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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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SUPERANNUATION LAWS AMENDMENT ( SMALL ACCOUNTS AND OTHER  
MEASURES ) BILL 1995

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SUPPLEMENTARY EXPLANATORY MEMORANDUM

Amendments and new clause to be moved on behalf of the Government

(Circulated by the authority of the Treasurer,  
the Hon Ralph Willis, M.P.)





## ***General outline and financial impact***

This amendment adds a new ***Schedule 7*** to the Bill which will amend the *Social Security Act 1991* to give the new Superannuation Holding Accounts Reserve (the Reserve is established by clause 8 of the Small Superannuation Accounts Bill 1995) the same income and asset treatment as is currently given to superannuation funds, deferred annuities and approved deposit funds.

***Financial impact:*** Nil





## **Background**

The Treasurer in his Superannuation Policy - Statement of Measures announced the establishment of an Australian Taxation Office (ATO) collection mechanism that will collect small superannuation contributions to protect the contributions from depletion due to fees and charges. The Superannuation Laws Amendment (Small Accounts and Other Measures) Bill 1995 will make amendments that are required because of the introduction of the new mechanism.

It is proposed that the Department of Social Security will treat the small superannuation accounts mechanism similar to the way it treats a superannuation fund for the purposes of the *Social Security Act 1991* (the Act). This will, among other things, allow that Department to exclude those amounts from its income and asset tests where a person has not reached age pension age.

Accordingly, this Schedule will make consequential amendments to the Act to ensure that the new superannuation collection mechanism is given the same treatment as the Act currently provides to superannuation funds.

A reference to the mechanism will be included in all the relevant superannuation fund provisions rather than just being defined as a 'superannuation fund' for the purposes of the Act. This will reflect the inherent differences between a superannuation fund and the mechanism and will help to avoid confusion for assessors who may refer to particular superannuation fund provisions in the Act without realising that the new mechanism is similar to the existing definition of a superannuation fund.





## ***Explanation of the amendment***

This amendment adds a new ***Schedule 7*** to the Bill. The new Schedule contains 19 items which are explained below.

**Items 1 to 3** insert references to 'ATO small superannuation account', and "investor" into the index of definitions in the Act. In addition, the reference to "investment" is amended to include a reference to the new subsection 9(9A).

**Items 4 and 5** insert a new subparagraph 8(8)(b)(iia) to include a reference to the new ATO small superannuation account. This amendment will ensure that any return from the new account will not be included in the income test until the account holder reaches age pension age.

Although subparagraph 8(8)(b)(v) states that a person loses the income test exemption if the person commences to receive a pension or annuity from a fund in paragraph 8(8)(b), the subparagraph will have no application to the new ATO small superannuation account because the Small Superannuation Accounts Bill 1995 does not allow an account holder to receive either a pension or an annuity from the account.

**Item 6** amends note 2 to paragraph 8(8)(b) to refer the reader to the new definition of "ATO small superannuation account" in subsection 9(1).

**Item 7** inserts two new definitions into the investment income definitions provision in subsection 9(1) of the Act.

'ATO small superannuation account' is defined as an account kept in the name of an individual under the Small Superannuation Accounts Bill 1995.

'Investor' is defined in relation to an ATO small superannuation account as the person in whose name the account is kept. This definition expands the definition as used throughout the Act to include persons who have an account set up under the Small Superannuation Accounts Bill 1995.

**Item 8** omits the definition of 'investment' in subsection 9(1) and substitutes a new definition to include a reference to the new ATO small superannuation

account. The new account is given the definition provided for in the new subsection 9(9A) of the Act (see item 13 below).

**Item 9** omits the definition of 'return' and substitutes a new definition to include a reference to the new ATO small superannuation account. 'Return' is defined, in relation to the new ATO small superannuation account, to include the balance of the account that is attributable to interest. This definition provides that any statutory interest paid to an account holder under the Small Superannuation Accounts Bill 1995 will be included in the definition of 'return' for the purposes of the *Social Security Act 1991*.

**Item 10** omits the definition of 'superannuation benefit' in subsection 9(1) and substitutes a new definition to include a reference to a payment under Part 7 of the Small Superannuation Accounts Bill 1995. Under the new definition, any payment, whether made to the account holder or not, will be regarded as a 'superannuation benefit' to the account-holder. For example, a person will still be defined as receiving a 'superannuation benefit' if the person assigns the right to receive the payment to another person.

**Item 11** amends subsection 9(1B) to include a new paragraph (g). This amendment will deem a new ATO small superannuation account to be a 'managed investment' for the purposes of the *Social Security Act 1991*.

A note will refer the reader to subsection 9(1C) of the Act which excludes the new ATO small superannuation account from the definition of 'managed investment' if the person has not yet reached age pension age.

**Item 12** inserts a new paragraph (ca) in subsection 9(1C) of the Act to exclude the new ATO small superannuation account from the definition of 'managed investment' if the person has not yet reached age pension age.

**Item 13** inserts new subsection 9(9A) to deem a person to have an 'investment' if the person has a new ATO small superannuation account that is held in the name of the person and has a balance greater than nil.

New paragraph 9(9A)(b) provides that the amount or value of the investment equals the balance of the account.

This amendment clarifies that the new statutory account set up by the ATO is included as an 'investment' for the purposes of the *Social Security Act 1991*.

**Item 14** amends subsection 9(10)(b) to state that a new ATO small superannuation account is 'realised' when it is withdrawn by the investor.



Under the Small Superannuation Accounts Bill 1995, an account-holder can only withdraw the whole of his or her balance of the account. When the account-holder withdraws from the account, any accrued interest is paid into the account prior to the withdrawal. Accordingly, the balance of the account on withdrawal is equal to the balance plus any accrued interest.

**Item 15** amends section 1080 to provide for the assessment of income where a person realises a new ATO small superannuation account and does not roll the money over into a superannuation fund, an approved deposit fund, a deferred annuity or an immediate annuity.

**Items 16 and 17** amends section 1097 to provide for the treatment of the new ATO small superannuation account where a person has not reached pension age. In this case:

- the return on the investment is not treated as ordinary income (paragraph 1097(d));
- the return on the investment income is not treated as ordinary income under the managed investment rules (paragraph 1097(e));
- if the investment is realised, the proceeds are spread across 12 months (1097(f)).

**Items 18 and 19** amend paragraph 1118(1)(f) to provide that the new ATO small superannuation account will be disregarded as an asset under the Act until the person reaches age pension age.















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