

1993-94

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA
HOUSE OF REPRESENTATIVES

Presented and read a first time

(Treasury)

A BILL

FOR

**An Act to amend certain Acts in consequence of the
enactment of the *Life Insurance Act 1994*, and for other
purposes**

The Parliament of Australia enacts:

PART 1—PRELIMINARY

Short title

- 5 1. This Act may be cited as the *Life Insurance (Consequential Amendments and Repeals) Act 1994*.

Commencement

2. This Act commences on the day on which the *Life Insurance Act 1994* commences.

Application

3.(1) The amendments made by this Act to the *Defence Force Retirement and Death Benefits Act 1973*, the *Defence Forces Retirement Benefits Act 1948*, the *Parliamentary Contributory Superannuation Act 1948* or the *Superannuation Act 1976* only apply to a transfer value (within the meaning of that Act) that has become payable to or in respect of a person on or after the commencement of this Act.

(2) The amendments made by this Act to the *Income Tax Assessment Act 1936* only apply to the 1994-95 year of income and the subsequent years of income.

(3) In subsection (2), “**year of income**” has the same meaning as in the *Income Tax Assessment Act 1936*.

Transitional—annual report

4.(1) Section 11 of the *Life Insurance Act 1945* as amended by this Act applies only to the financial year that ends on 30 June 1995 and the subsequent financial years.

(2) Section 11 of that Act as in force immediately before the commencement of this Act continues to have effect in relation to any earlier financial year.

PART 2—CONSEQUENTIAL AMENDMENTS

Consequential amendments

5 (1) The *Life Insurance Act 1945*¹ is amended as set out in Part 1 of the Schedule.

(2) The Acts specified in Part 2 of the Schedule are amended as set out in that Part.

(3) The Corporations Law set out in section 82 of the *Corporations Act 1989*² is amended as set out in Part 3 of the Schedule.

PART 3—REPEAL OF ACTS

Repeal of Acts

6. The following Acts are repealed:

- (a) the *Life Insurance Policy Holders' Protection Levies Act 1991*;
(b) the *Life Insurance Policy Holders' Protection Levies Collection Act 1991*.

SCHEDULE

PART 1

Subsection 5(1)

AMENDMENTS OF THE LIFE INSURANCE ACT 1945

1. Sections 4, 4A and 4B:

Repeal the sections, substitute:

Interpretation

“4. An expression used in this Act has the same meaning as it has in the *Life Insurance Act 1994*.”.

2 Subsection 5(1):

Omit the subsection, substitute:

“(1) This Act does not apply with respect to State insurance that does not extend beyond the limits of the State concerned.”.

3. Sections 6 and 8:

Repeal the sections, substitute:

Extension of Act to Norfolk Island

“6. This Act extends to the Territory of Norfolk Island.”.

4 Section 11:

Repeal the section, substitute:

Annual report

“11.(1) The Commissioner must, as soon as practicable after the end of each financial year, give the Treasurer a written report on the operation of this Act during that financial year.

“(2) The Treasurer must cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the day on which the Treasurer received the report.

“(3) This section is taken to be complied with in relation to a financial year if:

- (a) the report is included in a report given to the Treasurer in accordance with section 198 of the *Life Insurance Act 1994*; and
- (b) the last-mentioned report has been laid before each House of the Parliament in accordance with section 198 of that Act.”.

5 Part III:

Repeal the Part.

SCHEDULE—continued

6. Section 78:

Repeal the section.

7. Part V:

Repeal the Part.

8 Sections 138, 138A, 139, 139A, 140, 141, 142, 143, 144, 145, 146 and 146A:

Repeal the sections.

9. Paragraph 148(1)(a):

Add at the end “or”.

10. Paragraph 148(1)(aa):

Omit the paragraph.

11. Paragraph 148(1)(b):

Omit “or” (last occurring).

12. Paragraph 148(1)(c):

Omit the paragraph.

13. Paragraphs 150(a) and (b):

Omit the paragraphs.

14. The First, Second, Third and the Fourth Schedules:

Repeal the Schedules.

PART 2

Subsection 5(2)

AMENDMENTS OF OTHER ACTS

Defence Force Retirement and Death Benefits Act 1973

1. Subsection 66(1) (definition of “life policy”):

Omit the definition, substitute:

“‘life policy’ has the same meaning as in the *Life Insurance Act 1994*”.

2. Subsection 66(1):

Insert:

SCHEDULE—continued

“‘owner of a life policy’ has the same meaning as in the *Life Insurance Act 1994*;”.

3. Subsection 68(3):

Omit all the words from and including “he had the legal title” to and including “by his employer”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her, being a policy the premiums for which were, while the person was employed in that employment, paid in whole or in part by the person’s employer”.

4 Subsection 68(4):

- (a) Omit “he had the legal title to a life policy, or was entitled to have the legal title to a life policy assigned to him”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her”.
- (b) Omit “he had the legal title to that policy, or was entitled to have the legal title to that policy assigned to him”, substitute “the person was the owner of that policy, or was entitled to have the rights of the owner of that policy assigned to him or her”.

5 Subsection 84(1):

Omit “he” (wherever occurring), substitute “the person”.

6 Paragraph 84(1)(b):

- (a) Omit “him” (first occurring), substitute “the person”.
- (b) Omit all the words from and including “by reason of his having” to and including “assigned to him”, substitute “because the person was the owner of a life policy or policies of a kind referred to in that subsection, or because the person was entitled to have the rights of the owner of such a policy or policies assigned to him or her”.

Defence Forces Retirement Benefits Act 1948

7 Subsection 82J(1) (definition of “life policy”):

Omit the definition, substitute:

“‘life policy’ has the same meaning as in the *Life Insurance Act 1994*;”.

8 Subsection 82J(1):

Insert:

“‘owner of a life policy’ has the same meaning as in the *Life Insurance Act 1994*;”.

SCHEDULE—continued**9. Subsection 82L(3):**

Omit all the words from and including “he had the legal title” to and including “by his employer”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her, being a policy the premiums for which were, while the person was employed in that employment, paid in whole or in part by the person’s employer”.

10. Subsection 82L(4):

- (a) Omit “he had the legal title to a life policy, or was entitled to have the legal title to a life policy assigned to him”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her”.
- (b) Omit “he had the legal title to that policy, or was entitled to have the legal title to that policy assigned to him”, substitute “the person was the owner of that policy, or was entitled to have the rights of the owner of that policy assigned to him or her”.

11. Subsection 82ZH(1):

Omit “he” (wherever occurring), substitute “the person”.

12. Paragraph 82ZH(1)(b):

- (a) Omit “him” (first occurring), substitute “the person”.
- (b) Omit all the words from and including “by reason of his having” to and including “assigned to him”, substitute “because the person was the owner of a life policy or policies of a kind referred to in that subsection, or because the person was entitled to have the rights of the owner of such a policy or policies assigned to him or her”.

Financial Corporations Act 1974**13. Paragraph 8(2)(f):**

Omit “*Life Insurance Act 1945-1973*”, substitute “*Life Insurance Act 1994*”.

Income Tax Assessment Act 1936**14. Subsection 6(1) (definition of “SGIO”):**

Omit the definition, substitute:

“‘SGIO’ means a public authority that:

- (a) is constituted by a law of a State or Territory; and

SCHEDULE—continued

(b) carries on life insurance business within the meaning of section 11 of the *Life Insurance Act 1994*;

15. Subsection 110(1) (definition of “Australian statutory fund”):

Omit “*Life Insurance Act 1945-1959*”, substitute “*Life Insurance Act 1994*”.

16. Subsection 110(1) (paragraph (a) of the definition of “authorised actuary”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

17. Subsection 110(1) (definition of “ordinary life assurance company”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

18. Paragraph 402(2A)(d):

Omit “Division 3 of Part III of the *Life Insurance Act 1945*”, substitute “Part 4 of the *Life Insurance Act 1994*”.

19. Section 470 (definition of “life insurance business”):

Omit the definition, substitute:

“‘**life insurance business**’ has the same meaning as in section 11 of the *Life Insurance Act 1994*”.

20. Subsections 482(1) and (2):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

21. Paragraph 507(11)(b):

Omit “Division 3 of Part III of the *Life Insurance Act 1945*”, substitute “Part 4 of the *Life Insurance Act 1994*”.

Insurance Acquisitions and Takeovers Act 1991

22. Section 4 (paragraph (b) of the definition of “accounting period”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

23. Section 4 (paragraph (b) of the definition of “Australian-registered insurance company”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

24. Section 4 (subparagraph (a)(ii) of the definition of “book value”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

SCHEDULE—continued

25. Section 4 (definition of “contract of life insurance”):

Omit the definition, substitute:

“‘**contract of life insurance**’ means a life policy or sinking fund policy, within the meaning of the *Life Insurance Act 1994*;”.

26. Section 4 (definition of “life insurance business”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

27. Section 4 (paragraph (a) of the definition of “total book net liabilities”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

28. Section 4 (paragraph (b) of the definition of “value”):

Omit “or section 52 of the *Life Insurance Act 1945*”, substitute “, or had given the Commissioner financial statements as at the end of that accounting period under section 82 of the *Life Insurance Act 1994*”.

29. Subparagraph 36(c)(ii):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

30 Subsection 75(2):

Omit “or the *Life Insurance Act 1945*”, substitute “, the *Life Insurance Act 1945* or the *Life Insurance Act 1994*”.

31. Subparagraph 77(1)(b)(i):

Omit the subparagraph, substitute:

“(i) a company registered under the *Life Insurance Act 1994* has given the Commissioner financial statements as at the end of a particular accounting period under section 82 of that Act;”.

32. Subparagraph 77(1)(b)(ii):

Omit “accounts”, substitute “statements”.

33. Subsections 77(2) and (3):

After “accounts” insert “or statements”.

34. Paragraph 78(1)(a):

Omit the paragraph, substitute:

“(a) a company registered under the *Life Insurance Act 1994* has given the Commissioner financial statements as at the end of a particular accounting period under section 82 of that Act; and”.

SCHEDULE—continued

35. Paragraph 78(1)(b) and subsections 78(2) and (3):

Omit “accounts”, substitute “statements”.

Insurance Act 1973

36. Subsection 3(1) (definition of “life insurance business”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

37. Paragraphs 30(1)(f) and 31(1)(b):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

Insurance (Agents and Brokers) Act 1984

38. Section 9 (definition of “life insurance business”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

39. Subsection 38(4):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

40. Section 45:

Omit “section 11 of the *Life Insurance Act 1945*”, substitute “section 198 of the *Life Insurance Act 1994*”.

Insurance and Superannuation Commissioner Act 1987

41. Section 3 (definition of “life insurance business”):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

Insurance Contracts Act 1984

42. Subsection 11(1):

Insert:

“‘**continuous disability insurance policy**’ means a continuous disability policy within the meaning of the *Life Insurance Act 1994*;

‘**contract of life insurance**’ means a contract that constitutes a life policy within the meaning of the *Life Insurance Act 1994*;”.

43. Subsections 11(3) and (5):

Omit the subsections.

Insurance Supervisory Levies Collection Act 1989

44. Section 3 (definition of “company”):

After “*Life Insurance Act 1945*” insert “as in force immediately before the commencement of the *Life Insurance Act 1994*”.

SCHEDULE—continued

45. Section 3 (paragraph (b) of the definition of “leviable day”):

Omit “or”.

46 Section 3 (definition of “leviable day”):

Add at the end:

“or (d) in relation to a life company—a day during any part of which the company was registered, or was taken to be registered, under the *Life Insurance Act 1994*.”.

47 Section 3:

Insert:

“‘life company’ means a company that is required to give financial statements under subsection 82(1) of the *Life Insurance Act 1994*;

‘Life Insurance Act 1945’ means the Life Insurance Act 1945 as in force from time to time before the commencement of the Life Insurance Act 1994 and includes the Life Insurance Act 1945 as in force under section 222 of the Life Insurance Act 1994;”.

48. Subsection 5(2):

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

49 Section 6:

Add at the end:

“(4) If:

- (a) a financial year of a life company ends on or after the date of commencement of the *Life Insurance Act 1994*; and
- (b) that financial year includes a leviable day;

the life company is liable to pay a levy for the period that consists of that financial year.”.

50. Subsection 7(3):

After “company” (first occurring) insert “, other than a life company;”.

51. After subsection 7(3):

Insert:

“(3A) Life insurance levy payable by a life company for a period is due and payable on the last day of the period within which the company is required by subsection 118(3) of the *Life Insurance Act 1994* to give to the Commissioner financial statements as at the end of that period.”.

SCHEDULE—continued

52. Subsection 7(4):

After “accounts” insert “or financial statements”.

Life Insurance Supervisory Levy Act 1989

53. Title:

After “required to lodge accounts under the *Life Insurance Act 1945*” insert “or to give financial statements under the *Life Insurance Act 1994*”.

54. Section 5:

Omit “*Life Insurance Act 1945*”, substitute “*Life Insurance Act 1994*”.

Parliamentary Contributory Superannuation Act 1948

55. Subsection 4(1) (definition of “life policy”):

Omit the definition, substitute:

“‘life policy’ has the same meaning as in the *Life Insurance Act 1994*;”.

56. Subsection 4(1):

Insert:

“‘owner of a life policy’ has the same meaning as in the *Life Insurance Act 1994*;”.

57. Subsection 4A(3):

Omit all the words from and including “he had the legal title” to and including “by his employer”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her, being a policy the premiums for which were, while the person was employed in that employment, paid in whole or in part by the person’s employer”.

58. Subsection 4A(4):

- (a) Omit “he had the legal title to a life policy, or was entitled to have the legal title to a life policy assigned to him”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her”.
- (b) Omit “he had the legal title to that policy, or was entitled to have the legal title to that policy assigned to him”, substitute “the person was the owner of that policy, or was entitled to have the rights of the owner of that policy assigned to him or her”.

SCHEDULE—continued

59 Subsection 22R(1):

Omit “he” (wherever occurring), substitute “the person”.

60. Paragraph 22R(1)(b):

- (a) Omit “him” (first occurring), substitute “the person”.
- (b) Omit all the words from and including “by reason of his having” to and including “assigned to him”, substitute “because the person was the owner of a life policy or policies of a kind referred to in that subsection, or because the person was entitled to have the rights of the owner of such a policy or policies assigned to him or her”.

Pooled Development Funds Act 1992

61. Subsection 4(1) (definition of “life office”):

Omit the definition, substitute:

“ ‘life office’ means:

- (a) a body corporate that is registered under the *Life Insurance Act 1994*; or
- (b) a public authority:
- (i) that is constituted by a law of a State or internal Territory; and
 - (ii) that carries on life insurance business within the meaning of section 11 of the *Life Insurance Act 1994*.”

Social Security Act 1991

62 Subsection 23 (definition of “life insurance policy”):

Omit "within the meaning of the *Life Insurance Act 1945*", substitute "within the meaning of the *Life Insurance Act 1994*".

63 Subsection 23 (Note at the foot of the definition of “life insurance policy”):

Omit the Note.

Superannuation Act 1922

64 Subsection 119A(1) (definition of “life policy”):

Omit the definition, substitute:

“‘life policy’ has the same meaning as in the *Life Insurance Act 1994*”.

Superannuation Act 1976

65. Subsection 125(1) (definition of “life policy”):

Omit the definition, substitute:

“‘life policy’ has the same meaning as in the *Life Insurance Act 1994*”.

SCHEDULE—continued

66. Subsection 125(1):

Insert:

“‘owner of a life policy’ has the same meaning as in the *Life Insurance Act 1994*”.

67. Subsection 127(3):

Omit all the words from and including “he had the legal title” to and including “by his employer”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her, being a policy the premiums for which were, while the person was employed in that employment, paid in whole or in part by the person’s employer”.

68. Subsection 127(4):

- (a) Omit “he had the legal title to a life policy, or was entitled to have the legal title to a life policy assigned to him”, substitute “the person was the owner of a life policy, or was entitled to have the rights of the owner of a life policy assigned to him or her”.
- (b) Omit “he had the legal title to that policy, or was entitled to have the legal title to that policy assigned to him”, substitute “the person was the owner of that policy, or was entitled to have the rights of the owner of that policy assigned to him or her”.

69. Subsection 145(1):

Omit “he” (wherever occurring), substitute “the person”.

70. Paragraph 145(1)(b):

- (a) Omit “him” (first occurring), substitute “the person”.
- (b) Omit all the words from and including “by reason of his having” to and including “assigned to him”, substitute “because the person was the owner of a life policy or policies of a kind referred to in that subsection, or because the person was entitled to have the rights of the owner of such a policy or policies assigned to him or her”.

Superannuation Industry (Supervision) Act 1993

71. Section 10 (definition of “life insurance company”):

Omit the definition, substitute:

“‘life insurance company’ means:

- (a) a body corporate registered under the *Life Insurance Act 1994*; or

SCHEDULE—continued

(b) a public authority:

- (i) that is constituted by a law of a State or Territory; and
- (ii) that carries on life insurance business within the meaning of section 11 of that Act;”.

PART 3

Subsection 5(3)

AMENDMENTS OF THE CORPORATIONS LAW

1. Amend the Corporations Law in accordance with the following table:

Amendment number	Provisions to be amended	Omit	Substitute
1	Section 9 (paragraph (f) of the definition of “participation interest”).	“policy of life insurance”	“life policy within the meaning of the <i>Life Insurance Act 1994</i> ”
2	Subparagraph 65(1)(b)(ii), paragraph 191(2)(d), paragraph 279(5)(c), subsection 408A(1) (paragraph (b) of the definition of “prescribed corporation”), subsections 409(6) and (9), subparagraph 409A(1)(b)(iv), subsection 1017A(1) (paragraph (c) of the definition of “exempt recipient”), paragraph 1052(1)(e) and section 1348.	“ <i>Life Insurance Act 1945</i> ”	“ <i>Life Insurance Act 1994</i> ”
3	Section 207 and subsection 210(5).	“section 140 of the <i>Life Insurance Act 1945</i> ”	“section 207 of the <i>Life Insurance Act 1994</i> ”

NOTES

1. No. 28, 1945, as amended. For previous amendments, see Nos. 65 and 80, 1950; No. 94, 1953; No. 3, 1958; No. 93, 1959; No. 29, 1961; No. 145, 1965; Nos. 78 and 216, 1973; No. 32, 1977; No. 177, 1978; Nos. 92 and 176, 1981; No. 143, 1983; No. 74, 1984; No. 65, 1985; No. 99, 1987; No. 38, 1988; No. 16, 1989; and No. 1, 1992.
2. No. 109, 1989, as amended. For previous amendments, see Nos. 110, 200 and 201, 1991; Nos. 27 and 210, 1992; and Nos. 32 and 78, 1993.

NOTE ABOUT SECTION HEADINGS

1. On the commencement of this Act, the headings to sections 77 and 78 of the *Insurance Acquisitions and Takeovers Act 1991* are changed as set out in the following table:

Heading	Change
Section 77	After “ statutory accounts ”, insert “ or financial statements ”.
Section 78	Omit “ statutory accounts ”, substitute “ financial statements ”.



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