

SUBMISSION

Submission to Treasury — Miscellaneous amendments to Treasury Portfolio Laws Autumn 2025

31 January 2025

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Law Division

Treasury

Via email: miscamendments@treasury.gov.au

31 January 2025

Dear Sir/Madam

Miscellaneous amendments to Treasury Portfolio Laws Autumn 2025

The Association of Superannuation Funds of Australia (ASFA) is pleased to provide this submission in response to the consultation on miscellaneous amendments to Treasury portfolio laws Autumn 2025.

About ASFA

ASFA has been operating since 1962 and is the peak policy, research and advocacy body for Australia's superannuation industry. ASFA represents the APRA regulated superannuation industry with over 100 organisations as members from corporate, industry, retail and public sector funds, and service providers.

We develop policy positions through collaboration with our diverse membership base and use our deep technical expertise and research capabilities to assist in advancing outcomes for Australians.

ASFA has a keen focus on matters that impact the outcomes achieved by individuals through the superannuation system, their experiences with the system, and issues that impede the industry's operational effectiveness. We welcome this latest package of miscellaneous amendments, which reduce uncertainty by correcting technical and drafting defects, removing anomalies and addressing unintended outcomes.

Definition of 'disability' – payment of pensions to disabled child of deceased member

Division 4 of the draft *Treasury Laws Amendment Instrument 2025: Miscellaneous and technical amendments (Autumn 2025)* (the Amending Regulations) contains a series of amendments responding to the repeal of the former *Disability Services Act 1986*, which occurred on 1 January 2024.

In broad terms, these amendments aim to ensure that a superannuation fund or retirement savings account (RSA) can continue to pay a pension to the child of a deceased member after that child has reached age 25, if at the time of the member's death, that child had a relevant 'disability'. Where 'disability' for these purposes was previously defined in the *Disability Services Act*, the proposed amendments will bring that definition into the *Retirement Savings Account Regulations 1997* ('RSA Regulations') and the *Superannuation Industry (Supervision) Regulations 1994* ('SIS Regulations'). According to the draft Explanatory Statement, the amendments "aim to preserve the intended operation of the relevant provisions relating to disability".

ASFA members have not identified any concern with the substance of the amendments to the RSA Regulations or the SIS Regulations proposed to be made by Division 4 of the Amending Regulations, and we are pleased this implication of the repeal of the Disability Services Act is being addressed.

However, we note that the amendments in Division 4 (like all of Part 1 of the Amending Regulations) are intended to commence on the day after registration of the final regulations. We recommend the insertion of a provision making it clear the amendments have retrospective application from 1 January 2024. This will provide certainty regarding the ability of a fund or RSA to pay a pension to a disabled child of a deceased member since 1 January 2024 and until the registration of the finalised Amending Regulations.

If you have any queries or comments in relation to our submission, please contact Julia Stannard on (02) 8079 0819 or by email JStannard@superannuation.asn.au.

Yours sincerely

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