



# Superannuation Industry (Supervision) Amendment Regulations 2005 (No. 5)<sup>1</sup>

**Select Legislative Instrument 2005 No. 261**

---

I, PHILIP MICHAEL JEFFERY, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Superannuation Industry (Supervision) Act 1993*.

Dated 10 November 2005

P. M. JEFFERY  
Governor-General

By His Excellency's Command

MAL BROUGH  
Minister for Revenue and Assistant Treasurer

---

**1 Name of Regulations**

These Regulations are the *Superannuation Industry (Supervision) Amendment Regulations 2005 (No. 5)*.

**2 Commencement**

These Regulations commence on the day after they are registered.

**3 Amendment of *Superannuation Industry (Supervision) Regulations 1994***

Schedule 1 amends the *Superannuation Industry (Supervision) Regulations 1994*.

**Schedule 1 Amendment**

(regulation 3)

**[1] After regulation 1.04**

*insert*

**1.04AAAA Interdependency relationships (Act s 10A)**

- (1) For paragraph 10A (3) (a) of the Act, the following matters are to be taken into account in determining whether 2 persons have an interdependency relationship, or had an interdependency relationship immediately before the death of 1 of the persons:
- (a) all of the circumstances of the relationship between the persons, including (where relevant):
- (i) the duration of the relationship; and
  - (ii) whether or not a sexual relationship exists; and
  - (iii) the ownership, use and acquisition of property; and
  - (iv) the degree of mutual commitment to a shared life; and

- 
- (v) the care and support of children; and
  - (vi) the reputation and public aspects of the relationship; and
  - (vii) the degree of emotional support; and
  - (viii) the extent to which the relationship is one of mere convenience; and
  - (ix) any evidence suggesting that the parties intend the relationship to be permanent;
- (b) the existence of a statutory declaration signed by one of the persons to the effect that the person is, or (in the case of a statutory declaration made after the end of the relationship) was, in an interdependency relationship with the other person.
- (2) For paragraph 10A (3) (b) of the Act, 2 persons have an interdependency relationship if:
- (a) they satisfy the requirements of paragraphs 10A (1) (a) to (c) of the Act; and
  - (b) one or each of them provides the other with support and care of a type and quality normally provided in a close personal relationship, rather than by a mere friend or flatmate.

*Examples of care normally provided in a close personal relationship rather than by a friend or flatmate*

1. Significant care provided for the other person when he or she is unwell.
2. Significant care provided for the other person when he or she is suffering emotionally.

- (3) For paragraph 10A (3) (b) of the Act, 2 persons have an interdependency relationship if:
- (a) they have a close personal relationship; and
  - (b) they do not satisfy the other requirements set out in subsection 10A (1) of the Act; and
  - (c) the reason they do not satisfy the other requirements is that they are temporarily living apart.

*Example for paragraph (3) (c)*

One of the persons is temporarily working overseas or is in gaol.

- (4) For paragraph 10A (3) (b) of the Act, 2 persons have an interdependency relationship if:
  - (a) they have a close personal relationship; and
  - (b) they do not satisfy the other requirements set out in subsection 10A (1) of the Act; and
  - (c) the reason they do not satisfy the other requirements is that either or both of them suffer from a disability.
  
- (5) For paragraph 10A (3) (b) of the Act, 2 persons do not have an interdependency relationship if 1 of them provides domestic support and personal care to the other:
  - (a) under an employment contract or a contract for services;  
or
  - (b) on behalf of another person or organisation such as a government agency, a body corporate or a benevolent or charitable organisation.

---

**Note**

- 1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).

Unless otherwise indicated in this document, it is Copyright of the Commonwealth of Australia and the following applies:

Copyright Commonwealth of Australia. This material has been reproduced by permission but does not purport to be the official or authorised version. You should make independent inquiries and obtain appropriate advice before relying on the information in any important matter.

If you have any queries, please contact Capital Monitor, a division of LexisNexis Australia, on 02 6273 4899.