commencement

(1) This Act, other than sections 9 and 10, commences on the day on which it is notified in the *Gazette*.

10 (2) Sections 9 and 10 shall be taken to have commenced on 30 June 1997.

3. Principal Act

In this Act, "Principal Act" means the *Unclaimed Moneys Act 1950*.¹

4. Long title

The title of the Principal Act is repealed and the following title substituted:

- 5 “An Act relating to unclaimed assets in the hands of liquidators of companies, unclaimed moneys held by companies, unclaimed superannuation benefits and unclaimed moneys held in retirement savings accounts”.

5. Interpretation

10 Section 3 of the Principal Act is amended by inserting the following definitions:

“ ‘data processing device’ means any article or material (including a disk) from which information is capable of being reproduced with or without the aid of any other article or device;

15 ‘half year’ means a period of 6 months ending on 30 June or 31 December;

‘registered office’ has the same meaning as in the Corporations Law;

20 ‘trust account’ means the trust bank account maintained by the Chief Executive of the administrative unit responsible for administering this Act in accordance with section 51 of the *Financial Management Act 1996*.”.

6. Failure to compile, gazette or lodge register

Section 9 of the Principal Act is amended by omitting the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

25 “Penalty: 100 penalty units.”.

7. Failure to pay unclaimed moneys

Section 11 of the Principal Act is amended by omitting the penalty provision at the foot of subsection (1) and substituting the following penalty provision:

30 “Penalty: 100 penalty units.”.

8. Examination of accounts etc.

Section 12 of the Principal Act is amended by omitting the penalty provision at the foot of subsection (3) and substituting the following penalty provision:

35 “Penalty:

(a) if the offender is a natural person—50 penalty units;

(b) if the offender is a body corporate—250 penalty units.”.

9. Interpretation

Section 16 of the Principal Act is amended by omitting the definition of “eligibility age” and substituting the following definition:

5 “ ‘eligibility age’ has the same meaning as in the Commonwealth Act;”.

10. Application of Part

Section 17 of the Principal Act is amended—

(a) by omitting paragraph (1) (a);

(b) by omitting from paragraph (1) (e) “(a),”; and

10 (c) by omitting from subsection (2) the definitions of “corporation” and “registered office” and substituting the following definition:

“ ‘corporation’ has the same meaning as in the Corporations Law;”.

11. Payment of unclaimed money to Minister

15 Section 21 of the Principal Act is amended by omitting subsection (3).

12. Addition

The Principal Act is amended by adding at the end the following Part:

“PART V—UNCLAIMED RSA MONEY

20 **“26. Interpretation**

In this Part, unless the contrary intention appears—

‘Commonwealth Act’ means the *Retirement Savings Accounts Act 1997* of the Commonwealth;

‘holder’ has the same meaning as in the Commonwealth Act;

25 ‘RSA’ has the same meaning as in the Commonwealth Act;

‘RSA provider’ has the same meaning as in the Commonwealth Act;

‘unclaimed RSA money’ means an amount that, under Part 8 of the Commonwealth Act, as modified for the time being under Part 15 of that Act, is taken to be unclaimed money.

30 **“27. Application of Part**

This Part applies to an RSA provider that has its registered office in the Territory.

“28. Statement of unclaimed RSA money

“(1) An RSA provider shall give to the Minister a statement in the form approved by the Minister of—

- 5 (a) all unclaimed RSA money held in RSAs provided by the RSA provider as at the end of each half year starting with the half year ending on 30 June 1998; and
- (b) particulars relating to the payment of any unclaimed RSA money referred to in paragraph (a) that the RSA provider pays to a person who is entitled to it between the end of the relevant half year and
10 the day on which the statement is given to the Minister.

“(2) A statement under subsection (1) shall be given to the Minister on or before—

- (a) in relation to a half year ending on 30 June in a calendar year—31 October in that calendar year; and
- 15 (b) in relation to a half year ending on 31 December in a calendar year—30 April in the following calendar year.

“(3) Notwithstanding subsection (2), on application by an RSA provider made before, on or after the day on which a statement under subsection (1) is to be given to the Minister (in this subsection called the ‘relevant day’),
20 the statement may be given to the Minister on or before such day (being later than the relevant day) as the Minister determines in writing.

“(4) An approval by the Minister of a form of statement for the purposes of subsection (1) may require or permit the statement to be given on a specified kind of data processing device in accordance with specified
25 software requirements.

“(5) An RSA provider shall not contravene subsection (1) or (2).

Penalty for contravention of subsection (5):

- (a) if the offender is a natural person—20 penalty units;
- (b) if the offender is a body corporate—100 penalty units.

30 **“29. Payment of unclaimed RSA money to Minister**

“(1) Where an RSA provider gives the Minister a statement under subsection 28 (1), the RSA provider shall pay to the Minister an amount equal to the amount referred to in the statement in accordance with paragraph 28 (1) (a) less any amount referred to in the statement in accordance with
35 paragraph 28 (1) (b).

Penalty:

- (a) if the offender is a natural person—20 penalty units;
- (b) if the offender is a body corporate—100 penalty units.

“(2) The Minister shall pay any amount paid to him or her under subsection (1) into the trust account.

“30. Discharge of RSA provider from liability

On payment to the Minister of an amount as required by this Part, an
5 RSA provider is discharged from further liability in respect of that amount.

“31. Payment to applicant

“(1) If—

- (a) any unclaimed RSA money has been paid to the Minister under this Part; and
- 10 (b) on application, the Minister is satisfied that, but for this Part and Part 8 of the Commonwealth Act, the applicant would have been paid that unclaimed RSA money by the RSA provider by whom it was paid to the Minister;

the Minister shall pay that unclaimed RSA money to the applicant.

15 “(2) An application under paragraph (1) (b) shall be in the form approved by the Minister.

“32. Repayment of excess amount

If an RSA provider, after paying an amount to the Minister under this Part, satisfies the Minister that the amount so paid exceeds the amount that
20 would have been paid to the person concerned, the Minister shall refund to the RSA provider the amount of the excess.

“33. Register of unclaimed RSA money received

The Minister shall keep a register that contains particulars of—

- 25 (a) any unclaimed RSA money paid to him or her by an RSA provider under this Part; and
- (b) particulars of the holder of each RSA in respect of which there is unclaimed RSA money.”.

NOTES

Principal Act

1. Reprinted as at 30 June 1997.

Penalty units

See section 33AA of the *Interpretation Act 1967*.

Unclaimed Moneys (Amendment) No. , 1998

Section heading

On the day on which section 3 of the *Unclaimed Moneys Act 1950* is amended by this Act, the heading to the following section of the Principal Act is altered as set out below:

Section	Alteration
3A	Omit from the heading “ Treasurer ” and substitute “ Minister ”.

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