



Treasury Laws Amendment (Release of Superannuation on Compassionate Grounds) Regulations 2020

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 16 April 2020

David Hurley
Governor-General

By His Excellency's Command

Josh Frydenberg
Treasurer

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1 Name

This instrument is the *Treasury Laws Amendment (Release of Superannuation on Compassionate Grounds) Regulations 2020*.

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 day after this instrument is registered.	17 April 2020

Note: This table relates only to the provisions of this instrument as originally made.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 *Retirement Savings Accounts 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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Retirement Savings Accounts Regulations 1997

1 Subregulation 4.01(2)

Insert:

student visa has the same meaning as in the *Migration Act 1958*.

2 Paragraph 4.01B(3)(b)

After “108,”, insert “109AA,”.

3 Subregulation 4.22B(1)

Repeal the subregulation, substitute:

- (1) A person may apply to the Regulator for a determination that an amount of the person’s preserved benefits, or restricted non-preserved benefits, in a specified RSA or RSAs may be released on the ground that it is required to assist the person to deal with the adverse economic effects of the coronavirus known as COVID-19 if:
 - (a) unless paragraph (b) applies—subregulation (1A) applies in respect of the person; or
 - (b) in a case where regulation 4.01B (temporary residents) applies to the person:
 - (i) the person is covered by subregulation (1B); and
 - (ii) subregulation (1C) applies in respect of the person.
- (1A) For the purposes of paragraph (1)(a), this subregulation applies in respect of the person if:
 - (a) the person is unemployed; or
 - (b) the person is eligible to receive any of the following under the *Social Security Act 1991*:
 - (i) jobseeker payment;
 - (ii) parenting payment;
 - (iii) special benefit; or
 - (c) the person is eligible to receive youth allowance under the *Social Security Act 1991* (other than on the basis that the person is undertaking full-time study or is a new apprentice); or
 - (d) the person is eligible to receive farm household allowance under the *Farm Household Support Act 2014*; or
 - (e) on or after 1 January 2020 the person was made redundant, or their working hours were reduced by 20% or more (including to zero); or
 - (f) for a person who is a sole trader—on or after 1 January 2020 the person’s business was suspended or suffered a reduction in turnover of 20% or more.
- (1B) For the purposes of subparagraph (1)(b)(i), this subregulation covers the person if:
 - (a) the person is the holder of a student visa; or

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- (b) the person is the holder of any of the following visas, as mentioned in the *Migration Regulations 1994*:
 - (i) a Subclass 457 (Temporary Work (Skilled)) visa;
 - (ii) a Subclass 482 (Temporary Skill Shortage) visa; or
 - (c) the person is a temporary resident, and is not the holder of a visa mentioned in paragraph (a) or (b).
- (1C) For the purposes of subparagraph (1)(b)(ii), this subregulation applies in respect of the person if:
- (a) in a case where paragraph (1B)(a) applies:
 - (i) the person has held a student visa for 12 months or more; and
 - (ii) the person is unable to meet his or her immediate living expenses; or
 - (b) in a case where paragraph (1B)(b) applies:
 - (i) on or after 1 January 2020 the person’s working hours were reduced to zero by an employer; and
 - (ii) the person is still employed by the employer; or
 - (c) in a case where paragraph (1B)(c) applies—the person is unable to meet his or her immediate living expenses.

4 Subregulation 4.22B(2)

Repeal the subregulation, substitute:

- (2) A person may make one or more applications under subregulation (1) as follows:
 - (a) one in the financial year ending 30 June 2020; and
 - (b) in a case where paragraph (1)(a) applies—one in the financial year ending 30 June 2021.

However, no application may be made after 24 September 2020.

Superannuation Industry (Supervision) Regulations 1994

5 Subregulation 6.01(2)

Insert:

student visa has the same meaning as in the *Migration Act 1958*.

6 Paragraph 6.01B(3)(b)

After “103B,” insert “107A,”.

7 Paragraph 6.01B(3)(b)

After “204A,” insert “207AA,”.

8 Subregulation 6.19B(1)

Repeal the subregulation, substitute:

- (1) A person may apply to the Regulator for a determination that an amount of the person’s preserved benefits, or restricted non-preserved benefits, in a specified superannuation entity or entities may be released on the ground that it is required to assist the person to deal with the adverse economic effects of the coronavirus known as COVID-19 if:

- (a) unless paragraph (b) applies—subregulation (1A) applies in respect of the person; or
 - (b) in a case where regulation 6.01B (temporary residents) applies to the person:
 - (i) the person is covered by subregulation (1B); and
 - (ii) subregulation (1C) applies in respect of the person.
- (1A) For the purposes of paragraph (1)(a), this subregulation applies in respect of the person if:
- (a) the person is unemployed; or
 - (b) the person is eligible to receive any of the following under the *Social Security Act 1991*:
 - (i) jobseeker payment;
 - (ii) parenting payment;
 - (iii) special benefit; or
 - (c) the person is eligible to receive youth allowance under the *Social Security Act 1991* (other than on the basis that the person is undertaking full-time study or is a new apprentice); or
 - (d) the person is eligible to receive farm household allowance under the *Farm Household Support Act 2014*; or
 - (e) on or after 1 January 2020 the person was made redundant, or their working hours were reduced by 20% or more (including to zero); or
 - (f) for a person who is a sole trader—on or after 1 January 2020 the person’s business was suspended or suffered a reduction in turnover of 20% or more.
- (1B) For the purposes of subparagraph (1)(b)(i), this subregulation covers the person if:
- (a) the person is the holder of a student visa; or
 - (b) the person is the holder of any of the following visas, as mentioned in the *Migration Regulations 1994*:
 - (i) a Subclass 457 (Temporary Work (Skilled)) visa;
 - (ii) a Subclass 482 (Temporary Skill Shortage) visa; or
 - (c) the person is a temporary resident, and is not the holder of a visa mentioned in paragraph (a) or (b).
- (1C) For the purposes of subparagraph (1)(b)(ii), this subregulation applies in respect of the person if:
- (a) in a case where paragraph (1B)(a) applies:
 - (i) the person has held a student visa for 12 months or more; and
 - (ii) the person is unable to meet his or her immediate living expenses; or
 - (b) in a case where paragraph (1B)(b) applies:
 - (i) on or after 1 January 2020 the person’s working hours were reduced to zero by an employer; and
 - (ii) the person is still employed by the employer; or
 - (c) in a case where paragraph (1B)(c) applies—the person is unable to meet his or her immediate living expenses.

9 Subregulation 6.19B(2)

Repeal the subregulation, substitute:

- (2) A person may make one or more applications under subregulation (1) as follows:
- (a) one in the financial year ending 30 June 2020; and
 - (b) in a case where paragraph (1)(a) applies—one in the financial year ending 30 June 2021.

However, no application may be made after 24 September 2020.