

CLAUSE NOTES

Unclaimed Money Bill 2015

- Clause 1** This clause determines the short title of the Act to be the *Unclaimed Money Act 2015*.
- Clause 2** This clause provides that the Act is to commence on a day to be proclaimed.
- Clause 3** This clause interprets the terms used in the Act.
- Clause 4** This clause sets out the criteria for determining whether money is unclaimed money for the purposes of Part 2 of the Act. The clause also defines the entities that are holders of general unclaimed money, as having their principal place of business in Tasmania. The clause provides that the relevant minimum amount required to be paid to the State as general unclaimed money is \$50, or an amount determined by the Treasurer. The clause also provides that the Treasurer can determine that this Act should apply or not apply to holders of unclaimed money.
- Clause 5** This clause provides that a holder of unclaimed money under Part 2 must establish a register of general unclaimed money. The register must be updated at least annually and be readily accessible at the holder's principal place of business. The holder must allow inspection of the register during normal working hours on payment of a fee not exceeding \$5, or the relevant maximum amount as determined by the Treasurer.
- Clause 6** This clause provides that it is an offence to fail to keep a register of unclaimed money or make the register available for inspection, and sets the penalties for such an offence.
- Clause 7** This clause provides that all money that has been unclaimed for a period of one year after being entered into the register is to be paid to the Treasurer for credit to the Public Account. The holder must provide the Treasurer with a return providing details of the unclaimed money being paid. The clause provides that it is an offence to fail to pay unclaimed money to the Treasurer or provide a return, and sets the penalties for such an offence.
- Clause 8** This clause interprets the terms used in Part 3 of the Act.
- Clause 9** This clause provides that Part 3 applies to all unclaimed superannuation benefits which are paid to the Treasurer, or liable to be paid to the Treasurer, under the *Retirement Benefits Regulations 2005*.

- Clause 10** This clause provides that the Retirement Benefits Fund Board must give the Treasurer a statement for each half year (ending on 31 December and 30 June) setting out unclaimed superannuation benefits, not later than 30 April and 31 October respectively.
- The clause provides that it is an offence for the RBF Board to fail to comply with the provisions of this clause and sets the penalties for such contravention.
- Clause 11** This clause provides that unclaimed superannuation benefits must be paid to the Treasurer when the statement required under clause 10 is provided. The amount of the unclaimed superannuation benefits to be paid is reduced by the amount of any benefits paid by the RBF Board after the end of the half year and before the statement is provided.
- Clause 12** The Treasurer is to refund unclaimed superannuation benefits, provided by the RBF Board under clause 11, to a person if the Treasurer determines that the person would have been entitled to be paid the benefits by the RBF Board had they not been paid to the Treasurer.
- Clause 13** The Treasurer must refund to the RBF Board any excess superannuation benefits paid and any other amounts that should not have been paid.
- Clause 14** This clause requires the Treasurer to keep a register of unclaimed superannuation benefits paid under Part 3 in the form and manner determined by the Treasurer.
- Clause 15** The RBF Board, on payment of an amount to the Treasurer, is discharged from further liability as trustee in respect of those unclaimed superannuation benefits.
- Clause 16** This clause provides that anything done by the RBF Board under Part 3 will not constitute a breach of trust.
- Clause 17** This clause provides that, where there is a conflict between a duty imposed on the RBF Board by Part 3 and a duty imposed on the RBF Board by the governing instrument of the Retirement Benefits Fund, the RBF Board must comply with this Part.
- Clause 18** Unclaimed superannuation benefits that are paid by the RBF Board to the Treasurer will be dealt with as unclaimed money.
- Clause 19** This clause provides that Part 4 applies to money which has been paid into a court. Money paid into a court is unclaimed money if a period of six years has passed since the money was received and no order has been made by the court for the money to be disposed of to any other person.
- Clause 20** This clause provides that all unclaimed money is to be paid by an officer of the court to the Treasurer for credit to the Public Account. The officer of the court must provide the Treasurer with a return providing details of the unclaimed money being paid. The clause provides that it is an offence to fail to pay unclaimed money or provide a return to the Treasurer and sets the penalties for such an offence.

- Clause 21** This clause provides that Part 5 applies to money that is considered unclaimed money under any written law, excluding any amounts dealt with under Part 2, 3 or 4 of the Act.
- This clause provides that unclaimed money is to be paid to the Treasurer within twelve months of it becoming unclaimed or under any other time period provided for in written law. The holder must provide the Treasurer with a return providing details of the unclaimed money being paid. The clause provides that it is an offence to fail to pay unclaimed money or provide a return to the Treasurer and sets the penalties for such an offence.
- Clause 22** The Treasurer is to pay the unclaimed money received into the Public Account.
- Clause 23** This clause requires the Treasurer to publish information relating to each sum of unclaimed money received. The Treasurer may determine the way that the information is to be published and the period of time for which the information is to be publicly available.
- Clause 24** This clause provides that the Treasurer, or an officer appointed by the Treasurer, may examine the books and accounts of a holder relating to unclaimed money and direct that errors be amended. The clause provides that it is an offence to fail to comply with those requirements and sets penalties for such an offence.
- Clause 25** This clause gives the Treasurer the power to direct that unclaimed money be returned to a claimant where the Treasurer is satisfied that the claimant is the owner of the money. Interest is not to be paid on any money repaid, unless determined by the Treasurer.
- Clause 26** This clause relieves the Treasurer from further liability in respect of unclaimed money repaid under Clause 25. However, a person claiming money already paid to another claimant may have recourse against that claimant.
- Clause 27** This clause allows the Treasurer to direct that unclaimed money that has been unclaimed for a period of two years, after it was paid to the Treasurer, is paid into the Consolidated Fund. The clause provides that an owner's right is not affected by the payment into the Consolidated Fund and gives the Treasurer the power to direct that unclaimed money be returned to the claimant if a lawful claim is made under clauses 12, 13 or 25. Clause 27 appropriates the Consolidated Fund for the purpose of making such payments.
- Clause 28** This clause allows the Treasurer to meet costs incurred in administering the Act from the balance of unclaimed money in the Public Account. The clause also provides that the Treasurer may determine and charge a reasonable fee for any service or transaction entered into under the Act.

- Clause 29** This clause permits the Treasurer to authorise another Minister or the Secretary of the Department of Treasury and Finance, by delegation, to exercise the functions and powers conferred on the Treasurer under the Act. The clause also permits the Secretary to delegate his or her functions to an officer of the Department.
- Clause 30** This clause provides that a prosecution for an offence shall be by summary proceedings and may be brought by a person authorised by the Treasurer.
- Clause 31** This clause authorises the Governor to make regulations for the purposes of the Act.
- Clause 32** This clause assigns responsibility for the administration of the Act to the Treasurer.
- Clause 33** This clause is a formal provision giving effect to the savings and transitional provisions specified in Schedule 1.
- Clause 34** This clause provides that the legislation referred to in Schedule 2 is amended as specified.
- Clause 35** This clause provides that the legislation referred to in Schedule 3 is repealed.