

**Authorised Version No. 019**  
**Unclaimed Money Act 2008**

**No. 44 of 2008**

Authorised Version incorporating amendments as at  
6 April 2020

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**Authorised Version No. 019**  
**Unclaimed Money Act 2008**

**No. 44 of 2008**

Authorised Version incorporating amendments as at  
6 April 2020

**The Parliament of Victoria enacts:**

**Part 1—Preliminary**

**1 Purpose**

The purpose of this Act is—

- (a) to re-enact with amendments the law relating to unclaimed money so as to continue to provide for—
  - (i) the collection and safekeeping of unclaimed money and unclaimed superannuation benefits;
  - (ii) the collection of information needed to identify and locate the owner of unclaimed money;
  - (iii) the keeping of registers of details (including business registers, the unclaimed money register and the register of unclaimed superannuation benefits) relating to unclaimed money and unclaimed superannuation benefits so that the owner can be identified and located;
  - (iv) the publication of sufficient information for the purposes of identifying and locating the owner of unclaimed money and unclaimed superannuation benefits;

(v) the payment, into the Consolidated Fund, of money paid into Court which is unclaimed;

(b) to repeal the **Unclaimed Moneys Act 1962**.

## **2 Commencement**

- (1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.
- (2) If a provision of this Act does not come into operation before 1 January 2009, it comes into operation on that day.

## **3 Definitions**

- (1) In this Act—

***amount payable*** means the amount due and payable to the Registrar by a business or trustee under Parts 3 and 4;

***assessment*** means an assessment made by the Registrar under section 36 of an amount payable;

***authorised investigation*** means an investigation authorised under Division 1 of Part 6;

***authorised officer*** means a person appointed by the Registrar to be an authorised officer under section 9;

***authorised person*** means—

- (a) an authorised officer;
- (b) any other person engaged (whether as an officer or employee or otherwise) in the administration of this Act;



***business*** means any person carrying on business in Victoria including—

- (a) a corporation within the meaning of the Corporations Act;
- (b) a Council within the meaning of the **Local Government Act 2020**;
- (c) a public hospital within the meaning of the **Health Services Act 1988**;
- (d) a co-operative within the meaning of the Co-operatives National Law (Victoria);
- (e) a society within the meaning of the **Co-operative Housing Societies Act 1958**;
- (f) a partnership, including a limited partnership;
- (g) a trustee company within the meaning of the **Trustee Companies Act 1984**;
- (h) a law practice within the meaning of the Legal Profession Uniform Law (Victoria);
- (i) any body, whether or not incorporated, prescribed to be a business;

S. 3(1) def. of *business* amended by Nos 9/2013 s. 40, 17/2014 s. 160(Sch. 2 item 101.1(a)), 9/2020 s. 390(Sch. 1 item 106).

***business register*** means a register of unclaimed money that a business must establish under section 11;

***corresponding law*** means an Act of another State or a Territory which is in relation to unclaimed money;

***Court*** means—

- (a) other than in sections 46, 80 and Part 7, the Supreme Court;
- (b) in sections 46, 80 and Part 7, the Supreme Court, County Court or Magistrates' Court;

***default*** means a failure by a business or trustee to pay an amount payable;

***Deputy Registrar*** means the person appointed as Deputy Registrar of Unclaimed Money under section 5;

***money paid into Court*** has the meaning given by section 86;

***objector*** means a person who lodges an objection under section 56(1);

S. 3(1) def. of *owner* amended by No. 22/2018 s. 23(1).

***owner***, other than in Part 8, means the person entitled to any unclaimed money including—

- (a) the person's executor, administrator or assignee; or
- (b) the person's lawful attorney or agent;

***person*** includes a body or association (corporate or unincorporate) and a partnership, including a firm;

S. 3(1) def. of *police officer* inserted by No. 37/2014 s. 10(Sch. item 173.1).

***police officer*** has the same meaning as in the **Victoria Police Act 2013**;

***premises*** includes land, a vehicle, a vessel and an aircraft;

***prescribed*** means prescribed by the regulations;

***proper officer***, in relation to—

- (a) the Supreme Court, means the Prothonotary or the Senior Master of the Supreme Court;
- (b) the County Court, means the registrar, deputy registrar, or other officer of the County Court;
- (c) the Magistrates' Court, means the principal registrar, registrar or deputy registrar of the Magistrates' Court;

S. 3(1) def. of  
*proper officer*  
amended by  
No. 69/2013  
s. 18.

***reasonable expenses of a business in holding unclaimed money and locating the owner*** include—

- (a) bank fees, stationary and postage; and
- (b) any other expenses of a kind determined by the Registrar under subsection (2);

***reassessment*** means a reassessment made by the Registrar under section 37 of an amount payable;

***Registrar*** means the person appointed as Registrar of Unclaimed Money under section 4;

***Secretary*** means Secretary to the Department of Treasury and Finance;

***trustee*** includes an executor, an administrator or a trustee company within the meaning of the **Trustee Companies Act 1984**;

***unclaimed money*** means—

- (a) principal, interest, dividends, bonuses, profits, salaries, wages and any other sums of money that are legally payable to the owner and that have remained unpaid for not less than 12 months after that money became payable; or

S. 3(1) def. of  
*unclaimed money*  
amended by  
No. 22/2018  
s. 26.

- (b) money that has been converted from unclaimed trust property within the meaning of section 14 by a trustee after the expiration of the required period under Division 2 of Part 3—

other than any amount the value of which is less than \$20 or the prescribed amount (whichever is higher);

***unclaimed money register*** means the unclaimed money register kept by the Registrar under section 28.

- (2) For the purposes of the definition of ***reasonable expenses of a business in holding unclaimed money and locating the owner*** in subsection (1), the Registrar may determine and specify, by instrument published in the Government Gazette, the kinds of expenses that are reasonable expenses.

S. 3(2A)  
inserted by  
No. 69/2013  
s. 19.

- (2A) For the purposes of the definition of ***unclaimed money*** in subsection (1), an amount of money that consists of both principal and interest is unclaimed money if the sum of the principal and interest is equal to or greater than \$20 or the prescribed amount (whichever is higher).
- (3) For the purposes of the definition of ***owner*** and paragraph (a) of the definition of ***unclaimed money*** in subsection (1), in determining if a person is entitled to money or if money is legally payable to the owner, no account is taken of whether or not—
  - (a) the owner is required to take any action by way of demand or otherwise to claim or recover the money; or

- (b) there is or has been any shift in entitlement to the money accompanied by an arrangement or undertaking (whether enforceable or not) to pay the owner if the owner subsequently makes a claim.
- (4) Despite subsection (3) and subject to subsection (5), money is not unclaimed money at any particular time if, at that time, the business holding the money knows or has reason to believe that the owner of the money wishes the business to continue to hold the money.
- (5) For the purposes of subsection (4), a business does not have reason to believe that an owner wishes the business to continue to hold the money because the owner does not respond to a communication from the business (or does not respond as specified in the communication), even if the terms of the communication suggest that the owner's failure to respond indicates such a wish.
- (6) For the purposes of subsections (4) and (5), if it is necessary to establish the belief of a business, it is sufficient to show that—
  - (a) in the case of a business that is a body corporate—
    - (i) an employee or agent of the body corporate holds the belief; or
    - (ii) a person concerned in the management of the body corporate within the meaning of section 26(5) holds the belief;
  - (b) in the case of a business that is a partnership, firm, unincorporated body or association, a person who is an employee, agent or member of the partnership, firm, unincorporated body or association holds the belief.

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No. 44 of 2008  
Part 1—Preliminary

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S. 3(6A)  
inserted by  
No. 22/2018  
s. 23(2).

(6A) For the purposes of paragraph (a) of the definition of **owner** in subsection (1), a reference to—

- (a) the person's executor is a reference to the executor of the will of the person, if probate of the will has been granted, sealed or resealed in any jurisdiction in Australia; and
- (b) the person's administrator is a reference to the administrator of the estate of the person, if letters of administration have been granted, sealed or resealed in any jurisdiction in Australia.

S. 3(7)  
amended by  
No. 17/2014  
s. 160(Sch. 2  
item 101.1(b)).

- (7) A reference in this Act to a business holding unclaimed money, being a business that is a law practice within the meaning of the Legal Profession Uniform Law (Victoria) includes a reference to that law practice holding unclaimed money in its trust account.
- (8) A reference in this Act to a business holding unclaimed money includes a reference to the business holding that money as a trustee.

## Part 2—Administration

### 4 Registrar of Unclaimed Money

- (1) The Secretary may appoint a Registrar of Unclaimed Money who is employed under Part 3 of the **Public Administration Act 2004** to—
  - (a) administer this Act and the regulations; and
  - (b) carry out the powers, duties or functions conferred by this Act or the regulations or any other Act on the Registrar.
- (2) The person assigned to the position of Registrar of Unclaimed Moneys under section 10(1) of the **Unclaimed Moneys Act 1962** as in force immediately before its repeal by section 104 is taken to be, on and after the commencement of section 104, the Registrar within the meaning of this Act.

S. 4(1)(b)  
amended by  
No. 69/2013  
s. 20.

### 5 Deputy Registrar of Unclaimed Money

- (1) The Secretary may appoint a Deputy Registrar of Unclaimed Money who is employed under Part 3 of the **Public Administration Act 2004**.
- (2) The Deputy Registrar has the same powers, duties or functions as the Registrar has under this Act or the regulations or any other Act.
- (3) The person assigned to the position of Deputy Registrar of Unclaimed Moneys under section 10(2) of the **Unclaimed Moneys Act 1962** as in force immediately before its repeal by section 104 is taken to be, on and after the commencement of section 104, the Deputy Registrar within the meaning of this Act.

S. 5(2)  
substituted by  
No. 69/2013  
s. 21.

S. 6  
amended by  
No. 69/2013  
s. 22.

## 6 Delegation

The Registrar, by instrument, may delegate any power, duty or function of the Registrar, other than this power of delegation, to—

S. 6(a)  
inserted by  
No. 69/2013  
s. 22.

(a) an employee referred to in section 7; or

S. 6(b)  
inserted by  
No. 69/2013  
s. 22.

(b) a consultant or contractor engaged under section 8.

S. 7  
amended by  
No. 69/2013  
s. 23.

## 7 Provision of staff

There may be employed under Part 3 of the **Public Administration Act 2004** any employees that are necessary to assist the Registrar in the performance of his or her powers, duties or functions under this Act and the regulations or any other Act.

S. 8  
amended by  
No. 69/2013  
s. 24.

## 8 Use of consultants and contractors

The Registrar may engage any consultants and contractors that may be necessary or convenient to enable the Registrar to perform his or her functions under this Act and the regulations or any other Act.

## 9 Authorised officers

- (1) The Registrar is an authorised officer for the purposes of carrying out investigations under Division 1 of Part 6.
- (2) The Registrar may by instrument appoint a person to be an authorised officer for the purposes of carrying out investigations under Division 1 of Part 6.



- (3) The Registrar must not appoint a person to be an authorised officer under this section unless the Registrar is satisfied that the person is suitably qualified or trained to be an authorised officer for the purposes of carrying out investigations under Division 1 of Part 6.
- (4) An appointment of a person to be an authorised officer may—
  - (a) specify the powers, duties or functions under this Act or the regulations to which it relates; and
  - (b) be made subject to any conditions that the Registrar considers to be appropriate.

#### **10 Identity cards**

- (1) The Registrar must issue an identity card to each authorised officer appointed by the Registrar.
- (2) An identity card issued to an authorised officer under this section must—
  - (a) contain a photograph of the authorised officer; and
  - (b) contain the signature of the authorised officer; and
  - (c) contain a statement that the person is an authorised officer for the purposes of the Act;
  - (d) be signed by the Registrar.

## **Part 3—Business and trustees**

### **Division 1—Obligations of business in respect of unclaimed money**

#### **11 Business to keep business register**

- (1) A business that holds unclaimed money within the meaning of paragraph (a) of the definition of *unclaimed money* in section 3(1) must—
- (a) establish a business register of unclaimed money, in the prescribed form at, or readily accessible from, its principal office or place of business in Victoria; and
  - (b) by 31 March each year, enter in the business register the prescribed details in relation to unclaimed money held as at 1 March in that year.

##### **Note**

Failure to comply with this subsection is an offence—see section 17.

- (2) The entry of details of unclaimed money in the business register does not affect or prejudice the rights of the owner of the unclaimed money and the owner may recover the unclaimed money from the business at any time before it is paid to the Registrar under section 12.
- (3) A business may deduct out of unclaimed money payable to an owner an amount in respect of the reasonable expenses of a business in holding unclaimed money and locating the owner.

## **12 Payment of unclaimed money to Registrar and lodgement of return**

- (1) On or before 31 May each year (or the later date approved in writing by the Registrar in any particular case), a business that held unclaimed money on 1 March of that year must—
  - (a) pay to the Registrar an amount equal to all amounts of unclaimed money held on that 1 March less any amounts that have been paid to the owner and any amounts deducted under subsection (3) or section 11(3); and
  - (b) lodge a return with the Registrar in the form and manner determined by the Registrar.

### **Note**

Failure to comply with this subsection is an offence—see section 18.

- (2) The return must include—
  - (a) the details included in the business register of all unclaimed money paid to the Registrar under subsection (1)(a); and
  - (b) a statement of compliance, in the form approved by the Registrar, and signed by a nominated officer of the business.
- (3) A business may deduct out of unclaimed money payable to the Registrar under this section an amount equivalent to the reasonable expenses of a business in holding unclaimed money and locating the owner.
- (4) On payment to the Registrar of an amount as required by this section, a business is discharged from further liability in respect of that amount.
- (5) In this section, ***nominated officer*** of a business means the officer or employee of the business who is responsible for managing unclaimed money held by the business.

## **Division 2—Obligations of trustees in respect of unclaimed trust property**

### **13 Definitions**

(1) In this Division—

*property* includes—

- (a) any estate, share or interest in real or personal property;
- (b) any debt or thing in action;
- (c) any other right or interest, whether in possession or not—

but does not include any money;

*required period* means a period of 6 years commencing at the time the person entitled to the property became entitled to have the property transferred to them.

(2) For the purposes of the definition of *required period*, in determining whether a person is entitled to have property transferred to them, no account is taken of whether or not—

- (a) the person is required by the terms of the trust to take any action by way of demand or otherwise to have the property transferred to them; or
- (b) there is or has been any shift in entitlement to the property accompanied by an arrangement or undertaking (whether enforceable or not) to pay the person if the person subsequently makes a claim.

## 14 Unclaimed trust property

- (1) Subject to subsection (2), if a trustee holds any property that has not been claimed by the person entitled to it for the required period, the trustee must, within 12 months after the expiration of the required period—
  - (a) sell, call in or otherwise convert the property into unclaimed money within the meaning of paragraph (b) of the definition of ***unclaimed money*** in section 3(1); and
  - (b) pay the unclaimed money to the Registrar; and
  - (c) lodge a statement with the Registrar giving details of the estate or trust to which the payment relates and of the details as known to the trustee of the person entitled to the property in respect of which the payment is made.
- (2) The Registrar may, on an application made under section 15 by a trustee for an extension of time, extend the time for—
  - (a) selling, calling in or converting property under subsection (1)(a); and
  - (b) paying the unclaimed money to the Registrar under subsection (1)(b); and
  - (c) lodging a statement with the Registrar under subsection (1)(c)—if the Registrar considers that there is good reason to grant the extension.
- (3) Subject to subsection (4), a trustee is not required to comply with subsection (1) in respect of any property at any particular time if, at that time, the trustee (or an officer of the trustee if the trustee is not a natural person) knows or has reason to

believe that the person entitled to the property wishes the trustee to continue to hold the property.

- (4) For the purposes of subsection (3), a trustee does not have reason to believe that a person entitled to property wishes the trustee to continue to hold the property because the person does not respond to a communication from the trustee (or does not respond as specified in the communication), even if the terms of the communication suggest that the person's failure to respond indicates such a wish.
- (5) Division 1 does not apply to a trustee who is required to pay unclaimed money to the Registrar under subsection (1).

## **15 Application for extension of time by trustee**

- (1) A trustee may apply to the Registrar for an extension of time to—
  - (a) sell, call in or convert property under section 14(1)(a); and
  - (b) pay the unclaimed money to the Registrar under section 14(1)(b); and
  - (c) lodge a statement with the Registrar under section 14(1)(c).
- (2) An application made by a trustee for an extension of time must—
  - (a) be made no later than 12 months after the expiration of the required period; and
  - (b) be in writing; and
  - (c) state in detail the reason or reasons why the trustee requires an extension of time.

## **16 Registrar's decision in respect of extension of time application**

- (1) The Registrar must give notice in writing to the trustee of his or her decision under section 14(2)—
  - (a) within 60 days of receiving the application made under section 15; or
  - (b) within another time frame agreed to by the trustee.
- (2) The Registrar's decision under section 14(2) must—
  - (a) if an extension of time is granted, specify the length of the extension; or
  - (b) if an extension of time is not granted, specify the Registrar's reasons for not granting the extension.

### **Division 2A—Consideration obtained by compulsory acquisition of shares under Co-operatives National Law (Victoria)**

Pt 3 Div. 2A  
(Heading and  
ss 16A, 16B)  
inserted by  
No. 9/2013  
s. 41.

#### **16A Divisions 1 and 2 do not apply to consideration obtained by co-operative**

S. 16A  
inserted by  
No. 9/2013  
s. 41.

Divisions 1 and 2 do not apply to consideration that has been obtained by a co-operative, within the meaning of the Co-operatives National Law (Victoria), through a compulsory acquisition of shares while that consideration is held by the co-operative.

#### **Note**

Under section 436 of the Co-operatives National Law (Victoria), consideration obtained by a co-operative through a compulsory acquisition of shares in the co-operative that has been held in trust by the co-operative for at least 2 years

must be paid or transferred to the Registrar of  
Co-operatives.

S. 16B  
inserted by  
No. 9/2013  
s. 41.

### **16B Application of Act to Registrar of Co-operatives**

- (1) Division 1 applies to an amount paid to the Registrar of Co-operatives under section 436 of the Co-operatives National Law (Victoria) as if a reference in that Division to a business were a reference to the Registrar of Co-operatives.
- (2) Division 2 applies to consideration (other than money) transferred to the Registrar of Co-operatives under section 436 of the Co-operatives National Law (Victoria) as if a reference in that Division to a trustee were a reference to the Registrar of Co-operatives.
- (3) For the purposes of section 14(1) as applied by subsection (2), the Registrar of Co-operatives may deduct out of the unclaimed money payable to the Registrar an amount equivalent to the reasonable expenses incurred in holding or selling the property that constitutes the consideration referred to in subsection (2).
- (4) This section does not operate to make the Registrar of Co-operatives subject to any penalty that would otherwise apply to a business or trustee or to impose any obligation or duty on the Registrar of Co-operatives other than an obligation or duty imposed by, or under, Division 1 or 2.
- (5) The Registrar of Co-operatives cannot make an application under section 29 for repayment of unclaimed money paid to the Registrar under section 12 or 14.



### **Division 3—Offences for failure to meet obligations in respect of unclaimed money**

#### **17 Requirements of business in respect of business register**

If section 11(1) applies to a business, the business must not, without reasonable excuse, fail to make entries in the business register as required by section 11(1).

Penalty: In the case of a natural person,  
30 penalty units;  
  
In the case of a body corporate,  
60 penalty units.

**Note**

Section 26A applies to an offence against this section.

**Note to s. 17  
inserted by  
No. 13/2013  
s. 50(1).**

#### **18 Requirements of business in respect of payment to Registrar and lodgement of return**

If section 12(1) applies to a business, the business must not, without reasonable excuse, fail to pay an amount to, or lodge a return with, the Registrar in accordance with section 12(1).

Penalty: In the case of a natural person,  
60 penalty units;  
  
In the case of a body corporate,  
120 penalty units.

**Note**

Section 26B applies to an offence against this section.

**Note to s. 18  
inserted by  
No. 13/2013  
s. 50(2).**

## **19 Obligations of trustee in respect of unclaimed trust property**

A trustee to whom section 14(1) applies, must not, without reasonable excuse, fail to comply with the trustee's obligations under section 14(1).

Penalty: In the case of a natural person,  
60 penalty units;  
In the case of a body corporate,  
120 penalty units.

**Note to s. 19**  
inserted by  
No. 13/2013  
s. 50(1).

### **Note**

Section 26A applies to an offence against this section.

## **20 Requirement to keep proper records**

- (1) A business is required to keep, or cause to be kept, all records that are necessary to enable the Registrar to verify entries made in the business register, the return lodged under section 12(1)(b) and any amount payable to the Registrar under Parts 3 and 4.

Penalty: In the case of a natural person,  
60 penalty units;  
In the case of a body corporate,  
120 penalty units.

- (2) A trustee is required to keep, or cause to be kept, all records that are necessary to enable the Registrar to verify the statement lodged by the trustee with the Registrar under section 14(1)(c) and any amount payable to the Registrar under Parts 3 and 4.

Penalty: In the case of a natural person,  
60 penalty units;  
In the case of a body corporate,  
120 penalty units.

**Note**

Section 26B applies to an offence against subsection (1) or (2).

**Note to s. 20  
inserted by  
No. 13/2013  
s. 50(3).**

**21 Inclusion of false or misleading information in records**

A business or trustee must not intentionally or negligently—

- (a) make a record required to be made by this Act; or
- (b) include any information in a record required to be made or kept by this Act—

that is false or misleading in a material particular.

**Penalty:** In the case of a natural person,  
60 penalty units;

In the case of a body corporate,  
120 penalty units.

**Note**

Section 26A applies to an offence against this section.

**Note to s. 21  
inserted by  
No. 13/2013  
s. 50(1).**

**22 Accessibility of records**

A business or trustee that is required by this Act to keep a record must keep, or cause to be kept, the record so that it is able to be readily produced to the Registrar.

**Penalty:** In the case of a natural person,  
30 penalty units;

In the case of a body corporate,  
60 penalty units.

**Note**

Section 26A applies to an offence against this section.

**Note to s. 22  
inserted by  
No. 13/2013  
s. 50(1).**

### **23 Form of record—English language**

A business or trustee that is required by this Act to keep a record must keep, or cause to be kept, the record in English or in a form that can be readily converted or translated into English.

Penalty: In the case of a natural person,  
30 penalty units;  
In the case of a body corporate,  
60 penalty units.

**Note to s. 23**  
inserted by  
No. 13/2013  
s. 50(1).

#### **Note**

Section 26A applies to an offence against this section.

### **24 Period of retention**

A business or trustee that is required by this Act to keep a record must retain the record, or cause the record to be retained, for not less than 5 years after—

- (a) the date it was made or obtained; or
- (b) the date of completion of the return or statement to which that record relates—

whichever is the later.

Penalty: In the case of a natural person,  
60 penalty units;  
In the case of a body corporate,  
120 penalty units.

**Note to s. 24**  
inserted by  
No. 13/2013  
s. 50(1).

#### **Note**

Section 26A applies to an offence against this section.

## **25 Giving false or misleading information to an authorised person**

S. 25  
amended by  
No. 28/2017  
s. 93(1)(a)(2).

A person must not, without reasonable excuse—

- (a) make a declaration or statement, orally or in writing, to an authorised person that is false or misleading in a material particular; or
- (b) give information, orally or in writing, to an authorised person that is false or misleading in a material particular; or
- (c) omit from a declaration or statement made or from information given, orally or in writing, to an authorised person any matter or thing without which the declaration, statement or information is false or misleading in a material particular.

S. 25(c)  
substituted by  
No. 28/2017  
s. 93(1)(b).

Penalty: In the case of a natural person,  
120 penalty units;  
In the case of a body corporate,  
600 penalty units.

### **Note**

Section 26B applies to an offence against this section.

Note to s. 25  
inserted by  
No. 13/2013  
s. 50(1),  
amended by  
No. 28/2017  
s. 93(3).

## **26 Offences by officers of bodies corporate**

S. 26  
(Heading)  
amended by  
No. 13/2013  
s. 48(1).

\* \* \* \* \*

S. 26(1)–(3)  
repealed by  
No. 13/2013  
s. 48(2).

- (4) Sections 26A and 26B do not affect a liability imposed on a body corporate for an offence committed by the body corporate against this Act.

S. 26(4)  
amended by  
No. 13/2013  
s. 48(3).

S. 26(5)  
repealed by  
No. 13/2013  
s. 48(2).

S. 26A  
inserted by  
No. 13/2013  
s. 49.

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\* \* \* \* \*

**26A Criminal liability of officers of bodies corporate—  
accessorial liability**

- (1) If a body corporate commits an offence against a provision specified in subsection (2), an officer of the body corporate also commits an offence against the provision if the officer—
- (a) authorised or permitted the commission of the offence by the body corporate; or
  - (b) was knowingly concerned in any way (whether by act or omission) in the commission of the offence by the body corporate.
- (2) For the purposes of subsection (1), the following provisions are specified—
- (a) section 17;
  - (b) section 19;
  - (c) section 21;
  - (d) section 22;
  - (e) section 23;
  - (f) section 24;

S. 26A(2)(g)  
repealed by  
No. 28/2017  
s. 94.

- \* \* \* \* \*
- (h) section 70(6) and (7).
- (3) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence

with which the officer is charged and, in doing so, the officer bears the same burden of proof that the body corporate would bear.

- (4) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate has been prosecuted for, or found guilty of, an offence against that provision.

- (5) In this section—

*body corporate* has the same meaning as corporation has in section 57A of the Corporations Act;

*officer* in relation to a body corporate means—

- (a) a person who is an officer (as defined by section 9 of the Corporations Act) of the body corporate; or
- (b) a person (other than a person referred to in paragraph (a)), by whatever name called, who is concerned in, or takes part in, the management of the body corporate.
- (6) This section does not affect the operation of Subdivision (1) of Division 1 of Part II of the **Crimes Act 1958**.

S. 26A(6)  
substituted by  
No. 20/2015  
s. 56(Sch. 1  
item 13).

## **26B Criminal liability of officers of bodies corporate— failure to exercise due diligence**

S. 26B  
inserted by  
No. 13/2013  
s. 49.

- (1) If a body corporate commits an offence against a provision specified in subsection (2), an officer of the body corporate also commits an offence against the provision if the officer failed to exercise due diligence to prevent the commission of the offence by the body corporate.

(2) For the purposes of subsection (1), the following provisions are specified—

- (a) section 18;
- (b) section 20(1) and (2);
- (ba) section 25;

S. 26B(2)(ba)  
inserted by  
No. 28/2017  
s. 95.

(bb) section 33A;

S. 26B(2)(bb)  
inserted by  
No. 28/2017  
s. 95.

(c) section 69(4).

(3) In determining whether an officer of a body corporate failed to exercise due diligence, a court may have regard to—

- (a) what the officer knew, or ought reasonably to have known, about the commission of the offence by the body corporate; and
- (b) whether or not the officer was in a position to influence the body corporate in relation to the commission of the offence by the body corporate; and
- (c) what steps the officer took, or could reasonably have taken, to prevent the commission of the offence by the body corporate; and
- (d) any other relevant matter.

(4) Without limiting any other defence available to the officer, an officer of a body corporate may rely on a defence that would be available to the body corporate if it were charged with the offence with which the officer is charged and, in doing so,



the officer bears the same burden of proof that the body corporate would bear.

- (5) An officer of a body corporate may commit an offence against a provision specified in subsection (2) whether or not the body corporate has been prosecuted for, or found guilty of, an offence against that provision.

- (6) In this section—

*body corporate* has the same meaning as in section 26A;

*officer* in relation to a body corporate, has the same meaning as in section 26A.

## **27 Offences by partnership or unincorporated association**

If this Act provides that a person, being a partnership or an unincorporated association, is guilty of an offence, that reference to the person—

- (a) in the case of a partnership, is to be read as a reference to each member of the partnership; and
- (b) in the case of an unincorporated association, is to be read as a reference to each member of the committee of management of the association.

## **Part 4—Registrar's obligations and powers in respect of unclaimed money**

### **Division 1—Registrar's obligations in respect of unclaimed money**

#### **28 Unclaimed money register**

- (1) The Registrar must keep an unclaimed money register that contains—
  - (a) the details included in the returns under section 12(2)(a) relating to unclaimed money paid to the Registrar under section 12(1)(a); and
  - (b) the details included in the statements under section 14(1)(c) relating to unclaimed money paid to the Registrar under section 14(1)(b).
- (2) The unclaimed money register is to be in the form, and kept in the manner, determined by the Registrar.
- (3) Subject to subsection (4), the Registrar must advertise, publish or make publicly available—
  - (a) on the Internet in a searchable form updated regularly; and
  - (b) in any other form the Registrar considers appropriate—

the minimum amount of information on the unclaimed money register that the Registrar considers necessary and expedient to advertise, publish or make publicly available for the purposes of this Act.
- (4) If the identity of the owner of unclaimed money is unknown, the Registrar is not required to advertise, publish or make publicly available information from the unclaimed money register

that is in respect of the unclaimed money of that owner.

**29 Business or trustee may apply for repayment of unclaimed money**

- (1) Subject to section 31, if a business or trustee has reason to believe that an overpayment of unclaimed money was paid to the Registrar under section 12 or 14, the business or trustee may apply to the Registrar for repayment of the unclaimed money.
- (2) An application for repayment of unclaimed money under subsection (1) must be—
  - (a) made within 5 years after the payment of unclaimed money to the Registrar that is the subject of the application; and
  - (b) in a form approved by the Registrar.

**30 Determination of application by Registrar**

- (1) The Registrar must—
  - (a) consider an application made under section 29 within 60 days after receiving the application; and
  - (b) give notice in writing to the applicant of his or her decision to either—
    - (i) allow or allow in part, the application; or
    - (ii) disallow the application; and
  - (c) give reasons for disallowing the application or for allowing the application in part only.
- (2) If the Registrar does not make a decision under subsection (1) within 60 days after receiving the application, the Registrar is taken to have made a decision to disallow the application.

**31 Business or trustee cannot make application in certain circumstances**

A business or trustee cannot make an application under section 29 for repayment of unclaimed money paid to the Registrar under section 12 or 14 if the Registrar has previously served a notice of assessment or reassessment on the business or trustee that relates to the payment that would be the subject of the application.

**Note**

A business or trustee may lodge a written objection to an assessment or reassessment under Division 1 of Part 5.

**32 Registrar may repay unclaimed money not required to be paid to the Registrar**

- (1) If the Registrar decides to allow the application under section 30 in whole or in part, the Registrar must repay any amount of unclaimed money that is in excess of the amount of unclaimed money properly payable under this Act.
- (2) Money repaid under subsection (1) may be repaid to the business or trustee that paid the Registrar under section 12 or 14 or to a person the Registrar otherwise considers appropriate.

**33 Registrar may pay owner**

- (1) The owner of unclaimed money may apply to the Registrar for payment of unclaimed money paid to the Registrar under section 12 or 14.
- (1A) An application under this section must—
  - (a) be in writing in the form approved by the Registrar; and
  - (b) contain the information required by the Registrar; and

S. 33(1A)  
inserted by  
No. 28/2017  
s. 96.

- (c) be accompanied by any document required by the Registrar.
- (2) An applicant bears the onus of establishing that the applicant is the owner of the unclaimed money to which the application relates.
- (3) The Registrar may pay an applicant unclaimed money paid to the Registrar under section 12 or 14 if the Registrar is satisfied that the applicant is the owner of the unclaimed money.
- (4) The Registrar is, following a payment of unclaimed money to an applicant under subsection (3), discharged from any further liability with respect to that unclaimed money.
- (5) If a person (the *subsequent claimant*), claims to be the owner of unclaimed money subsequent to a successful application made by a person (the *first claimant*) for that unclaimed money under subsection (3), the subsequent claimant may have recourse against the first claimant for the unclaimed money paid to the first claimant by the Registrar.

**33A Giving false or misleading information to the Registrar**

S. 33A  
inserted by  
No. 28/2017  
s. 97.

A person who makes an application under section 33(1) must not, without reasonable excuse, in respect of that application—

- (a) make a declaration or statement, orally or in writing, to the Registrar that is false or misleading in a material particular; or
- (b) give information, orally or in writing, to the Registrar that is false or misleading in a material particular; or
- (c) omit from a declaration or statement made or from information given to the Registrar, orally or in writing, any matter or thing

without which the declaration, statement or information is false or misleading in a material particular.

Penalty: In the case of a natural person,  
120 penalty units;  
  
In the case of a body corporate,  
600 penalty units.

**Note**

Section 26B applies to an offence against this section.

**34 Registrar may recover an amount payable as debt due to the State**

The Registrar may recover an amount payable as a debt due to the State.

**35 Registrar may enter into arrangement with business or trustee**

- (1) The Registrar may enter into an arrangement (which may include provision for the payment of interest) for payment of an amount payable.
- (2) The Registrar may write off the whole or part of an amount payable if satisfied that action, or further action, to recover the amount outstanding is impracticable or unwarranted.

**Division 2—Assessment and reassessment**

**36 General power to make assessment**

- (1) The Registrar may make an assessment of an amount payable in respect of a business or trustee.
- (2) An assessment may consist of or include a determination that there is not a particular amount payable.

### **37 Reassessment**

- (1) The Registrar may make one or more reassessments of an amount payable in respect of a business or trustee.
- (2) A reassessment may consist of or include a determination that there is not a particular amount payable.
- (3) Nothing prevents the Registrar—
  - (a) from making a reassessment of an amount payable by a business or trustee after an amount previously assessed as being payable by the business or trustee has been paid by that business or trustee; or
  - (b) from making a reassessment under which the business or trustee is assessed as owing an additional or greater amount than the amount previously assessed.
- (4) The Registrar cannot make a reassessment of an amount payable more than 5 years after the initial assessment, unless—
  - (a) the reassessment is to adjust the amount payable to give effect to a decision on an objection, review or appeal as to the initial assessment; or
  - (b) at the time the initial assessment or a reassessment was made, all the facts and circumstances affecting the amount payable by the business or trustee in respect of whom the assessment or reassessment was made were not fully and truly disclosed to the Registrar.
- (5) The time limited by subsection (4) applies even if the initial assessment is withdrawn.

**38 Information on which assessment or reassessment is made**

- (1) The Registrar may make an assessment or reassessment on the information the Registrar has from any source at the time the assessment or reassessment is made.
- (2) If the Registrar has insufficient information to make an exact assessment or reassessment of an amount payable, the Registrar may make an assessment or reassessment by way of estimate.

**39 Withdrawal of assessment or reassessment**

The Registrar may withdraw an assessment or reassessment at any time within 5 years after the date of service of the notice of assessment or reassessment, whether or not the amount payable specified in the notice of assessment or reassessment has been paid.

**40 Notice of assessment or reassessment or withdrawal of assessment or reassessment**

- (1) If the Registrar makes or withdraws an assessment or reassessment, the Registrar must serve a notice of assessment, reassessment or withdrawal on the business or trustee.
- (2) A notice of assessment or reassessment must—
  - (a) be expressed to be an assessment or reassessment of an amount payable; and
  - (b) show the amount payable.
- (3) An amount payable by the business or trustee assessed in a notice of assessment or reassessment is payable on or before the day specified by the Registrar in the notice of assessment or reassessment.



**41 Inclusion of interest and penalty in notice of assessment or reassessment**

A notice of assessment or reassessment of the amount payable by the business or trustee served following a default must specify any interest or penalty payable by the business or trustee under Division 3 or 4.

**42 Validity of assessment or reassessment**

The validity of an assessment or reassessment made on a business or trustee is not affected because a provision of this Act has not been complied with.

**Division 3—Interest**

**43 Interest in respect of default by business or trustee**

- (1) If a default occurs, the business or trustee is liable to pay interest on the amount payable that remains unpaid calculated on a daily basis from the end of the last day for payment until the day it is paid at the interest rate from time to time applying under this Division.
- (2) Interest is payable under subsection (1) in respect of a default that consists of failure to pay a penalty under Division 4 but is not payable in respect of any failure to pay interest under this Division.

**44 Interest rate**

- (1) The interest rate is the sum of—
  - (a) the market rate, being—
    - (i) unless an order is in force under subparagraph (ii), the Bank Accepted Bills rate; or

- (ii) the rate specified for the time being by order of the Minister published in the Government Gazette; and
  - (b) the premium rate, being 8% per annum.
- (2) The ***Bank Accepted Bills rate*** means in respect of any day is the average of the daily yields for 90 day Bank Accepted Bills published by the Reserve Bank of Australia for the month of May in the financial year preceding the financial year in which the day occurs.
- (3) The Bank Accepted Bills rate must be rounded to the second decimal place (rounding 0.005 upwards).

#### **45 Minimum amount of interest**

A business or trustee is not liable under this Act to pay an amount of interest if the amount of interest is less than \$20.

#### **46 Interest rate to prevail over interest otherwise payable on a judgment debt**

If judgment is given by, or entered in, a Court for an amount payable under this Act, the interest rate determined in accordance with this Division continues to apply, to the exclusion of any other interest rate, until the amount payable is paid to the Registrar.

#### **47 Remission of interest**

The Registrar, in such circumstances as the Registrar considers appropriate, may remit interest payable by a business or trustee under this Division by any amount.

## **Division 4—Penalty**

### **48 Penalty in respect of certain defaults**

- (1) If a default occurs, the business or trustee is liable to pay a penalty in addition to the amount payable that remains unpaid.
- (2) A penalty imposed under this Division is in addition to interest.
- (3) A penalty is not payable in respect of a default that consists of a failure to pay—
  - (a) interest under Division 3; or
  - (b) a penalty previously imposed under this Division.

### **49 Amount of penalty**

- (1) The amount of penalty payable in respect of a default is 25% of the amount payable that remains unpaid, subject to this Division.
- (2) The Registrar may increase the amount of penalty payable in respect of a default to 75% of the amount payable that remains unpaid if the Registrar is satisfied that the default was caused wholly or partly by the intentional disregard by the business or trustee (or a person acting on behalf of the business or trustee) of this Act.
- (3) The Registrar may determine that no penalty is payable in respect of a default if the Registrar is satisfied that—
  - (a) the business or trustee (or a person acting on behalf of the business or trustee) took reasonable care to comply with this Act; or
  - (b) the default occurred solely because of circumstances beyond the control of the business or trustee (or, if a person acted on behalf of the business or trustee, because of circumstances beyond either the person's or

the business's or trustee's control) but not amounting to financial incapacity.

**50 Reduction in penalty for disclosure before or during investigation**

- (1) The amount of penalty determined under section 49 is to be reduced by 80% if, before the Registrar commences an investigation into a known or suspected default by the business or trustee, the business or trustee voluntarily discloses to the Registrar in writing, sufficient information to enable the nature and extent of the default to be determined.
- (2) The amount of penalty determined under section 49 is to be reduced by 20% if, after the Registrar commences an investigation into a known or suspected default by the business or trustee and before it is completed, the business or trustee voluntarily discloses to the Registrar, in writing, sufficient information to enable the nature and extent of the default to be determined.
- (3) Subsection (1) or (2) does not apply in respect of information disclosed—
  - (a) by a business if the business was required to lodge a return by 31 May under section 12 and—
    - (i) the default involved the failure to lodge a return and pay the amount payable to the Registrar by the date required by section 12 or the later date approved by the Registrar; or
    - (ii) in the case of a business which lodged a return by the due date that disclosed a liability to pay an amount, the default involved the failure to pay the amount payable by the date required by

section 12 or the later date approved by the Registrar;

- (b) by a trustee if the trustee was required to, within 12 months after the expiration of the required period within the meaning of section 14(1) or by the time extended by the Registrar under section 14(2), pay unclaimed money to the Registrar and include a statement with details in respect of that money and—
  - (i) the default involved the failure to pay the unclaimed money and lodge a statement in respect of the unclaimed money by the time required under section 14(1), or the extended time allowed by the Registrar under section 14(2);
  - (ii) in the case of a trustee who lodged the statement with the Registrar within the required time that disclosed a liability to pay an amount of money converted from property, the default involved the failure to pay the amount of money by the time required under section 14(1), or the extended time allowed by the Registrar under section 14(2).

## **51 Increase in penalty for concealment**

- (1) The amount of penalty determined under section 49 is to be increased by 20% if, after the Registrar commences an investigation into a known or suspected default by the business or trustee and before the investigation is completed, the business or trustee took steps to prevent or hinder the Registrar from becoming aware of the nature and extent of the default in whole or part.

- (2) For the purposes of this section, a business or trustee takes steps to prevent or hinder the Registrar if the business or trustee—
- (a) deliberately damages or destroys records to which the investigation relates that are required to be kept by this Act; or
  - (b) without reasonable excuse, refuses or fails to comply with a requirement made by the Registrar under Division 1 of Part 6; or
  - (c) hinders or obstructs an authorised officer exercising functions under Division 1 of Part 6.

**52 Minimum amount of penalty**

A penalty is not to be imposed if the amount of the penalty is less than \$20.

**53 Time for payment of penalty**

A penalty must be paid by a business or trustee within the period specified for that purpose in a notice of assessment or reassessment.

**54 Remission of penalty**

The Registrar, in such circumstances as the Registrar considers appropriate, may remit the penalty by any amount.

**Division 5—Interest and penalty not to be deducted from unclaimed money**

**55 Interest or penalty not to be deducted from unclaimed money payable to an owner or the Registrar**

A business or trustee is not entitled to deduct the amount of any interest or penalty payable under this Part from the amount of unclaimed money payable to any owner or the Registrar.

## **Part 5—Objections, reviews and appeals**

### **Division 1—Objections, reviews and appeals**

#### **56 Objections**

- (1) A business or trustee that has been the subject of an assessment or reassessment under Division 2 of Part 4, or that is affected by a decision made by the Registrar under section 30, may lodge a written objection with the Registrar if the business or trustee is dissatisfied with the Registrar's assessment, reassessment or decision.
- (2) The grounds for the objection must—
  - (a) be stated fully and in detail; and
  - (b) be in writing.
- (3) The grounds for the objection, in the case of a reassessment, may only relate to an amount payable specified in the reassessment to the extent that it is additional to, or greater than, the amount payable under the previous assessment or reassessment.
- (4) On an objection, the objector has the onus of proving the objector's case.
- (5) The objection must be lodged with the Registrar within 60 days after—
  - (a) service of the notice of assessment or reassessment on the objector; or
  - (b) service of the notice of decision made under section 30 on the objector.
- (6) If the Registrar is satisfied that the business or trustee has a reasonable excuse for failing to lodge the objection within the 60 day period, the Registrar may extend the time for lodging the objection.

- (7) An objection is taken to have been lodged with the Registrar when it is received by the Registrar.

### **57 Determination of objection**

- (1) The Registrar must—
- (a) allow the objection in whole or in part; or
  - (b) disallow the objection.
- (2) The Registrar may determine an objection that is subject to a right of review or appeal at any time before the hearing of the review or appeal proceeding commences.
- (3) The Registrar must give notice in writing to the objector of the determination of the objection.
- (4) The Registrar must, in the notice, give the reasons for disallowing an objection or for allowing an objection in part only.

### **58 Suspension of determination**

- (1) The Registrar may suspend the determination of an objection for any period during which the objector, or another person having information relevant to the objection, fails to provide information relevant to the objection that the Registrar has requested.
- (2) The Registrar must give the objector written notice of the suspension and the suspension takes effect on service of the notice.

### **59 Right of review or appeal**

- (1) This section applies if—
- (a) an objector is dissatisfied with the Registrar's determination of the objection; or
  - (b) 90 days (not including any period of suspension under section 58) have passed since the objection was received by the



Registrar and the Registrar has not determined the objection.

- (2) If this section applies, the objector may, in writing, request the Registrar to—
  - (a) refer the matter to VCAT; or
  - (b) treat the objection as an appeal and cause it to be set down for hearing at the next sittings of the Court.
- (3) The objector's request—
  - (a) in the circumstances referred to in subsection (1)(a), must be made within 60 days after the date of service on the objector of the notice of the Registrar's determination of the objection; or
  - (b) in the circumstances referred to in subsection (1)(b), may be made at any time after the 90 day period (not including any period of suspension under section 58).
- (4) Subject to section 60, within 60 days after the request, the Registrar must refer the matter for review or cause the objection to be set down for hearing accordingly.

#### **60 Request for further and better particulars**

- (1) Within 30 days after receiving a request to refer a matter or treat an objection as an appeal, the Registrar may require the objector to give further and better particulars of the objection.
- (2) If, within 30 days after giving the notice—
  - (a) particulars are given, the Registrar is not bound to refer the matter or cause the objection to be set down for hearing until 30 days after the Registrar has received full details of the objection; or

- (b) particulars are not given, the Registrar must not refer the matter or cause the objection to be set down for hearing.

#### **61 Grounds of review or appeal**

On a review or an appeal—

- (a) the objector's case is limited to the grounds of the objection; and
- (b) the Registrar's case is limited to the grounds on which the objection was disallowed—

unless VCAT or the Court otherwise orders.

#### **62 Onus on review or appeal**

On a review or an appeal, the objector has the onus of proving the objector's case.

#### **63 Referral to VCAT**

- (1) VCAT must review a matter referred to it under this Division and, subject to subsection (2), may confirm, reduce, increase or vary the assessment, reassessment or decision made under section 30.
- (2) If the objector does not appear before VCAT, VCAT must confirm the assessment, reassessment or decision made under section 30.
- (3) Despite subsection (2), if good cause is shown, VCAT, within the prescribed time, may re-open and review the matter.

#### **64 Court appeals**

- (1) On the hearing of an appeal under this Division by the Court, the Court may make any order it thinks fit and may by order confirm, reduce, increase or vary the assessment, reassessment or decision made under section 30.
- (2) The costs of the appeal are in the discretion of the Court.

## **65 Giving effect to decision on review or appeal**

- (1) Within 60 days after the decision on review or appeal becomes final, the Registrar must take any action that is necessary to give effect to it.
- (2) If no appeal to a Court from—
  - (a) a decision of VCAT on a review; or
  - (b) a decision of the Court on an appeal—

is instituted within 30 days after the day on which the decision is made, the decision is taken, for the purposes of this section, to have become final at the end of that period.

## **Division 2—Refund of amounts and payment of interest following a successful objection, review or appeal**

### **66 Refund of amount**

If—

- (a) the objector's objection to an assessment, reassessment or decision made under section 30 is allowed in whole or in part; or
- (b) an objector's review or appeal in respect of an assessment, reassessment or decision made under section 30 is upheld—

the Registrar must refund any amount paid that is in excess of an amount required to be paid under this Act.

### **67 Payment of interest**

In addition to an amount refunded under this Part, the Registrar is required to pay interest on the amount calculated at the market rate referred to in section 44(1)(a) on a daily basis from—

- (a) the date of payment of the amount overpaid that is refunded; or

- (b) the date on which the Registrar made the assessment, reassessment or decision made under section 30 to which the objection and review or appeal relates—  
whichever is the later, until the date of the refund.

## **Part 6—Investigation, secrecy and general unclaimed money provisions**

### **Division 1—Investigations**

#### **68 Authorised investigations**

An authorised investigation is an investigation under this Division for the following purposes—

- (a) to monitor compliance by a business and trustees with this Act or a corresponding law;
- (b) to investigate suspected offences under this Act or a corresponding law;
- (c) to investigate any other matter reasonably related to the administration of this Act or a corresponding law.

S. 68  
amended by  
No. 69/2013  
s. 25.

#### **69 Power of investigation**

- (1) For the purposes of an authorised investigation, the Registrar may, by written notice, require a person—
  - (a) to give the Registrar written information specified in the notice; or
  - (b) to attend at a specified time and place before the Registrar or an authorised officer to answer questions relevant to the investigation; or
  - (c) to produce a document to the Registrar at a specified time and place.
- (2) The Registrar may require information or evidence that is not given orally to be provided in the form of, or verified by, a statutory declaration.

S. 69(3)  
amended by  
No. 6/2018  
s. 68(Sch. 2  
item 128.1).

- (3) The Registrar may require evidence that is given orally to be given on oath or by affirmation and for that purpose the Registrar or an authorised officer may administer an oath or affirmation.
- (4) The person to whom the notice is given must comply with the notice within the period specified in the notice or any extended period allowed by the Registrar.

Penalty: In the case of a natural person,  
60 penalty units;  
  
In the case of a body corporate,  
120 penalty units.

Note to  
s. 69(4)  
inserted by  
No. 13/2013  
s. 50(4).

**Note**

Section 26B applies to an offence against this subsection.

## **70 Powers of entry, search and inspection**

- (1) An authorised officer may, for the purposes of an authorised investigation, exercise any of the following powers—
  - (a) inspect premises and any thing found at the premises;
  - (b) require a person to produce a document relevant to the authorised investigation for inspection and (if necessary) to operate a computer or other device in which information is stored to produce a document in understandable form;
  - (c) retain a document for inspection, to make a copy of it, or to take extracts from it;
  - (d) require a person to answer questions relevant to the authorised investigation;

- (e) require a person to give the authorised officer any other assistance that may be reasonable in the circumstances to carry out the authorised investigation.
- (2) An authorised officer may enter premises for the purposes of an authorised investigation—
  - (a) with the consent of the occupier; or
  - (b) on the authority of a warrant issued under section 71.
- (3) An occupier who consents in writing to entry, search and inspection of his or her premises under this section must be given a copy of the signed consent immediately.
- (4) An authorised officer must not exercise any powers under this section if the authorised officer fails to produce, on request, his or her identity card issued under this Act for inspection by the occupier of the premises.
- (5) An authorised officer may carry out an authorised investigation with any assistants and equipment the authorised officer reasonably requires to carry out an authorised investigation.
- (6) A person must not—
  - (a) hinder or obstruct an authorised officer who is carrying out an authorised investigation or a person assisting the authorised officer; or
  - (b) without reasonable excuse, refuse or fail to comply with a requirement made by an authorised officer in the exercise of powers conferred by this section; or

- (c) answer a question put by an authorised officer under this section knowing that the answer is false or misleading.

Penalty: In the case of a natural person,  
60 penalty units;

In the case of a body corporate,  
120 penalty units.

- (7) A person must not use threatening language to an authorised officer who is carrying out an authorised investigation or a person assisting an authorised officer.

Penalty: 30 penalty units.

**Note to s. 70**  
inserted by  
No. 13/2013  
s. 50(5).

**Note**

Section 26A applies to an offence against subsection (6) or (7).

## **71 Search warrant**

- (1) An authorised officer may apply to a magistrate for the issue of a search warrant in relation to particular premises if the authorised officer believes on reasonable grounds that there is, or may be within the next 72 hours, on the premises a particular thing that may be relevant to the administration of this Act.

- (2) If a magistrate is satisfied by the evidence on oath or by affirmation or by affidavit that there are reasonable grounds for suspecting that there is, or may be within the next 72 hours, on the premises a particular thing that may be relevant to the administration of this Act, the magistrate may issue a search warrant authorising an authorised officer named in the warrant and any assistants the authorised officer considers necessary—

- (a) to enter the premises, or the part of the premises, named or described in the warrant;  
and

**S. 71(2)**  
amended by  
No. 6/2018  
s. 68(Sch. 2  
item 128.2).



- (b) to search for and seize, or secure against interference, a thing named or described in the warrant; and
  - (c) if reasonably necessary for the purposes referred to in paragraph (b), to break open any receptacle in or on the premises.
- (3) In addition to any other requirement, a search warrant issued under this section must state—
  - (a) the premises to be searched; and
  - (b) a description of the thing for which the search is to be made; and
  - (c) any conditions to which the warrant is subject; and
  - (d) that entry is authorised to be made during business hours only unless entry during those hours is unreasonable in the circumstances; and
  - (e) a day, not later than 7 days after the issue of the warrant, on which the warrant ceases to have effect.
- (4) A search warrant must be issued in accordance with the **Magistrates' Court Act 1989** and in the form prescribed under that Act.
- (5) The rules to be observed with respect to search warrants mentioned in the **Magistrates' Court Act 1989** extend and apply to warrants under this section.

## **72 Announcement before entry**

- (1) Before executing a search warrant, the authorised officer named in the warrant or a person assisting the authorised officer must announce that he or she is authorised by the warrant to enter the premises and give any person at the premises an opportunity to allow entry to the premises.

(2) The authorised officer or a person assisting the authorised officer need not comply with subsection (1) if he or she believes on reasonable grounds that immediate entry to the premises is required to ensure—

- (a) the safety of any person; or
- (b) that the effective execution of the search warrant is not frustrated.

### **73 Copy of warrant to be given to occupier**

If the occupier or another person who apparently represents the occupier is present at premises when a search warrant is being executed, the authorised officer must—

- (a) identify himself or herself to that person by producing his or her identity card issued under this Act for inspection by that person; and
- (b) give to that person a copy of the execution copy of the warrant.

### **74 Protection against self-incrimination**

- (1) A person may refuse or fail to give information, produce documents or answer questions that the person is required to give, produce or answer under this Division on the ground that giving the information, producing the documents or answering the questions would tend to incriminate the person.
- (2) Subsection (1) does not excuse a person from giving information, producing documents or answering questions that the person is required by this Division to give, produce or answer on the ground that giving the information, producing the documents or answering the questions would tend to incriminate the person in respect of an offence against this Act.

- (3) However, information given, documents produced or questions answered by a person as required by this Division are not admissible in evidence against the person in any proceeding in respect of an offence against this Act.

**Note**

Subsection (3) does not extend to offences in other Acts or at common law, such as perjury.

**75 Cross-border investigation**

- (1) The Registrar may, at the request of an authority responsible for administering a corresponding law, carry out an authorised investigation for the purposes of the corresponding law.
- (2) The Registrar may delegate powers of investigation under this Division to—
- (a) the authority responsible for the administration of a corresponding law; or
  - (b) an appropriately qualified officer or employee of that authority nominated by that authority.

**Division 2—Secrecy**

**76 Prohibition on certain disclosures of information by authorised persons**

- (1) A person who is or was an authorised person must not disclose any information obtained under, or in relation to the administration of, this Act, except as permitted by this Part.

Penalty: 60 penalty units.

- (2) For the purposes of the **Freedom of Information Act 1982**, information referred to in subsection (1) is information of a kind to which section 38 of that Act applies.

## 77 Permitted disclosures to particular persons

- (1) An authorised person may disclose information obtained under, or in relation to the administration of, this Act—
- (a) with the consent of the person to whom the information relates or at the request of a person acting on behalf of that person; or
  - (b) in connection with the administration of this Act or a corresponding law; or
  - (c) in connection with the administration of a taxation law or a recognised law that is in force in a recognised jurisdiction; or
  - (d) in connection with the administration of the **First Home Owner Grant Act 2000** or a corresponding law within the meaning of that Act; or
  - (e) in accordance with an Order made under the Family Law Rules 2004 of the Commonwealth; or
  - (f) in accordance with a requirement imposed under an Act; or
  - (g) to an authorised recipient, being—
    - (i) the Ombudsman; or
    - (ii) a police officer; or
    - (iii) the Auditor-General; or
    - (iv) a member of the Australian Federal Police; or
    - (v) the Director of Consumer Affairs; or
    - (vi) the Victorian WorkCover Authority; or

S. 77(1)(c)  
substituted by  
No. 83/2009  
s. 41(1).

S. 77(1)(g)(ii)  
substituted by  
No. 37/2014  
s. 10(Sch.  
item 173.2).

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|---|---|
| (vii) the Information Commissioner appointed under the <b>Freedom of Information Act 1982</b> in the Information Commissioner's capacity under the <b>Privacy and Data Protection Act 2014</b> ; or | S. 77(1)(g)(vii) substituted by Nos 60/2014 s. 140(Sch. 3 item 47), 20/2017 s. 134(Sch. 1 item 17). |
| (viia) the Australian Securities and Investments Commission; or   | S. 77(1)(g)(viia) inserted by No. 69/2013 s. 26.  |
| (viib) the Legal Services Board; or   | S. 77(1)(g)(viib) inserted by No. 69/2013 s. 26.  |
| (viic) the Legal Services Commissioner; or  | S. 77(1)(g)(viic) inserted by No. 69/2013 s. 26.  |
| (viii) a person prescribed to be an authorised recipient for the purposes of this section.  |   |
| (2) In this section, <i>recognised jurisdiction</i> , <i>recognised law</i> and <i>taxation law</i> have the same meanings as they have in the <b>Taxation Administration Act 1997</b> .            | S. 77(2) substituted by No. 83/2009 s. 41(2).   |

## 78 Permitted disclosures of a general nature

- (1) The Registrar may disclose information obtained under, or in relation to the administration of this Act, unless that information will or is likely to identify a particular person.
- (2) Despite subsection (1), the Registrar may disclose information obtained under, or in relation to the administration of, this Act that will or is likely to identify a particular person if that disclosure is required by this Act or is necessary for the administration of this Act.

## **79 Prohibition on secondary disclosures of information**

- (1) A person must not disclose any information obtained from an authorised person in accordance with section 77 unless—
- (a) the disclosure is made to enable the person to exercise a function conferred on the person by law for the purpose of the enforcement of a law or protecting the public revenue; and
  - (b) the Registrar consents to the disclosure.

Penalty: In the case of a natural person,  
60 penalty units;

In the case of a body corporate,  
120 penalty units.

- (2) For the purposes of the **Freedom of Information Act 1982**, information referred to in subsection (1) is information of a kind to which section 38 of that Act applies.

## **80 Further restrictions on disclosure**

A person who is or was an authorised person is not required to disclose or produce in any Court any information obtained under or in relation to the administration of this Act except—

- (a) if it is necessary to do so for the purposes of the administration of this Act; or
- (b) if the requirement is made for the purposes of enabling a person who is specified for the time being to be an authorised recipient to exercise a function conferred or imposed on the person by law.

### **Division 3—General unclaimed money provisions**

#### **81 Persons not required by this Act may pay unclaimed money to Registrar**

- (1) If a person has possession of any unclaimed money (whether by way of business or otherwise) that is not required by Part 3 to be paid to the Registrar, the person may pay that unclaimed money to the Registrar as if that unclaimed money were payable under section 12(1).
- (2) This section does not apply to—
  - (a) any unclaimed money to which Division 2 of Part 3 applies; and
  - (b) any money to which Part 7 applies.

#### **82 Person to whom section 81 applies may apply to Registrar for repayment of unclaimed money**

- (1) If a person has paid to the Registrar unclaimed money under section 81, that person may apply to the Registrar for repayment of that money.
- (2) For the purposes of this section, sections 29 and 30 apply as if—
  - (a) the person who paid to the Registrar money under section 81 were a business or trustee; and
  - (b) the money paid to the Registrar were unclaimed money to which Part 3 applied.

#### **83 Evidence of assessment or reassessment**

The production of a notice of assessment or reassessment, or of a document signed by the Registrar purporting to be a copy of a notice of assessment or reassessment in proceedings under this Act, is—

- (a) evidence of the due making of the assessment or reassessment; and

- (b) evidence that the amount and all particulars of the assessment or reassessment are correct.

#### **84 Certificate is evidence**

A certificate signed by the Registrar that states any of the following matters is admissible in proceedings under this Act and is evidence of the matters stated in the certificate—

- (a) that the business or trustee named in the certificate is liable to pay unclaimed money to the Registrar;
- (b) that an assessment or reassessment of an amount payable has been made in relation to circumstances specified in the certificate;
- (c) that the amount specified in the certificate is payable by a business or trustee named in the certificate or has been paid in whole or in part by or on behalf of a business or trustee so named;
- (d) that a document specified in the certificate was posted to, delivered to, or served personally on, a person named in the certificate on a day specified in the certificate;
- (e) that a return or statement required under this Act has been, or has not been, lodged or given by or on behalf of a business or trustee named in the certificate on or as at a day specified in the certificate;
- (f) that a person named in the certificate is, or was, an authorised officer on the date specified in the certificate.



**85 Time for commencing proceedings for offences  
under this Act extended**

Despite section 7 of the **Criminal Procedure Act 2009**, a prosecution for an offence against this Act may be commenced within 3 years after the alleged commission of the offence.

**S. 85**  
amended by  
**No. 68/2009**  
**s. 97(Sch.**  
**item 128).**

## **Part 7—Money paid into court**

### **86 Money paid into Court**

For the purposes of this Part, *money paid into Court* means—

- (a) money or any security paid into Court or paid into any ADI (whether in the name or to the credit of any officer or person of the Court) and that may be subject to an order or disposition of the Court; and
- (b) from the time of the payment of the money into Court includes—
  - (i) any interest, dividends or other profits that have accrued from the money paid into Court; or
  - (ii) the proceeds from the sale of any security paid into Court.

### **87 Payment of unclaimed money into Court into Consolidated Fund**

- (1) Subject to subsections (2) and (3), if money has been paid into Court and no claim, application or other proceeding for or in respect of the money is made for a period of 15 years—
  - (a) after payment out of Court of any part of the money; or
  - (b) if no payment out of Court has been made, since the payment of the money into Court—at the end of the 15 year period of inactivity with respect to the money, the proper officer of the Court must pay the money into the Consolidated Fund.
- (2) If, based on documents filed in Court, it appears that a person is or may become entitled to make or institute a claim, application or proceeding with

respect to money paid into Court but no claim, application or proceeding has been made or instituted because the person—

- (a) has not attained the age of 18 years; or
- (b) is an insolvent under administration; or
- (c) has a disability within the meaning of the **Guardianship and Administration Act 2019**; or
- (d) will become entitled to make or institute a claim, application or proceeding on the happening of an event—

S. 87(2)(c)  
amended by  
No. 13/2019  
s. 221(Sch. 1  
item 57).

the 15 year period specified in subsection (1) must not begin to run until a circumstance specified in subsection (3) has occurred.

- (3) For the purposes of subsection (2), the 15 year period begins to run on the day any of the following occurs, whichever is earlier, according to satisfactory evidence filed in the Court—

- (a) the person—
  - (i) referred to in subsection (2)(a) attains the age of 18 years; or
  - (ii) referred to in subsection (2)(b) is no longer an insolvent under administration; or
  - (iii) referred to in subsection (2)(c) becomes a represented person within the meaning of the **Guardianship and Administration Act 2019**; or
  - (iv) referred to in subsection (2)(d) becomes entitled because the event referred to in that subsection happens; or
- (b) the person dies.

S. 87(3)(a)(iii)  
amended by  
No. 13/2019  
s. 221(Sch. 1  
item 57).

**88 Proper officer may convert security and Court may make vesting orders**

- (1) Despite any Act or statutory rule to the contrary (other than the Charter of Human Rights and Responsibilities), a proper officer may, for the purposes of payment of money into the Consolidated Fund, at the expiration of the 15 year period required by section 87, sell or otherwise convert money paid into Court.
- (2) The Court, on the application of a proper officer, may make an order vesting the money paid into Court in the proper officer in order to facilitate the payment of the money into the Consolidated Fund.

**89 Provision for claims made after payment into Consolidated Fund**

- (1) If money is paid into the Consolidated Fund under this Part, any claim, application or proceeding made or instituted in respect of that money, must be heard and determined as if the money had remained in Court.
- (2) For the purposes of subsection (1), the Court may make an order for payment, or part payment, of the money paid into the Consolidated Fund to any person.
- (3) If an order is made under subsection (2) and served on the Minister, the Minister must comply with the order and pay the amount specified in the order to the person specified in the order as being the person entitled to the money.
- (4) The amount of money paid to a person under subsection (3) must not include any interest that has accrued since the date of payment into the Consolidated Fund.

Unclaimed Money Act 2008  
No. 44 of 2008  
Part 7—Money paid into court

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- (5) Any amounts payable under this Part are payable out of the Consolidated Fund, which is, to the necessary extent appropriated accordingly.

## Part 8—Unclaimed superannuation benefits

S. 90  
amended by  
No. 22/2018  
s. 24(2) (ILA  
s. 39B(1)).

### 90 Definitions

(1) In this Part—

***approved deposit fund*** has the same meaning as in section 10 of the Commonwealth Superannuation Act;

***Commonwealth RSA Act*** means the Retirement Savings Accounts Act 1997 of the Commonwealth;

***Commonwealth Superannuation Act*** means the Superannuation Industry (Supervision) Act 1993 of the Commonwealth;

***Commonwealth Unclaimed Money Act*** means the Superannuation (Unclaimed Money and Lost Members) Act 1999 of the Commonwealth;

***exempt public sector superannuation scheme*** means a public sector superannuation scheme that is specified in the regulations made under the Commonwealth Superannuation Act for the purposes of the definition of exempt public sector superannuation scheme in that Act;

***holder of an RSA*** has the same meaning as in the Commonwealth RSA Act;

***member*** means—

- (a) a member of, or a depositor with, a superannuation fund; or
- (b) a holder of an RSA; or
- (c) in respect of an unclaimed superannuation benefit that is taken to be unclaimed money under section 12(2) of the Commonwealth Unclaimed Money Act, a non-member

spouse within the meaning of  
Part VIIIB Family Law Act 1975 of the  
Commonwealth;

**owner** means the person entitled to any unclaimed  
superannuation benefit including—

S. 90(1) def. of  
*owner*  
amended by  
No. 22/2018  
s. 24(1).

(a) the person's executor, administrator or  
assignee; or

(b) the person's lawful attorney or agent;

**regulated superannuation fund** has the same  
meaning as in section 19 of the  
Commonwealth Superannuation Act;

**retirement savings account** and **RSA** have the  
same meaning as in section 8 of the  
Commonwealth RSA Act;

**RSA provider** has the same meaning as in  
section 12 of the Commonwealth RSA Act;

**superannuation fund** means—

(a) a regulated superannuation fund; or

(b) an exempt public sector superannuation  
scheme; or

(c) an approved deposit fund;

**superannuation provider** means—

(a) a trustee of a superannuation fund; or

(b) an RSA provider;

**tax file number** has the same meaning as in  
section 202A of the Income Tax Assessment  
Act 1936 of the Commonwealth;

**trustee**, in relation to a superannuation fund, has  
the same meaning as in section 10 of the  
Commonwealth Superannuation Act;

***Unclaimed Moneys Act 1962*** means the  
**Unclaimed Moneys Act 1962** as in force  
immediately before its repeal by section 104;

***unclaimed superannuation benefit*** means an  
amount that is taken to be unclaimed money  
under the Commonwealth Unclaimed Money  
Act.

S. 90(2)  
inserted by  
No. 22/2018  
s. 24(2).

- (2) For the purposes of paragraph (a) of the definition  
of ***owner*** in subsection (1), a reference to—
- (a) the person's executor is a reference to the  
executor of the will of the person, if probate  
of the will has been granted, sealed or  
resealed in any jurisdiction in Australia; and
  - (b) the person's administrator is a reference to  
the administrator of the estate of the person,  
if letters of administration have been granted,  
sealed or resealed in any jurisdiction in  
Australia.

## **91 Application of Part**

- (1) This Part applies to a superannuation fund and the  
trustee of a superannuation fund if—
- (a) the trustee is a corporation within the  
meaning of the Corporations Act and its  
registered office within the meaning of that  
Act is in Victoria; or
  - (b) in the case of a trustee of a superannuation  
fund who is a natural person, the principal  
place where he or she carries on business as  
that trustee is in Victoria; or
  - (c) in the case of an exempt public sector  
superannuation scheme, the principal place  
where the fund is administered is in Victoria;  
or



- (d) if there are 2 or more trustees of the fund and paragraph (a) or (b) applies to one or more but not to all the trustees, the principal place where the fund is administered is in Victoria.
- (2) This Part applies to a retirement savings account and an RSA provider if the provider has its registered office in Victoria.

## **92 Power of Minister to pay or refund amounts**

- (1) If an unclaimed superannuation benefit was paid by a superannuation provider to the Registrar under Part 4 of the **Unclaimed Moneys Act 1962**—
  - (a) a person may apply for the unclaimed superannuation benefit in a form approved by the Registrar; and
  - (b) if the Minister is satisfied that, had Part 4 of the **Unclaimed Moneys Act 1962** and the Commonwealth Unclaimed Money Act not been enacted, the superannuation provider would have paid the benefit to the person, the Minister must pay an amount equal to the unclaimed benefit to the person.
- (2) The form of application approved by the Registrar may include a request that the applicant provide his or her tax file number to the Minister.
- (3) A person is not obliged to comply with the request to provide his or her tax file number, and non-compliance with the request does not prevent the person from being paid an unclaimed superannuation benefit.
- (4) If a superannuation provider satisfies the Minister that an amount paid by the superannuation provider to the Registrar under Part 4 of the **Unclaimed Moneys Act 1962**—

- (a) exceeds the amount that would have been paid to the person concerned; or
- (b) is not an unclaimed superannuation benefit that was required to be paid to the Registrar under Part 4 of that Act—

the Minister must refund to the superannuation provider the amount of the excess.

- (5) Nothing in this section prevents the Minister from deducting from a payment of an amount equal to an unclaimed superannuation benefit to any person an amount equal to any tax payable to the Commonwealth on the unclaimed superannuation benefit that the Minister is required to deduct from the payment under a law of the Commonwealth.

### **93 Register of unclaimed superannuation benefits**

- (1) The Registrar must keep a register of unclaimed superannuation benefits that contains particulars of—
  - (a) each unclaimed superannuation benefit that was paid by a superannuation provider to the Registrar under Part 4 of the **Unclaimed Moneys Act 1962**; and
  - (b) each member in respect of whom the unclaimed superannuation benefit was payable.
- (2) The register of unclaimed superannuation benefits is to be in the form, and kept in the manner, determined by the Registrar.
- (3) The Registrar may give information contained in the register of unclaimed superannuation benefits to the Commissioner of Taxation holding office under a law of the Commonwealth.

**94 Registrar may advertise details of unclaimed superannuation benefits**

For the purposes of identifying and locating the owner of unclaimed superannuation benefits, the Registrar must advertise, publish or make publicly available—

- (a) on the Internet in a searchable form updated regularly; and
- (b) in any other form the Registrar considers appropriate—

the minimum amount of information on the register of unclaimed superannuation benefits that the Registrar considers necessary and expedient to achieve those purposes.

**95 Transfer of existing stock of unclaimed superannuation benefits to Commonwealth**

- (1) On the date of transfer, the Registrar may pay to the Commonwealth an amount equal to the amount of unclaimed superannuation benefits that are recorded in the register of unclaimed superannuation benefits on the date of the transfer.
- (2) As from the date of the transfer, the Registrar is discharged from all obligations and liabilities the Registrar would otherwise have in respect of unclaimed superannuation benefits for which an equivalent amount has been paid to the Commonwealth under subsection (1).
- (3) In this section *date of transfer* means the date specified by the Minister to be the date of transfer in a notice published in the Government Gazette.

## **Part 9—General**

### **96 Actions done in good faith**

Except as provided by this Act, a person is not liable to any other person by reason of—

- (a) the payment of money by the first person to the Registrar under this Act; or
- (b) the doing of any other act in good faith by the first person under this Act.

### **97 Trustee not in breach of trust**

Anything done or omitted to be done by a trustee (whether or not the trustee is a business) in accordance with this Act is not to be regarded for any purpose as constituting a breach of trust by the trustee.

### **98 The Consolidated Fund**

- (1) Any amount payable to, or received by, the Registrar under this Act must be paid into the Consolidated Fund.
- (2) Any amount to be paid by the Registrar or the Minister under this Act is payable out of the Consolidated Fund, which is by virtue of this section, appropriated to the necessary extent.

### **99 Service of documents on Registrar**

A document authorised or required to be served on, given to or lodged with, the Registrar for the purposes of this Act may be served, given or lodged—

- (a) by delivering it to an office of the Registrar;  
or
- (b) by post addressed to the Registrar at an office of the Registrar; or

- (c) by a means indicated by the Registrar as being an available means of service (such as by facsimile or other electronic transmission or by delivering it, addressed to the Registrar, to the facilities of a document exchange); or
- (d) by leaving it with a person who has authority to accept documents on the Registrar's behalf.

\* \* \* \* \*

**S. 100**  
**repealed by**  
**No. 67/2017**  
**s. 32.**

## **101 Service of documents by Registrar**

- (1) A document authorised or required to be served on or given to a person by the Registrar for the purposes of this Act may be served on or given to the person—
  - (a) personally; or
  - (b) by leaving it at the last address of the person known to the Registrar (including, in the case of a body corporate, the registered office or a business address of the body corporate); or
  - (c) by post addressed to the person at the last address of the person known to the Registrar (including in the case of a body corporate, the registered office or a business address of the body corporate); or
  - (d) by a means indicated by the person as being an available means of service (such as by facsimile or other electronic transmission or by delivering it, addressed to the person, to the facilities of a document exchange); or

- (e) by any means provided for the service of the document by another Act or law.
- (2) If a person (*the agent*) has actual or apparent authority to accept service of a document on behalf of another, the Registrar may, for the purposes of this Act, serve the document on the agent as if the agent were that other person.
- (3) Service of a document on a member of a partnership, or on a member of the committee of management of an unincorporated association or other body of persons, is taken, for the purposes of this Act, to constitute service of the document on each member of the partnership, or on each member of the association or other body of persons.

## 102 When is service effective?

- (1) For the purposes of this Act, unless the contrary is proved, a document must be taken to have been served on or given to a person by the Registrar—
  - (a) in the case of delivery in person, at the time the document is delivered;
  - (b) in the case of posting, 7 business days after the day on which the document was posted;
  - (c) in the case of a facsimile or other electronic transmission, at the time the facsimile or other electronic transmission is received.

S. 102(1)(b)  
amended by  
No. 67/2017  
s. 33(1).

S. 102(2)  
repealed by  
No. 67/2017  
s. 33(2).

\* \* \* \* \*

### **103 Regulations**

The Governor in Council may make regulations for or with respect to—

- (a) the lodging of documents and the time and manner of submission of documents for lodging;
- (b) prescribing forms for the purposes of Part 3;
- (c) prescribing fees for the purposes of Part 3;
- (d) generally prescribing any other matter or thing required or permitted to be prescribed or necessary to be prescribed for the purposes of this Act.

## **Part 10—Repeal, transitional and amendment provisions**

### **104 Repeal and transitional provisions**

- (1) The **Unclaimed Moneys Act 1962** is **repealed**.
- (2) Except as in this Act expressly or by necessary implication provided, all persons, things and circumstances appointed or created by or under the **Unclaimed Moneys Act 1962** immediately before the commencement of this section shall under and subject to this Act continue to have the same status, operation and effect as they respectively would have had if this section had not come into operation.
- (3) Despite the repeal of the **Unclaimed Moneys Act 1962** by subsection (1), any proceeding, inquiry, claim or obligation that commenced or arose under a section of that Act that was not finally determined under that Act immediately before that repeal, may be continued and completed or otherwise dealt with under that Act as if the Act had not been repealed.
- (4) On and from the commencement of this section, unless the context otherwise requires, in any Act (other than this Act or a provision amended by this Act) or in any instrument made under any Act or in any other document of any kind—
  - (a) a reference to the Registrar of Unclaimed Moneys must be read as a reference to the Registrar of Unclaimed Money;
  - (b) a reference to the Deputy Registrar of Unclaimed Moneys must be read as a reference to the Deputy Registrar of Unclaimed Money;



- (c) a reference to the **Unclaimed Moneys Act 1962** must be read as a reference to the **Unclaimed Money Act 2008**;
- (d) a reference to a register established by a business under section 11 of the **Unclaimed Moneys Act 1962** must be read as a reference to a business register established by a business under section 11 of this Act;
- (e) a reference to a register kept by the Registrar of Unclaimed Moneys under section 12B of the **Unclaimed Moneys Act 1962** must be read as a reference to the unclaimed money register kept by the Registrar of Unclaimed Money under section 28 of this Act;
- (f) a reference to a register kept by the Registrar under section 22(1) of the **Unclaimed Moneys Act 1962** must be read as a reference to the register of unclaimed superannuation benefits kept by the Registrar under section 93 of this Act.

**105 Transitional provision—Statute Law Amendment (Directors' Liability) Act 2013**

- (1) For the avoidance of doubt, section 26A applies with respect to an offence against a provision specified in subsection (2) of that section that is alleged to have been committed by a body corporate on or after the commencement of section 49 of the **Statute Law Amendment (Directors' Liability) Act 2013**.
- (2) For the avoidance of doubt, section 26B applies with respect to an offence against a provision specified in subsection (2) of that section that is alleged to have been committed by a body corporate on or after the commencement of section 49 of the **Statute Law Amendment (Directors' Liability) Act 2013**.

S. 105  
repealed by  
No. 44/2008  
s. 117,  
new s. 105  
inserted by  
No. 13/2013  
s. 51.

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(3) This section does not limit section 14 of the  
**Interpretation of Legislation Act 1984.**

Pt 11  
(Heading and  
ss 106–116)  
repealed by  
No. 44/2008  
s. 117.

\* \* \* \*

Pt 12  
(Heading and  
s. 117)  
repealed by  
No. 44/2008  
s. 117.

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

*Minister's second reading speech—*

*Legislative Assembly: 29 May 2008*

*Legislative Council: 26 June 2008*

The long title for the Bill for this Act was "A Bill for an Act to re-enact with amendments the law relating to unclaimed money, to repeal the **Unclaimed Moneys Act 1962** and for other purposes."

The **Unclaimed Money Act 2008** was assented to on 26 August 2008 and came into operation on 1 January 2009: section 2(2).

### INTERPRETATION OF LEGISLATION ACT 1984 (ILA)

#### Style changes

Section 54A of the ILA authorises the making of the style changes set out in Schedule 1 to that Act.

#### References to ILA s. 39B

Sidenotes which cite ILA s. 39B refer to section 39B of the ILA which provides that where an undivided section or clause of a Schedule is amended by the insertion of one or more subsections or subclauses, the original section or clause becomes subsection or subclause (1) and is amended by the insertion of the expression "(1)" at the beginning of the original section or clause.

#### Interpretation

As from 1 January 2001, amendments to section 36 of the ILA have the following effects:

- **Headings**

All headings included in an Act which is passed on or after 1 January 2001 form part of that Act. Any heading inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. This includes headings to Parts, Divisions or Subdivisions in a Schedule; sections; clauses; items; tables; columns; examples; diagrams; notes or forms. See section 36(1A)(2A).

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- **Examples, diagrams or notes**

All examples, diagrams or notes included in an Act which is passed on or after 1 January 2001 form part of that Act. Any examples, diagrams or notes inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, form part of that Act. See section 36(3A).

- **Punctuation**

All punctuation included in an Act which is passed on or after 1 January 2001 forms part of that Act. Any punctuation inserted in an Act which was passed before 1 January 2001, by an Act passed on or after 1 January 2001, forms part of that Act. See section 36(3B).

- **Provision numbers**

All provision numbers included in an Act form part of that Act, whether inserted in the Act before, on or after 1 January 2001. Provision numbers include section numbers, subsection numbers, paragraphs and subparagraphs. See section 36(3C).

- **Location of "legislative items"**

A "legislative item" is a penalty, an example or a note. As from 13 October 2004, a legislative item relating to a provision of an Act is taken to be at the foot of that provision even if it is preceded or followed by another legislative item that relates to that provision. For example, if a penalty at the foot of a provision is followed by a note, both of these legislative items will be regarded as being at the foot of that provision. See section 36B.

- **Other material**

Any explanatory memorandum, table of provisions, endnotes, index and other material printed after the Endnotes does not form part of an Act. See section 36(3)(3D)(3E).

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## 2 Table of Amendments

This publication incorporates amendments made to the **Unclaimed Money Act 2008** by Acts and subordinate instruments.

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### **Unclaimed Money Act 2008, No. 44/2008**

*Assent Date:* 26.8.08  
*Commencement Date:* S. 117 on 1.1.10: s. 117  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

### **Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009, No. 68/2009**

*Assent Date:* 24.11.09  
*Commencement Date:* S. 97(Sch. item 128) on 1.1.10: Government Gazette 10.12.09 p. 3215  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

### **State Taxation Acts Further Amendment Act 2009, No. 83/2009**

*Assent Date:* 8.12.09  
*Commencement Date:* S. 41 on 1.3.10: Government Gazette 18.2.10 p. 288  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

### **Co-operatives National Law Application Act 2013, No. 9/2013**

*Assent Date:* 13.3.13  
*Commencement Date:* Ss 40, 41 on 3.3.14: Special Gazette (No. 46) 18.2.14 p. 1  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

### **Statute Law Amendment (Directors' Liability) Act 2013, No. 13/2013**

*Assent Date:* 13.3.13  
*Commencement Date:* Ss 48–51 on 14.3.13: s. 2  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

### **State Taxation and Financial Legislation Amendment Act 2013, No. 69/2013**

*Assent Date:* 19.11.13  
*Commencement Date:* Ss 18–26 on 20.11.13: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

### **Legal Profession Uniform Law Application Act 2014, No. 17/2014**

*Assent Date:* 25.3.14  
*Commencement Date:* S. 160(Sch. 2 item 101) on 1.7.15: Special Gazette (No. 151) 16.6.15 p. 1  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

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**Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014**

*Assent Date:* 3.6.14  
*Commencement Date:* S. 10(Sch. item 173) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

**Privacy and Data Protection Act 2014, No. 60/2014**

*Assent Date:* 2.9.14  
*Commencement Date:* S. 140(Sch. 3 item 47) on 17.9.14: Special Gazette (No. 317) 16.9.14 p. 1  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

**Justice Legislation Amendment Act 2015, No. 20/2015**

*Assent Date:* 16.6.15  
*Commencement Date:* S. 56(Sch. 1 item 13) on 17.6.15: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

**Freedom of Information Amendment (Office of the Victorian Information Commissioner) Act 2017, No. 20/2017**

*Assent Date:* 16.5.17  
*Commencement Date:* S. 134(Sch. 1 item 17) on 1.9.17: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

**State Taxation Acts Amendment Act 2017, No. 28/2017**

*Assent Date:* 27.6.17  
*Commencement Date:* Ss 93–97 on 28.6.17: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

**State Taxation Acts Further Amendment Act 2017, No. 67/2017**

*Assent Date:* 19.12.17  
*Commencement Date:* Ss 32, 33 on 20.12.17: s. 2(4)  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

**Oaths and Affirmations Act 2018, No. 6/2018**

*Assent Date:* 27.2.18  
*Commencement Date:* S. 68(Sch. 2 item 128) on 1.3.19: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

**State Taxation Acts Amendment Act 2018, No. 22/2018**

*Assent Date:* 13.6.18  
*Commencement Date:* Ss 23, 24, 26 on 14.6.18: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Unclaimed Money Act 2008**

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**Guardianship and Administration Act 2019, No. 13/2019**

*Assent Date:* 4.6.19  
*Commencement Date:* S. 221(Sch. 1 item 57) on 1.3.20: s. 2(2)  
*Current State:* This information relates only to the provision/s  
amending the **Unclaimed Money Act 2008**

**Local Government Act 2020, No. 9/2020**

*Assent Date:* 24.3.20  
*Commencement Date:* S. 390(Sch. 1 item 106) on 6.4.20: Special Gazette  
(No. 150) 24.3.20 p. 1  
*Current State:* This information relates only to the provision/s  
amending the **Unclaimed Money Act 2008**

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### **3 Amendments Not in Operation**

This version does not contain amendments that are not yet in operation.



#### **4 Explanatory details**

No entries at date of publication.