



Treasury Laws Amendment (Payday Superannuation) Act 2025

No. 57, 2025

**An Act to amend the law relating to
superannuation, and for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
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Treasury Laws Amendment (Payday Superannuation) Act 2025

No. 57, 2025

An Act to amend the law relating to superannuation, and for related purposes

[Assented to 6 November 2025]

The Parliament of Australia enacts:

1 Short title

This Act is the *Treasury Laws Amendment (Payday Superannuation) Act 2025*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	At the same time as the <i>Superannuation Guarantee Charge Amendment Act 2025</i> commences.	1 July 2026 (C2025A00058)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendment of the Superannuation Guarantee (Administration) Act 1992

Division 1—Main amendments

Superannuation Guarantee (Administration) Act 1992

1 Subsection 6(1)

Insert:

administrative uplift amount has the meaning given by
subsection 19B(1).

2 Subsection 6(1) (definition of *assessment*)

Repeal the definition, substitute:

assessment means an assessment under subsection 36(1).

3 Subsection 6(1)

Insert:

associate has the meaning given by section 318 of the *Income Tax
Assessment Act 1936*.

business day means a day other than:

- (a) a Saturday or a Sunday; or
- (b) a day which is a public holiday for the whole of:
 - (i) any State; or
 - (ii) the Australian Capital Territory; or
 - (iii) the Northern Territory.

choice loading has the meaning given by subsection 20A(1).

choice loading limit has the meaning given by section 20C.

concessional contributions has the same meaning as in the *Income
Tax Assessment Act 1997*.

eligible contribution has the meaning given by sections 18A and 18B.

4 Subsection 6(1) (definition of employer shortfall exemption certificate)

Omit “19AB”, substitute “17C”.

5 Subsection 6(1)

Insert:

excess concessional contributions has the same meaning as in the *Income Tax Assessment Act 1997*.

extended usual period, for a QE day and an employer, means the period:

- (a) starting on the QE day; and
- (b) ending on the 20th business day after the QE day.

individual base superannuation guarantee shortfall has the meaning given by subsection 18C(1).

individual final superannuation guarantee shortfall has the meaning given by subsection 18D(1).

individual notional earnings component has the meaning given by subsection 19A(1).

individual superannuation guarantee amount has the meaning given by subsection 17A(2).

late period, for a QE day, an employer and an employee, means the period:

- (a) starting on the day after the latest day that an eligible contribution made by the employer for the benefit of the employee is able to be applied under subsection 18C(1) for the QE day; and
- (b) ending on the day before the day an assessment for the QE day is made for the employer.

maximum contributions base has the meaning given by subsection 10A(5).

6 Subsection 6(1) (definition of *ordinary time earnings*)

Repeal the definition, substitute:

ordinary time earnings, for a person, means all of the person's earnings as an employee made up of:

- (a) earnings in respect of ordinary hours of work; and
- (b) earnings consisting of over-award payments, shift-loading or commission;

other than a lump sum payment of any of the following kinds made to the person on the termination of the person's employment:

- (c) a payment in lieu of unused sick leave;
- (d) an unused annual leave payment, or unused long service leave payment, within the meaning of the *Income Tax Assessment Act 1997*.

7 Subsection 6(1)

Insert:

payment day, for an eligible contribution, has the meaning given by paragraph 33(3)(b).

payment of qualifying earnings to or for an employee has the meaning given by subsection 10A(4).

penalty assessment means an assessment under subsection 59D(1).

QE day has the meaning given by subsection 17A(1).

qualifying earnings has the meaning given by subsection 10A(1).

receipt day, for an eligible contribution, has the meaning given by paragraph 33(3)(a).

resident regulated superannuation fund has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

8 Subsection 6(1) (definition of *sacrificed contribution*)

Repeal the definition, substitute:

sacrificed contribution means a contribution to a complying superannuation fund or an RSA made under an arrangement

described in paragraph 10A(1)(h) (about salary sacrifice arrangements).

9 Subsection 6(1) (definition of *superannuation guarantee shortfall*)

Omit “17”, substitute “16B”.

10 Subsection 6(1)

Insert:

usual period, for a QE day and an employer, means the period:

- (a) starting on the QE day; and
- (b) ending on the seventh business day after the QE day.

voluntary disclosure statement has the meaning given by section 33.

11 After section 10

Insert:

10A Interpretation: expressions relating to qualifying earnings

*Meaning of **qualifying earnings***

- (1) A person’s *qualifying earnings* are amounts covered by one or more of the following paragraphs:
 - (a) the person’s ordinary time earnings;
 - (b) all commissions payable to the person;
 - (c) all payments for the performance of the person’s duties as a member of the executive body (whether described as the board of directors or otherwise) of a body corporate;
 - (d) all payments under a contract referred to in subsection 12(3) that are in respect of the person’s labour under the contract;
 - (e) all remuneration of the person as a member of the Parliament of the Commonwealth or a State or the Legislative Assembly of a Territory;
 - (f) all payments to the person for work referred to in subsection 12(8);

- (g) all remuneration of the person in circumstances referred to in subsection 12(9) or (10);
- (h) if under an arrangement the person agreed for:
 - (i) a contribution to be made to a complying superannuation fund or an RSA for the benefit of the person by the person's employer; and
 - (ii) in return, for the reduction (including to nil) of one or more amounts of a kind described in paragraphs (a) to (g) of this subsection but not in subsection (3) of this section;an amount equal to the total of those reductions.

Note: For paragraph (h), reductions are not counted if they are of amounts excluded by subsection (3) from being qualifying earnings.

- (2) To the extent that an amount is covered by more than one paragraph of subsection (1), the amount is counted only once.

Exclusions

- (3) However, a person's **qualifying earnings** do not include any of the following:
 - (a) a payment of an amount that represents the reversal of all or part of a sacrificed contribution;
 - (b) earnings or remuneration of, or payments to, the person to the extent that:
 - (i) the person is an employee of a kind prescribed by the regulations; or
 - (ii) the earnings, remuneration or payments are for work done of a kind prescribed by the regulations; or
 - (iii) the earnings, remuneration or payments are otherwise of a kind prescribed by the regulations.

Meaning of payment of qualifying earnings to or for an employee

- (4) A **payment of qualifying earnings to or for an employee** by an employer means:
 - (a) a payment of qualifying earnings to the employee by or on behalf of the employer; or
 - (b) for qualifying earnings described by paragraph (1)(h)—the reductions described in that paragraph made in return for the

making of the sacrificed contribution for the benefit of the employee.

Meaning of maximum contributions base

- (5) The **maximum contributions base**, for a payment of qualifying earnings to or for an employee, is the following amount (rounded down to the nearest multiple of \$10):

$$\text{Concessional contributions cap} \times \frac{100}{\text{Charge percentage}}$$

where:

charge percentage has the same meaning as in subsection 17A(2).

concessional contributions cap is the basic concessional contributions cap (within the meaning of the *Income Tax Assessment Act 1997*) for the financial year in which the payment is made.

- (6) For the purposes of this Act (other than this section), if an employer's payment of qualifying earnings to or for an employee during a financial year results in the employee's total qualifying earnings:
- (a) during the financial year; and
 - (b) in relation to the employer;
- exceeding the maximum contributions base, then treat the amount of that payment as if it were equal to:
- (c) if that payment caused that total to exceed that base—so much of that payment as does not include the excess; or
 - (d) if an earlier payment had already caused that total to exceed that base—nil.

12 Sections 16 to 29

Repeal the sections, substitute:

Division 2—Superannuation guarantee charge payable by employers

Subdivision A—Superannuation guarantee charge is payable on superannuation guarantee shortfalls

16 Simplified outline of this Division

Superannuation guarantee charge is payable on an employer's superannuation guarantee shortfalls.

Such a shortfall can arise in 2 ways.

The first way is if the employer:

- (a) pays qualifying earnings to an employee; or
- (b) reduces an employee's qualifying earnings so that a sacrificed contribution can be made for the employee;

without also making sufficient timely eligible superannuation contributions for the benefit of the employee (see Subdivisions B and C).

The amount of charge on a shortfall arising in this way will include notional earnings on the shortfall and an administrative uplift amount (see Subdivision D).

The second way is if the employer fails to comply with the choice of fund requirements when making eligible superannuation contributions for the employee (see Subdivision E).

16A Superannuation guarantee charge payable by employers

Superannuation guarantee charge imposed on an employer's superannuation guarantee shortfall for a QE day is payable by the employer.

16B Superannuation guarantee shortfalls

- (1) This section applies if an employer has:

- (a) one or more individual base superannuation guarantee shortfalls for a QE day that are greater than nil; or
 - (b) one or more choice loadings for a QE day that are greater than nil.
- (2) The employer has a ***superannuation guarantee shortfall*** for the QE day equal to the sum of the following:
 - (a) the total of the employer's individual final superannuation guarantee shortfalls for the QE day;
 - (b) the total of the employer's individual notional earnings components for the QE day;
 - (c) the employer's administrative uplift amount for the QE day;
 - (d) the total of the employer's choice loadings for the QE day.

Note: Some (but not all) of these amounts may be nil.

Subdivision B—Individual superannuation guarantee amounts arise if qualifying earnings are paid etc.

17 Simplified outline of this Subdivision

If on a particular day an employer:

- (a) pays qualifying earnings to an employee; or
- (b) reduces an employee's qualifying earnings so that a sacrificed contribution can be made for the employee;

then, on that day, the employer has an individual superannuation guarantee amount for the employee equal to a particular percentage of the payment or reduction.

However, the amount will be nil if an exemption certificate covers the employer and the employee for that day.

17A When an individual superannuation guarantee amount arises

- (1) This Subdivision applies if an employer makes a payment of qualifying earnings to or for an employee on a particular day (the ***QE day***).

Note: This includes reducing the employee's earnings so that a sacrificed contribution can be made for the employee (see paragraphs 10A(1)(h) and (4)(b)).

- (2) On the QE day, the employer has an ***individual superannuation guarantee amount*** for the employee equal to:

$$\text{Amount of the qualifying earnings} \times \frac{\text{Charge percentage}}{100}$$

where:

amount of the qualifying earnings means:

- (a) if there is one such payment—the amount of the payment; or
- (b) if there are 2 or more such payments—the sum of the amounts of the payments.

Note: If the payment of qualifying earnings is in the form of a reduction so that a sacrificed contribution can be made, the amount of the payment is the amount of the reduction (see paragraph 10A(1)(h)).

charge percentage means 12.

17B An exemption certificate can reduce this amount to nil

However, if an employer shortfall exemption certificate is in force for the employee in relation to:

- (a) the employer; and
- (b) a period that includes the QE day;

treat the employee as having already reached the maximum contributions base before the QE day.

Note 1: This means:

- (a) the amount of the payment of qualifying earnings on the QE day is treated as if it were nil (see subsection 10A(6)); and
- (b) the individual superannuation guarantee amount is nil.

Note 2: If the employee has more than one employer and the certificate is issued in relation to only this employer, then the certificate does not affect the other employers' individual superannuation guarantee amounts.

17C Issuing an exemption certificate

Issuing of certificate

- (1) The Commissioner may, on application by an employee, issue a certificate (an ***employer shortfall exemption certificate***) to the applicant for:
 - (a) a specified employer of the applicant at the time the application is made; and
 - (b) a specified period ending at the end of a specified financial year;if the Commissioner is satisfied of the matters in subsection (2).
- (2) The matters are that:
 - (a) if the certificate is not issued, the applicant is likely to have excess concessional contributions for that financial year (whether or not issuing the certificate would prevent that result); and
 - (b) if the certificate is issued for that period, at least one other employer of the applicant is likely to have an individual superannuation guarantee amount for:
 - (i) the applicant; and
 - (ii) a QE day during that financial year; that is greater than nil; and
 - (c) it is appropriate in the circumstances to issue the certificate.
- (3) When considering a matter in subsection (2), the Commissioner:
 - (a) for the matter in paragraph (2)(a) or (b)—must have regard to any other employer shortfall exemption certificate that has been issued, or is proposed to be issued, to the applicant for that financial year; and
 - (b) for the matter in paragraph (2)(c)—may have regard to:
 - (i) the effect that issuing the certificate is likely to have on the applicant's concessional contributions for that financial year; and
 - (ii) any other matter that the Commissioner considers relevant.

Application for certificate

- (4) An application for an employer shortfall exemption certificate:
 - (a) must be in the approved form; and
 - (b) must specify the employer, period and financial year to be specified in the certificate; and
 - (c) must be made at least 30 days before the first day of the period.

Objections and other matters

- (5) A person who is dissatisfied with a decision of the Commissioner under subsection (1) may object against the decision in the manner set out in Part IVC of the *Taxation Administration Act 1953*.
- (6) The Commissioner may not vary or revoke an employer shortfall exemption certificate.
- (7) An employer shortfall exemption certificate:
 - (a) may be issued after the first day of the period specified in the certificate; and
 - (b) is not a legislative instrument.

17D Notice about an exemption certificate

- (1) If the Commissioner makes a decision under subsection 17C(1) about an application, the Commissioner must give written notice of the decision to:
 - (a) the applicant; and
 - (b) if the decision is to issue a certificate—the employer to which the certificate relates.
- (2) A notice of a decision to issue a certificate must include a copy of the certificate.
- (3) The Commissioner is treated as having decided not to issue a certificate to the applicant if the Commissioner does not give notice (under subsection (1)) of the decision during the 60-day period starting on the day the application was made.

Subdivision C—Individual superannuation guarantee shortfalls arise if insufficient timely eligible superannuation contributions are made

18 Simplified outline of this Subdivision

This Subdivision is relevant if an employer has an individual superannuation guarantee amount for an employee that is greater than nil.

The employer will have an individual base superannuation guarantee shortfall for the employee that will result in superannuation guarantee charge if the employer does not make an equivalent amount of eligible superannuation contributions:

- (a) for the benefit of the employee; and
- (b) within a particular period.

The employer can reduce the amount of the charge by making eligible superannuation contributions:

- (a) for the benefit of the employee; and
- (b) up until the day before the Commissioner makes an assessment of the amount of the charge.

18A Meaning of *eligible contribution*—main rules

- (1) An ***eligible contribution***, made by an employer for the benefit of an employee, is:
 - (a) a contribution (other than a sacrificed contribution) made by the employer for the benefit of the employee that:
 - (i) is to a complying superannuation fund; and
 - (ii) is able to be allocated within the fund for the benefit of the employee; and
 - (iii) is not made for the benefit of the employee as a defined benefit member of a defined benefit superannuation scheme; and
 - (iv) is not made at a time when a conversion notice has effect in relation to the fund; or

- (b) a contribution (other than a sacrificed contribution) made by the employer for the benefit of the employee:
 - (i) to an RSA; and
 - (ii) that is able to be allocated within the RSA for the benefit of the employee; or
- (c) if:
 - (i) the employee has died; and
 - (ii) the employer would, if the employee had not died, have made a contribution covered by paragraph (a) or (b) for the benefit of the employee; and
 - (iii) the employer instead pays an equivalent amount to the employee's legal personal representative;
that equivalent amount paid by the employer; or
- (d) a contribution notionally made as described in subsection (3) to a defined benefit superannuation scheme for the benefit of the employee as a defined benefit member of the scheme.

Note: For the purposes of subparagraphs (a)(ii) and (b)(ii), regulations under the *Superannuation Industry (Supervision) Act 1993* and under the *Retirement Savings Accounts Act 1997* deal with the allocation of contributions.

Presumption for contributions to certain superannuation funds

- (2) A contribution made by the employer for the benefit of the employee to a superannuation fund is conclusively presumed to be a contribution to a complying superannuation fund for the purposes of subparagraph (1)(a)(i) if:
 - (a) at or before the time the contribution is made, the employer has obtained a written statement provided by or on behalf of the trustee of the fund; and
 - (b) the statement provides that the fund:
 - (i) is a resident regulated superannuation fund; and
 - (ii) is not subject to a direction under section 63 of the *Superannuation Industry (Supervision) Act 1993*.

Note 1: The presumption does not extend to any of the other elements of paragraph (1)(a), such as that the contribution must not be a sacrificed contribution.

Note 2: The presumption may not always be available (see section 18B).

Notional contributions for defined benefit members of defined benefit superannuation schemes

- (3) If, on a QE day for the employer and the employee:
- (a) a benefit certificate for a defined benefit superannuation scheme has effect; and
 - (b) the scheme is operating for the benefit of the employee:
 - (i) as a defined benefit member of the scheme; and
 - (ii) in relation to payments of qualifying earnings to or for the employee by the employer; and
 - (c) the benefit certificate:
 - (i) covers a class of employees (that includes the employee) as defined benefit members of the scheme; and
 - (ii) specifies the notional employer contribution rate in relation to that class of employees; and
 - (d) the employer has a written statement, provided by or on behalf of the trustee of the scheme, that the scheme:
 - (i) is a resident regulated superannuation fund; and
 - (ii) is not subject to a direction under section 63 of the *Superannuation Industry (Supervision) Act 1993*; and
 - (iii) has not been subject to such a direction at any time since the beginning of the day on which the benefit certificate is expressed to take effect;

treat the scheme as having received, on the QE day, a notional contribution made by the employer for the benefit of the employee that is equal to:

$$\text{Amount of the qualifying earnings} \times \frac{\text{Notional employer contribution rate}}{\text{contribution rate}}$$

where:

amount of the qualifying earnings has the same meaning as in subsection 17A(2) for the one or more payments of qualifying earnings to or for the employee made by the employer on the QE day.

Note: The written statement may not always have effect (see section 18B).

18B Meaning of *eligible contribution*—exceptions

- (1) However:
- (a) the presumption in subsection 18A(2) is unavailable for a contribution to a fund if subsection (2) of this section applies on the day the contribution is made; or
 - (b) a statement provided as described in paragraph 18A(3)(d) has no effect for a scheme if subsection (2) of this section applies on the QE day.
- (2) This subsection applies on a day if, on that day:
- (a) one of the following subparagraphs applies:
 - (i) the employer is the trustee or manager of the fund or scheme;
 - (ii) the employer is an associate of the trustee or manager of the fund or scheme;
 - (iii) the trustee or manager of the fund or scheme is an associate of the employer; and
 - (b) the employer reasonably believes that the fund or scheme:
 - (i) is not a resident regulated superannuation fund; or
 - (ii) is operating in contravention of a regulatory provision (within the meaning of section 38A of the *Superannuation Industry (Supervision) Act 1993*).
- (3) Section 39 of the *Superannuation Industry (Supervision) Act 1993* applies for the purposes of subparagraph (2)(b)(ii) of this section in a corresponding way to the way that section applies for the purposes of Division 2 of Part 5 of that Act.

Note: Section 39 of that Act allows certain contraventions to be ignored.

18C Employer's individual base superannuation guarantee shortfall for an employee and a QE day

Meaning of individual base superannuation guarantee shortfall

- (1) An employer's ***individual base superannuation guarantee shortfall*** for an employee and a QE day is equal to:

Individual superannuation guarantee amount — Eligible contributions
for the employee and the QE day relevant for the QE day

where:

eligible contributions relevant for the QE day means so much of each eligible contribution made by the employer for the benefit of the employee as:

- (a) is applied under this subsection for the QE day (the ***current QE day***), and has not been applied under this subsection or section 18D for an earlier QE day; and
- (b) is applied under this subsection in the order that it is received by the relevant fund, RSA, representative or scheme; and
- (c) is so received during one of these periods (the ***standard periods***):
 - (i) the usual period for the current QE day; or
 - (ii) the 12-month period ending on the day before the current QE day;
 or before the end of the latest day in any applicable items of the table in subsection (2) of this section; and
- (d) does not cause the amount resulting from this subsection for the employee and the QE day to be less than nil.

Note: An eligible contribution in the form of a notional contribution to a defined benefit superannuation scheme will always be covered by subparagraph (c)(i) because it is treated as being received on the current QE day (see subsection 18A(3)).

Allowable longer periods for receiving eligible contributions

- (2) In addition to the standard periods, the eligible contribution can be received before the end of the latest day in any applicable item of the following table:

Allowable longer periods for receiving eligible contributions

Item	If this happens:	The eligible contribution is to be received:
1	the eligible contribution is the first eligible contribution made to a particular complying superannuation fund or RSA by the employer for the benefit of the employee:	during the extended usual period for the current QE day.

Allowable longer periods for receiving eligible contributions

Item	If this happens:	The eligible contribution is to be received:
	(a) after the employee commenced (or recommenced) employment with the employer; or (b) after the employer ceased making one or more eligible contributions for the benefit of the employee to another complying superannuation fund or RSA	
2	(a) the current QE day relates to qualifying earnings of a kind determined under subsection (3); and (b) a later QE day (a <i>standard QE day</i>) for the employer and the employee relates to qualifying earnings not of a kind determined under subsection (3)	before the end of the usual period for the first standard QE day after the current QE day.
3	the employer and the current QE day are covered by a determination under subsection (4)	before the later of: (a) the end of the extended usual period for the current QE day; and (b) the end of the period of 20 business days starting on the day after the determination is made.
4	the usual period for the current QE day ends before the latest day (the <i>latest due day</i>) that an earlier eligible contribution that: (a) was made by the employer for the benefit of the employee; and (b) was applied under subsection (1) for an earlier QE day; was able to be received for the purposes of subsection (1)	before the end of the latest due day.

Note: When the contribution is received is not the only factor for whether it is an eligible contribution relevant for the QE day (see paragraphs (a), (b) and (d) of the definition of that expression in subsection (1)).

Kinds of out-of-cycle qualifying earnings

- (3) The Commissioner may, by legislative instrument, determine:
- (a) kinds of out-of-cycle qualifying earnings; and
 - (b) the circumstances that must exist for qualifying earnings to be one of those kinds.

Qualifying earnings in exceptional circumstances

- (4) The Commissioner may, by legislative instrument, determine:
- (a) one or more kinds of employers that are affected by exceptional circumstances of a kind prescribed by the regulations that affect the ability of the employers to make eligible contributions; and
 - (b) the period during which any QE days for payments of qualifying earnings by those employers are affected by those exceptional circumstances.

The period determined for the purposes of paragraph (b) may start before the day the determination is made.

Note 1: Examples of exceptional circumstances for this purpose include natural disasters, or widespread outages of information and communications technology services, that affect multiple employers on a large scale.

Note 2: If the period starts before the day the determination is made, eligible contributions can still be counted if made before the end of the 20 business day period starting on the day after the determination is made (see item 3 of the table in subsection (2)).

18D Employer's individual final superannuation guarantee shortfall for an employee and a QE day

- (1) An employer's *individual final superannuation guarantee shortfall* for an employee and a QE day is:
- (a) if the employer's individual base superannuation guarantee shortfall for the employee and QE day is nil—nil; or
 - (b) otherwise—equal to the amount in subsection (2).
- (2) The amount is:

Individual base superannuation guarantee shortfall — Eligible contributions relevant for the late period for the QE day

where:

eligible contributions relevant for the late period for the QE day means so much of an eligible contribution made by the employer for the benefit of the employee as:

- (a) is applied under this section for the QE day, and has not been applied under this section for an earlier QE day; and
- (b) is applied under this subsection in the order that it is received by the relevant fund, RSA, representative or scheme; and
- (c) is so received during the late period for the QE day; and
- (d) does not cause the amount resulting from this subsection for the employee and the QE day to be less than nil.

Subdivision D—Notional earnings and administrative uplift

19 When this Subdivision applies

This Subdivision applies if an employer has an individual base superannuation guarantee shortfall for an employee and a QE day that is greater than nil.

19A Individual notional earnings component—sum of an amount for each day that the individual final superannuation guarantee shortfall is greater than nil

- (1) The employer's ***individual notional earnings component*** for the employee and the QE day is the sum of each amount worked out under subsection (2) for each day that:
 - (a) is during the late period for the QE day; and
 - (b) is a day on which the employer's individual final superannuation guarantee shortfall for the employee and the QE day is greater than nil.

Note: Subsection 36(3) may affect the days that paragraph (b) applies to.

- (2) For a day referred to in subsection (1) for the QE day, work out:

Notional sum × General interest charge rate

where:

general interest charge rate has the same meaning as in section 8AAD of the *Taxation Administration Act 1953*.

notional sum means the sum of:

- (a) the employer's individual base superannuation guarantee shortfall for the employee and the QE day; and
- (b) the amount worked out under this subsection for each earlier day referred to in subsection (1) for the QE day.

19B Administrative uplift for a QE day

- (1) The employer's **administrative uplift amount** for the QE day is equal to 60% of the sum of:
 - (a) the total of the employer's individual final superannuation guarantee shortfalls for the QE day; and
 - (b) the total of the employer's individual notional earnings components for the QE day.

Note: The administrative uplift amount will be nil if these totals are nil.

- (2) However, this amount may be reduced (but not below nil) in accordance with the regulations.
- (3) For the purposes of (but without limiting) subsection (2), the regulations may prescribe the following:
 - (a) a method for reducing an employer's administrative uplift amount for a QE day that relies on one or more of the following:
 - (i) whether the Commissioner has previously made an assessment for the employer on the Commissioner's own initiative;
 - (ii) whether the Commissioner has previously made an estimate under subsection 268-10(1) in Schedule 1 to the *Taxation Administration Act 1953* for the employer for a liability to pay superannuation guarantee charge;
 - (iii) whether (and when) the employer lodges a voluntary disclosure statement under section 33 for the QE day;
 - (b) a method that depends on a person being satisfied of one or more specified matters.

Subdivision E—Loading for failing to comply with choice of fund requirements

20 When this Subdivision applies

This Subdivision applies if:

- (a) an employer has an individual superannuation guarantee amount for an employee and a QE day; and
- (b) the employer makes, for the benefit of the employee, one or more eligible contributions that:
 - (i) result in the employer's individual base superannuation guarantee shortfall, or individual final superannuation guarantee shortfall, for the employee and the QE day being less than what it would otherwise be; or
 - (ii) if the amount mentioned in paragraph (a) is nil—would have resulted in a shortfall mentioned in subparagraph (i) being less than what it would have otherwise been had the amount mentioned in paragraph (a) been greater than nil.

20A Employer's choice loading for the QE day

- (1) The employer's *choice loading* for the employee and the QE day is:
 - (a) if subsection (2) or (3) applies to some or all of those eligible contributions—the lower of:
 - (i) the amount equal to 25% of the total of the contributions to which that subsection applies; and
 - (ii) the choice loading limit for the QE day; or
 - (b) otherwise—nil.

Contributions made to an RSA or a fund other than a defined benefit superannuation scheme

- (2) This subsection applies if:
 - (a) some or all of the contributions mentioned in paragraph 20(b) are not made in compliance with the choice of fund requirements; and

- (b) section 20D (relying on most recent Commissioner notification) does not apply to the contributions.

Contributions notionally made to a defined benefit superannuation scheme

- (3) This subsection applies if:
 - (a) some or all of the contributions mentioned in paragraph 20(b):
 - (i) are notionally made as described in subsection 18A(3) to a defined benefit superannuation scheme; and
 - (ii) if paragraph 32C(2)(c) were disregarded—would not have been made in compliance with the choice of fund requirements if they had been actually (rather than notionally) made to the scheme; and
 - (b) none of subsections 20B(2), (3) and (4) apply to the employer for the employee, the scheme and the QE day; and
 - (c) section 20D (relying on most recent Commissioner notification) does not apply to the contributions.

Note: Paragraph 32C(2)(c) is a requirement for a fund to include a MySuper product.

20B Defined benefit schemes—certain cases where members cannot choose another fund

- (1) This section applies for the purposes of paragraph 20A(3)(b).

Scheme in surplus

- (2) This subsection applies if:
 - (a) the employee was a defined benefit member of the fund immediately before 1 July 2005 and has not ceased to be such a member during the period (the **membership period**):
 - (i) starting on 1 July 2005; and
 - (ii) ending at the end of the QE day; and
 - (b) an actuary has provided a certificate in accordance with regulations under the *Superannuation Industry (Supervision) Act 1993* stating that the employer is not required to make contributions for a period including the QE day, and there

has been such a certificate covering all times since 1 July 2005; and

- (c) an actuary has provided a certificate stating that, in the actuary's opinion, at all times during the membership period there is a high probability that the assets of the scheme are, and will be, equal to or greater than 110% of the greater of the scheme's liabilities in respect of vested benefits and the scheme's accrued actuarial liabilities.

The certificate under paragraph (c) must have been provided no earlier than 15 months before the QE day.

Member has accrued maximum benefit

- (3) This subsection applies if, on the QE day, the defined benefit that has accrued to the employee will not increase other than:
 - (a) as a result of increases in the employee's salary or remuneration; or
 - (b) by reference to accruals of investment earnings; or
 - (c) by reference to indexation based on, or calculated by reference to, a relevant price index or wages index; or
 - (d) in any other way prescribed by the regulations.

Member's benefit not affected

- (4) This subsection applies if the employee would be entitled, on the employee's retirement, resignation or retrenchment, to the same amount of benefit from the defined benefit superannuation scheme, whether or not the employee had contributions:
 - (a) for the QE day; and
 - (b) made by the employer for the benefit of the employee;to a fund (within the meaning of Part 3A) other than the defined benefit superannuation scheme.

Meaning of scheme's accrued actuarial liabilities and scheme's liabilities in respect of vested benefits

- (5) In this section:

scheme's accrued actuarial liabilities, at a particular time, means the total value, as certified by an actuary, of the future benefit

entitlements of members of the scheme in respect of membership up to that time based on assumptions about:

- (a) future economic conditions; and
 - (b) the future of matters affecting membership of the scheme;
- being assumptions made in accordance with applicable professional actuarial standards (if any).

scheme's liabilities in respect of vested benefits, at a particular time, means the total value of the benefits payable from the scheme to which the members of the scheme would be entitled if they all voluntarily terminated their service with their employers at that time.

20C Limit on choice loading for the QE day

- (1) The *choice loading limit* for the QE day (the *current QE day*) is \$1,200.
- (2) However, this amount is reduced (but not below nil) by the amount equal to 25% of the sum of any other eligible contributions:
 - (a) made by the employer for the benefit of the employee; and
 - (b) to which subsection 20A(2) or (3) applies for any earlier QE day for the employer and employee during the notice period that includes the current QE day.
- (3) In this section:

notice period means the period:

 - (a) beginning on the latest of:
 - (i) the day the employee's employment with the employer starts; and
 - (ii) the day after the end of the immediately preceding notice period for the employer and the employee; and
 - (iii) 1 July 2026; and
 - (b) ending on the day the Commissioner gives the employer written notice that the employer's notice period for the employee has ended.

20D Relying on most recent Commissioner notification

This section applies to an eligible contribution for the benefit of the employee that is not made in compliance with the choice of fund requirements if:

- (a) the employer attempts to make the contribution at a particular time; and
- (b) at that time, there is no chosen fund for the employee; and
- (c) at that time, the most recent notification to the employer:
 - (i) by the Commissioner; and
 - (ii) relating to a request by the employer (or by the employer's agent) for the Commissioner to identify any stapled fund for the employee;is that the Commissioner is satisfied that the fund is the stapled fund for the employee; and
- (d) the fund does not accept the contribution from the employer for the benefit of the employee; and
- (e) the employer made the contribution to another fund for the benefit of the employee.

Division 3—Arrangements to avoid paying superannuation guarantee charge

13 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Voluntary disclosure statements and assessments

14 Sections 33 to 35

Repeal the sections, substitute:

33 Voluntary disclosure statements

- (1) An employer who has a superannuation guarantee shortfall for a QE day may lodge a statement about that shortfall.
- (2) The statement is a *voluntary disclosure statement* if it:

(a) is lodged before the day an assessment is made for the employer for the QE day; and

(b) is in the approved form.

Note: A statement is voluntary. Lodging a statement in the approved form can reduce the employer's administrative uplift amount of the employer's superannuation guarantee shortfall for the QE day (see subsection 19B(3)).

(3) Without limiting subsection (2), the voluntary disclosure statement may include either or both of the following:

(a) the day (the *receipt day*) an eligible contribution made by the employer for the benefit of an employee was received by the relevant fund, RSA, representative or scheme;

(b) the day (the *payment day*) the contribution was paid, or debited, from an account (however described) belonging to:

(i) the employer; or

(ii) a person who is making the contribution on behalf of the employer.

(4) In this section:

account includes an account held with an ADI (within the meaning of the *Banking Act 1959*).

15 Section 36

Repeal the section, substitute:

36 Assessments of superannuation guarantee charge

Making assessments

(1) The Commissioner may at any time make an assessment of the amount of:

(a) an employer's superannuation guarantee shortfall for a specified QE day; and

(b) the superannuation guarantee charge payable on the shortfall.

(2) The Commissioner may make such an assessment:

(a) based on information in a voluntary disclosure statement lodged by the employer for the QE day; or

(b) on the Commissioner's own initiative.

When a deeming rule applies for working out any individual notional earnings component in an assessment

- (3) For an assessment based on information in a voluntary disclosure statement lodged by the employer for the QE day that:
- (a) includes a payment day for an eligible contribution that:
 - (i) is covered by paragraph 18A(1)(a), (b) or (c); and
 - (ii) was applied under subsection 18D(2) for the employer, an employee and the QE day; but
 - (b) does not include a receipt day for the contribution;
- the employer's individual notional earnings component (if any) for the employee and the QE day is worked out as if the receipt day for the contribution were the seventh business day after the payment day.

Note: This subsection can change the day the contribution is applied for working out the employer's individual final superannuation guarantee shortfall on a particular day as part of calculating the individual notional earnings component in section 19A. Any such change does *not* apply for the purposes of paragraph 16B(2)(a) or any other provision of this Act.

When charge relating to an assessment is payable

- (4) Superannuation guarantee charge in relation to such an assessment is payable on the day that the assessment is made.

16 Part 7

Repeal the Part, substitute:

Part 7—Penalty for late or non-payment of superannuation guarantee charge

59 Simplified outline of this Part

The Commissioner must issue an employer a notice to pay an amount of superannuation guarantee charge if the charge remains unpaid 28 days after the charge became payable.

The employer may become liable to an administrative penalty if the employer does not comply with the notice.

59A Notice to pay unpaid superannuation guarantee charge

- (1) This section applies if superannuation guarantee charge payable by an employer is unpaid on the day (the **current notice trigger day**) that is the day after the end of the 28-day period that started on the day (the **imposition day**) the charge became payable.

Note: The superannuation guarantee charge could be:

- (a) charge assessed and payable under section 36; or
- (b) charge in the form of general interest charge payable under section 49.

- (2) The Commissioner must, as soon as practicable after the current notice trigger day, give the employer a written notice (the **current notice**) requiring the employer to pay a specified amount of superannuation guarantee charge if:
- (a) at least some of the specified amount is the amount referred to in subsection (1); and
 - (b) the remainder (if any) of the specified amount is charge payable by the employer that is unpaid on the current notice trigger day; and
 - (c) the specified amount exceeds \$30 or any higher amount prescribed by the regulations; and
 - (d) the employer has not been given an earlier notice under this subsection during the 50-day period ending on the day before the current notice trigger day; and
 - (e) no part of the specified amount has been included in any earlier notice under this subsection.

Note 1: As well as including the amount referred to in subsection (1), the amount specified in the current notice could also include:

- (a) any (other) unpaid general interest charge that has accrued under section 49 since the employer was given the last notice under this subsection; and
- (b) any (other) unpaid charge that has been assessed under section 36 since the start of the 50-day period mentioned in paragraph (d).

Note 2: The employer remains liable to pay the amounts making up the specified amount. The notice does not create a separate liability to pay the specified amount. However, a failure to comply with the notice may result in an administrative penalty under section 59C.

- (3) The Commissioner must ensure that the current notice includes words to the effect that an administrative penalty will arise if the employer fails to pay the specified amount during the period (the ***current notice payment period***):
- (a) starting on the day specified in the notice (which must be on or after the current notice trigger day); and
 - (b) ending on the 28th day after the day specified in the notice.

59B Consequences if a liability to pay all or part of the specified amount is reduced or ceases to exist

- (1) If:
- (a) the current notice payment period has not expired; and
 - (b) a liability under this Act to pay any of the amounts making up the specified amount is reduced (but not to nil);
- treat the specified amount in the current notice as if it were reduced by the amount of the reduction referred to in paragraph (b).
- (2) If:
- (a) the current notice payment period has not expired; and
 - (b) each liability under this Act to pay an amount making up the specified amount either:
 - (i) is reduced to nil; or
 - (ii) ceases to exist;
- treat the current notice as if it were revoked.

59C Penalty for failing to pay unpaid superannuation guarantee charge specified in the notice

- (1) The employer is liable to pay a penalty if the employer fails to pay the amount specified in the current notice during the current notice payment period.
- (2) The amount of the penalty is equal to a percentage of so much of the specified amount as remains unpaid at the end of the current notice payment period. The percentage is as follows:

Schedule 1 Amendments

Part 1 Amendment of the Superannuation Guarantee (Administration) Act 1992

Percentage used to work out the amount of the penalty

Item	If:	the percentage is:
1	a determination is made under subsection 18C(4) covering the employer for any part of the period: (a) starting on the imposition day (see subsection 59A(1)); and (b) ending on the last day of the current notice payment period	0%.
2	(a) item 1 does not apply; and (b) the employer has become liable under subsection (1) for a penalty that is greater than nil for an earlier notice during the 24-month period ending on the day after the end of the current notice payment period	50%.
3	neither item 1 nor 2 applies	25%.

Note: Determinations under subsection 18C(4) cover employers affected by exceptional circumstances. The determination may cover an employer for a period starting before the determination is made.

59D Assessment and notification of liability to pay the penalty

- (1) The Commissioner must make an assessment (a **penalty assessment**) of the amount of an administrative penalty payable under section 59C by the employer.
- (2) The Commissioner must give written notice to the employer of the penalty assessment, unless the penalty assessment is nil.
- (3) The penalty becomes due for payment on the day specified in the notice, which must be at least 14 days after the day the notice is given to the employer.

Note 1: For provisions about collection and recovery of the penalty, see Part 4-15 in Schedule 1 to the *Taxation Administration Act 1953*.

Note 2: General interest charge does not accrue on any late payment of the penalty.

- (4) If the employer is dissatisfied with the penalty assessment, the employer may object against it in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

59E Amending penalty assessments

- (1) The Commissioner must not remit all or a part of the penalty set out in a penalty assessment.
- (2) However, the Commissioner must amend a penalty assessment if:
 - (a) a liability under this Act to pay an amount relevant to the penalty assessment is reduced (including to nil) or ceases to exist; or
 - (b) the amount of the penalty set out in the penalty assessment is reduced to nil because of a determination made under subsection 18C(4).

Note: A determination under subsection 18C(4) may cover an employer for a period starting before the determination is made.

- (3) The amount of penalty payable under the amended penalty assessment is to be worked out in a manner consistent with subsection 59C(2).

17 Subsection 63A(2) (definition of *charge payment*)

Repeal the definition, substitute:

charge payment means a payment of superannuation guarantee charge that:

- (a) was assessed in relation to a QE day; or
- (b) was in the form of general interest charge payable under section 49 in relation to non-payment of superannuation guarantee charge assessed in relation to a QE day.

18 Subsection 63A(3) (note)

Omit “a quarter”, substitute “a QE day”.

19 Subsection 64A(3)

Repeal the subsection, substitute:

- (3) The ***employee entitlement***, calculated at a particular time in relation to the assessment, is the sum of the following amounts:
 - (a) the employer’s individual final superannuation guarantee shortfall for the employee and the QE day specified in the assessment;

- (b) the employer's individual notional earnings component for the employee and the QE day;
- (c) the employer's choice loading for the employee and the QE day;
- (d) so much of any general interest charge as:
 - (i) relates to non-payment of superannuation guarantee charge payable in relation to the amounts in paragraphs (a), (b) and (c); and
 - (ii) has been paid by, or is payable at, the particular time;reduced (but not below zero) by the amounts of any previous payments to which this Part applies that relate to the QE day, employer and employee.

Note: The employee's entitlement does not include so much of any general interest charge as relates to the employer's administrative uplift amount for the QE day (see subparagraph (d)(i)).

20 Subsection 64B(3)

Repeal the subsection, substitute:

- (3) Subject to subsection (3A), an *employee's proportion* of an amount is the following proportion:

$$\frac{\text{Total of the employer's individual final superannuation guarantee shortfall, individual notional earnings component and choice loading for the employee and the QE day specified in the assessment}}{\text{Total of the employer's individual final superannuation guarantee shortfalls, individual notional earnings components and choice loadings for all employees and the QE day specified in the assessment}}$$

21 Subsection 64B(4)

Repeal the subsection, substitute:

- (4) The *total employee entitlement*, calculated at a particular time in relation to the assessment, is the sum of the following amounts:
 - (a) the total of the employer's individual final superannuation guarantee shortfalls for all employees and the QE day specified in the assessment;
 - (b) the total of the employer's individual notional earnings components for all employees and the QE day;

- (c) the total of the employer's choice loadings for all employees and the QE day;
- (d) so much of any general interest charge as:
 - (i) relates to non-payment of superannuation guarantee charge payable in relation to the totals in paragraphs (a), (b) and (c); and
 - (ii) has been paid by, or is payable at, the particular time;reduced (but not below zero) by the amounts of any previous payments to which this Part applies that relate to the QE day, employer and employees.

Note: The employee's entitlement does not include so much of any general interest charge as relates to the employer's administrative uplift amount for the QE day (see subparagraph (d)(i)).

Division 2—Other amendments

Superannuation Guarantee (Administration) Act 1992

22 Subsection 5(3)

Repeal the subsection, substitute:

- (3) Part 8 has effect as if any superannuation guarantee charge in respect of a superannuation guarantee shortfall of either of the following entities:
- (a) a responsible Department;
 - (b) an untaxable Commonwealth authority;
- had been paid on the day that the charge would have become payable had that entity been a company.

23 Section 6 (after the heading)

Insert:

Note: The meanings of some old kinds of industrial instruments referred to in this Act can be worked out under subsection 12A(1).

24 Subsection 6(1)

Repeal the following definitions:

- (a) definition of *administration component*;
- (b) definition of *approved clearing house*.

25 Subsection 6(1)

Insert:

benefit certificate has the meaning given by section 10.

complying superannuation fund or scheme means:

- (a) a complying superannuation fund; or
- (b) a complying superannuation scheme.

conversion notice has the meaning given by section 6B.

employee has a meaning affected by section 12.

employer has a meaning affected by section 12.

enterprise agreement has a meaning affected by subsection 12A(2).

26 Subsection 6(1)

Repeal the following definitions:

- (a) definition of *indexation factor*;
- (b) definition of *individual superannuation guarantee shortfall*;
- (c) definition of *nominal interest component*;
- (d) definition of *penalty charge*;
- (e) definition of *quarterly salary or wages base*;
- (f) definition of *sacrificed ordinary time earnings amount*;
- (g) definition of *sacrificed salary or wages amount*;
- (h) definition of *salary sacrifice arrangement*;
- (i) definition of *superannuation guarantee statement*.

27 Subsection 6(1)

Insert:

superannuation provider means:

- (a) the trustee of a complying superannuation fund; or
- (b) the trustee of a complying approved deposit fund; or
- (c) an RSA provider.

workplace determination has a meaning affected by subsection 12A(3).

28 Subsection 6(3)

Repeal the subsection.

29 Subsection 6A(1)

Omit “defined benefit superannuation scheme”, substitute “*defined benefit superannuation scheme*”.

30 Subsection 6A(4)

Omit “a quarter that ended”, substitute “a QE day”.

31 Subsection 6B(1)

Omit “conversion notice”, substitute “*conversion notice*”.

32 Subsections 6B(4) to (6)

Repeal the subsections, substitute:

- (4) A conversion notice or a revocation notice will not be effective unless, before it is given, the trustee gives written notice of:
- (a) the trustee's intention to give the notice; and
 - (b) the proposed date of effect of the notice;
- to each employer contributing to the fund or scheme for the benefit of employees as defined benefit members of the fund or scheme.
- (5) If, while the conversion notice is in effect, an employer begins contributing to the fund or scheme for the benefit of employees as defined benefit members of the fund or scheme, the trustee must give the employer written notice of:
- (a) the giving of the conversion notice; and
 - (b) the date of effect of the notice;
- within 7 business days of the receipt by the trustee of the employer's first contribution.

33 Section 7

Omit "a complying superannuation fund or scheme", substitute "*a complying superannuation fund or complying superannuation scheme*".

34 Section 7A

Omit "complying approved deposit fund" (first occurring), substitute "*complying approved deposit fund*".

35 Section 8

Omit "resident of Australia" (first occurring), substitute "*resident of Australia*".

36 Section 9

Repeal the section.

37 Subsection 10(1)

Omit "benefit certificate", substitute "*benefit certificate*".

38 Subsection 10(1)

Omit “members”, substitute “defined benefit members”.

39 Section 11

Repeal the section.

40 Sections 15 and 15A

Repeal the sections.

41 Before section 15B

Insert:

**Division 1—Application to former employees and for
international social security agreements**

42 Section 15B

Omit “salary or wages paid to, and contributions for the benefit of;”,
substitute “payments of qualifying earnings to or for”.

43 Subsection 15C(8)

Omit “salary or wages”, substitute “qualifying earnings”.

44 Paragraph 30(b)

Omit “a quarter”, substitute “a QE day”.

45 Section 30

Omit “the quarter”, substitute “the QE day”.

46 Sections 31 and 32

Repeal the sections.

47 Section 32A

Omit “individual superannuation guarantee shortfall for an employee
for a quarter”, substitute “superannuation guarantee shortfall for a QE
day”.

48 Subsection 32C(2B)

Repeal the subsection.

49 Subsection 32C(10) (note)

Repeal the note.

50 Paragraph 32D(d)

Repeal the paragraph, substitute:

- (d) at that time, paragraphs 18A(3)(a) and (d) of this Act (about defined benefit superannuation schemes) are satisfied for the fund and the employer; or

51 Paragraph 32D(e)

Omit “section 25”, substitute “subsection 18A(2) of this Act”.

52 Subsections 32NA(7) and (8)

Repeal the subsections, substitute:

- (7) An employer is not required under section 32N to give an employee a standard choice form for a QE day if:
 - (a) the employee is a defined benefit member of a defined benefit superannuation scheme; and
 - (b) subsection 20B(2) applies to the employer for the employee, the scheme and the QE day.
- (8) An employer is not required under section 32N to give an employee a standard choice form for a QE day if:
 - (a) the employee is a defined benefit member of a defined benefit superannuation scheme; and
 - (b) subsection 20B(3) applies to the employer for the employee, the scheme and the QE day in relation to the defined benefit that has accrued to the employee under the scheme.

53 Subsection 38(2)

Repeal the subsection, substitute:

- (2) In this section:

overpaid amount includes each of the following:

- (a) any overpaid amount of superannuation guarantee charge in the form of general interest charge that became payable under section 49;
- (b) if the reduction in the liability results in an amended penalty assessment of an administrative penalty—any overpayment of the administrative penalty;
- (c) any overpayment of administrative penalty under Part 4-25 in Schedule 1 to the *Taxation Administration Act 1953* relating to the reduction in the liability.

54 Sections 46 and 47

Repeal the sections.

55 Subsection 49(1) (note 1)

Omit “Note 1”, substitute “Note”.

56 Subsection 49(1) (note 2)

Repeal the note.

57 Subsections 49(2) and (3A)

Repeal the subsections.

58 Subsection 49(4)

Omit “*additional*”.

59 Subsection 49(5)

Repeal the subsection.

60 Section 50

Repeal the section.

61 Section 69

Repeal the section, substitute:

69 Repayment of overpayments relating to a shortfall component

- (1) This section applies if the Commissioner pays an amount under a provision of this Part (other than paragraph 65(1)(c)) exceeding the amount properly payable under that provision.
 - (2) The Commissioner may recover all or part of the excess from a person (the **debtor**) described in subsection (3) as a debt due by the debtor to the Commonwealth if the conditions specified in subsection (4) are met.
 - (3) The persons from whom the Commissioner may recover are as follows:
 - (a) the person to whom the payment was made;
 - (b) if:
 - (i) the person to whom the payment was made is a superannuation provider of a fund or RSA; and
 - (ii) there are one or more later transfers of the payment, or of amounts wholly or partly attributable to the payment, to one or more other funds or RSAs;the superannuation provider for the fund or RSA that currently holds the payment or any of those attributable amounts;
 - (c) the benefitting employee for the payment (or the employee's trustee) if:
 - (i) it is not possible to recover all or part of the excess from a person covered by paragraph (a) or (b); and
 - (ii) the benefitting employee (or the employee's trustee) has received one or more benefits from a fund or RSA that are wholly or partly attributable to the payment.
- Note 1: The kinds of persons covered by paragraph (a) include a benefitting employee, a superannuation provider, or the trustee of a benefitting employee who has died or who is under any legal or other disability.
- Note 2: To find out who can be the benefitting employee's **trustee** for paragraph (c), see section 6.
- (4) The conditions for recovery are that:
 - (a) the Commissioner gave the debtor a written notice of the proposed recovery that includes the amount to be recovered and an explanation of the operation of this section; and

- (b) at least 28 days have passed since the notice was given; and
 - (c) the amount recovered is not more than the amount specified in the notice.
- (5) Despite subsections (2) and (3):
- (a) none of the excess can be recovered from a superannuation provider if none of the provider's funds or RSAs currently hold the payment or any amount wholly or partly attributable to the payment; and
 - (b) the total amount recovered from a benefitting employee (or the employee's trustee) because of paragraph (3)(c) must not exceed the total of the benefits received as described in that paragraph.
- Note: The limit in paragraph (b) does not apply if the benefitting employee (or the employee's trustee) is the person covered by paragraph (3)(a).
- (6) The Commissioner may revoke a notice described in paragraph (4)(a).
- (7) The total of the amounts recovered from different debtors in relation to the same excess must not be more than the excess.
- (8) A notice described in paragraph (4)(a) is not a legislative instrument.

62 Section 70

Repeal the section.

63 Subsection 79(2)

Repeal the subsection, substitute:

- (2) The records must include any documents relevant to working out:
- (a) whether the employer has a superannuation guarantee shortfall for a QE day; and
 - (b) the amount of such a shortfall.

64 Section 79A

Repeal the section.

Part 2—Consequential amendments of other Acts

Administrative Decisions (Judicial Review) Act 1977

65 Paragraph (gae) of Schedule 1

Omit “19AB”, substitute “17C”.

Competition and Consumer Act 2010

66 Section 87Z (definition of *superannuation percentage*)

Repeal the definition, substitute:

superannuation percentage means the charge percentage (within the meaning of subsection 17A(2) of the *Superannuation Guarantee (Administration) Act 1992*) divided by 100.

Corporations Act 2001

67 Subsections 556(1AB) to (1AG)

Repeal the subsections, substitute:

(1AB) For the purposes of paragraph (1)(e), if:

- (a) the company has a superannuation guarantee shortfall for a QE day; and
- (b) the shortfall relates to one or more employees; and
- (c) the QE day is before the relevant date;

superannuation guarantee charge for the QE day is taken to be payable by the company in respect of services rendered to the company by those employees before the relevant date.

(1AC) If:

- (a) the company has a superannuation guarantee shortfall for a QE day; and
- (b) the shortfall relates to one or more employees; and
- (c) the QE day is the same as, or is after, the relevant date;

then:

- (d) for the purposes of paragraph (1)(e), so much of the superannuation guarantee charge for the QE day as is

attributable to a period before the relevant date is taken to be payable by the company in respect of services rendered to the company by those employees before the relevant date; and

- (e) the remainder of the superannuation guarantee charge for the QE day is taken:
 - (i) to be an expense referred to in paragraph (1)(a); and
 - (ii) not to be an amount of superannuation guarantee charge referred in paragraph (1)(e).

(1AD) If:

- (a) the company has a superannuation guarantee shortfall for a QE day; and
- (b) the shortfall relates to one or more employees; and
- (c) the QE day is the same as, or is after, the relevant date; and
- (d) one or more payments were made by the company on account of wages payable to those employees on the QE day in respect of services rendered to the company by those employees before the relevant date; and
- (e) those payments were made as a result of an advance of money by a person on or after the relevant date for the purpose of making those payments;

then:

- (f) for the purposes of paragraph (1)(e), so much of the superannuation guarantee charge for the QE day as is attributable to either or both of the following:
 - (i) those payments;
 - (ii) the period before the relevant date;is taken to be payable by the company in respect of services rendered to the company by those employees before the relevant date; and
- (g) the remainder of the superannuation guarantee charge for the QE day is taken:
 - (i) to be an expense referred to in paragraph (1)(a); and
 - (ii) not to be an amount of superannuation guarantee charge referred in paragraph (1)(e); and
- (h) if the QE day is the same as the relevant date—
subsection (1AC) does not apply to the superannuation guarantee charge for the QE day.

- (1AE) Subsections (1AC) and (1AD) apply to a liability to pay the amount of an estimate of superannuation guarantee charge for a QE day in the same way as they apply to superannuation guarantee charge payable for the QE day.

68 Subsection 556(2)

Insert:

***QE day** has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.*

69 Subsection 556(2) (definition of *quarter*)

Repeal the definition.

70 In the appropriate position in Chapter 10

Insert:

**Part 10.82—Application provisions relating to the
Treasury Laws Amendment (Payday
Superannuation) Act 2025**

1713 Application of amendments

- (1) The amendments made by Schedule 1 to the *Treasury Laws Amendment (Payday Superannuation) Act 2025* apply in relation to a QE day that is 1 July 2026 or a later day.
- (2) Despite those amendments, section 556 of this Act continues to apply on and after 1 July 2026 in relation to a quarter ending before that day as if the amendments had not been made.
- (3) In this section:

***QE day** has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.*

***quarter** has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.*

Crimes (Taxation Offences) Act 1980

71 Subsection 3(1) (definition of *superannuation guarantee charge*)

Omit “additional superannuation guarantee charge payable under section 49 or Part 7”, substitute “charge payable under section 49”.

Defence Act 1903

72 Subsection 52(3A)

Repeal the subsection, substitute:

- (3A) The Minister may not make a determination that would have the effect that the Commonwealth, as employer, would have an individual base superannuation guarantee shortfall for a member referred to in subsection (1) that is greater than nil for any QE day under the *Superannuation Guarantee (Administration) Act 1992*.

Fair Work Act 2009

73 Paragraph 116D(2)(c)

Repeal the paragraph, substitute:

- (c) the employer’s superannuation guarantee shortfall in respect of which the charge is imposed arises because the employer has an individual base superannuation guarantee shortfall, or a choice loading, for the employee that is greater than nil.

74 In the appropriate position in Schedule 1

Insert:

Part 21—Amendments made by the Treasury Laws Amendment (Payday Superannuation) Act 2025

130 Application of amendments

- (1) The amendments made by Schedule 1 to the *Treasury Laws Amendment (Payday Superannuation) Act 2025* apply in relation to individual base superannuation guarantee shortfalls, or choice loadings, relating to a QE day that is 1 July 2026 or a later day.
- (2) Despite those amendments, subsection 116D(2) of this Act continues to apply on and after 1 July 2026 in relation to individual superannuation guarantee shortfalls relating to a quarter ending before that day, as if the amendments had not been made.
- (3) Terms used in this section that are defined in the *Superannuation Guarantee (Administration) Act 1992* have the same meaning in this section as they have in that Act.
- (4) In this section:

individual superannuation guarantee shortfall has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992* (as in force on 30 June 2026).

Governor-General Act 1974

75 Paragraph 4AA(2)(a)

Omit “individual superannuation guarantee shortfalls in respect of the person”, substitute “individual base superannuation guarantee shortfalls for the person that are greater than nil”.

76 Subsection 4AA(13)

Insert:

individual base superannuation guarantee shortfall has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

77 Subsection 4AA(13) (definition of *individual superannuation guarantee shortfall*)

Repeal the definition.

Income Tax Assessment Act 1936

78 Subsection 57-50(8) of Schedule 2D (note)

Repeal the note.

Income Tax Assessment Act 1997

79 Section 12-5 (table item headed “superannuation guarantee charge”)

Repeal the item.

80 Section 26-95

Repeal the section.

81 Subsection 85-25(3)

Omit “*individual superannuation guarantee shortfalls in respect of the associate for any of the *quarters”, substitute “*individual final superannuation guarantee shortfalls for the associate and any *QE days”.

82 Subsection 85-25(4)

Repeal the subsection (including the note), substitute:

- (4) To work out the amount you would have to contribute under subsection (3), assume under the *Superannuation Guarantee (Administration) Act 1992* that your payments of qualifying earnings (within the meaning of that Act) to the associate do not include any amounts that section 85-10 or 85-20 of this Act would prevent you from deducting.

Note: See paragraph 85-10(2)(e) for deductions relating to employment of associates.

83 Subsection 86-75(1) (note)

Repeal the note.

84 Subsection 86-75(2)

Omit “*individual superannuation guarantee shortfalls in respect of the individual for any of the *quarters”, substitute “*individual final superannuation guarantee shortfalls for the individual and any *QE days”.

85 Subsection 86-75(3)

Repeal the subsection (including the note), substitute:

- (3) To work out the amount the entity would have to contribute under subsection (2), assume under the *Superannuation Guarantee (Administration) Act 1992* that the entity’s payments of qualifying earnings (within the meaning of that Act) to the individual do not include any amounts that section 86-60 of this Act would prevent the entity from deducting.

Note: Section 86-60 will apply the limitations under sections 85-10 and 85-20 on an individual’s entitlement to deductions (but see paragraph 85-10(2)(e) on employment of associates).

86 Paragraph 290-80(1)(c)

Repeal the paragraph, substitute:

- (c) the contribution must result in you having a lower *individual final superannuation guarantee shortfall for the employee and one or more *QE days than what you would have otherwise.

87 Subsection 290-80(2A)

Repeal the subsection, substitute:

- (2A) If only paragraph (1)(c) applies, you can deduct only the amount of the contribution that causes the result described in that paragraph.

88 Paragraph 290-80(2B)(b)

Repeal the paragraph, substitute:

- (b) the amount of the contribution that causes the result described in paragraph (1)(c).

89 Paragraph 290-85(1)(a)

Repeal the paragraph, substitute:

- (a) results in you having a lower *individual final superannuation guarantee shortfall for the other person and one or more *QE days than what you would have otherwise because of section 15B of the *Superannuation Guarantee (Administration) Act 1992*; or

90 Paragraph 290-85(1)(b)

Omit “salary or wages”, substitute “qualifying earnings (within the meaning of that Act)”.

91 Subparagraph 290-85(1A)(d)(i)

Repeal the subparagraph, substitute:

- (i) results in the company or entity having a lower *individual final superannuation guarantee shortfall for the other person and one or more *QE days than what it would have otherwise because of section 15B of the *Superannuation Guarantee (Administration) Act 1992*; or

92 Section 290-95

Repeal the section.

93 Subparagraph 293-30(4)(c)(ii)

Omit “relates;”, substitute “relates.”.

94 Paragraph 293-30(4)(d)

Repeal the paragraph.

95 Subsection 995-1(1)

Insert:

individual base superannuation guarantee shortfall has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

individual final superannuation guarantee shortfall has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

96 Subsection 995-1(1) (definition of *individual superannuation guarantee shortfall*)

Repeal the definition.

97 Subsection 995-1(1)

Insert:

QE day has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

98 Subsection 995-1(1) (definition of *superannuation guarantee shortfall*)

Omit “meaning given by section 17 of”, substitute “same meaning as in”.

Judges’ Pensions Act 1968

99 Paragraph 12A(2)(a)

Omit “individual superannuation guarantee shortfalls in respect of the person”, substitute “individual base superannuation guarantee shortfalls for the person that are greater than nil”.

100 Subsection 12A(16)

Insert:

individual base superannuation guarantee shortfall has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

101 Subsection 12A(16) (definition of *individual superannuation guarantee shortfall*)

Repeal the definition.

Paid Parental Leave Act 2010

102 Subsection 115C(4)

Repeal the subsection, substitute:

- (4) The *SG charge percentage* for an income year means the charge percentage (within the meaning of subsection 17A(2) of the *Superannuation Guarantee (Administration) Act 1992*) divided by 100.

Parliamentary Contributory Superannuation Act 1948

103 Paragraph 16A(1)(c)

Omit “individual superannuation guarantee shortfalls in respect of the person”, substitute “individual base superannuation guarantee shortfalls for the person that are greater than nil”.

104 Subparagraph 16A(1)(c)(iii)

Repeal the subparagraph.

105 Subparagraph 16A(1)(c)(iv)

Omit “after the changeover day”.

106 Subsection 16A(3) (definition of *changeover day*)

Repeal the definition.

107 Subsection 16A(3)

Insert:

individual base superannuation guarantee shortfall has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

108 Subsection 16A(3) (definition of *individual superannuation guarantee shortfall*)

Repeal the definition.

Parliamentary Superannuation Act 2004

109 Section 3

Insert:

individual base superannuation guarantee shortfall has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

QE day has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

110 Subsection 8(4)

Omit “salary or wages for the purposes of section 19”, substitute “qualifying earnings for the purposes of Division 2 of Part 3”.

111 Subsection 8(5)

Repeal the subsection, substitute:

(5) If:

- (a) this Division applies to the member in respect of a fortnight; and
- (b) the Commonwealth makes contributions as required by this section in respect of the member and the fortnight; and
- (c) the Commonwealth would otherwise have an individual base superannuation guarantee shortfall for:
 - (i) the member; and
 - (ii) a QE day for the member that relates to the fortnight; that is greater than nil;

then, for the purposes of Division 2 of Part 3 of the *Superannuation Guarantee (Administration) Act 1992*, that individual base superannuation guarantee shortfall is taken to be nil.

Retirement Savings Accounts Act 1997

112 Section 183 (heading)

Repeal the heading, substitute:

183 RSA contributions—deductions from qualifying earnings etc. to be remitted promptly

113 Subparagraph 183(1)(a)(i)

Omit “salary or wages”, substitute “qualifying earnings, or from salary or wages,”.

114 Subsection 183(2A)

Repeal the subsection.

115 Subsections 183(4) and (5)

Repeal the subsections, substitute:

Definition

(4) In this section:

qualifying earnings has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

Note: In this section, *salary or wages* has its ordinary meaning.

Part-time domestic workers counted

(5) For the purposes of this section, the *Superannuation Guarantee (Administration) Act 1992* has effect as if the employee’s qualifying earnings include any remuneration under a contract for the employment of the employee, for not more than 30 hours per week, in work that is wholly or principally of a domestic or private nature.

Small Superannuation Accounts Act 1995

116 Section 31 (note 2)

Repeal the note, substitute:

Note 2: A false or misleading declaration may result in an employer being denied an income tax deduction under section 82AAF of the *Income Tax Assessment Act 1936*.

Superannuation Act 1976

117 Subsection 3(1)

Insert:

individual base superannuation guarantee shortfall has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

QE day has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

118 Section 110SA

Repeal the section, substitute:

110SA Purpose of this Part

- (1) The purpose of this Part is to establish, for a person who ceases to be an eligible employee, an entitlement to a benefit (a *superannuation guarantee top-up benefit*).
- (2) A consequence of the benefit is that an employer of the person, while the person was an eligible employee, does not have an individual base superannuation guarantee shortfall that is greater than nil for the person for a QE day while the person was an eligible employee.

119 Subsection 110SC(1)

Omit “(1)”.

120 Subsections 110SC(2) to (4)

Repeal the subsections.

121 Subsection 110SE(6)

Repeal the subsection, substitute:

- (6) Despite anything in this section, top-up benefit does not become payable to or in respect of a person who ceases to be an eligible employee if an actuary has certified that:
 - (a) in the actuary’s opinion; and

- (b) because of the value of other benefits payable to or in respect of the person;
an employer of the person, while the person was an eligible employee, will not have an individual base superannuation guarantee shortfall that is greater than nil for a QE day while the person was an eligible employee.

122 Subsection 128(8)

Omit “individual superannuation guarantee shortfall within the meaning of the *Superannuation Guarantee (Administration) Act 1992*”, substitute “individual base superannuation guarantee shortfall that is greater than nil”.

123 Subsection 153AA(1) (paragraph (c) of the definition of *decision*)

Repeal the paragraph.

124 Paragraph 155C(1)(b)

Repeal the paragraph, substitute:

- (b) ensuring that an employer does not have an individual base superannuation guarantee shortfall that is greater than nil for a person for a QE day while the person was an eligible employee.

Superannuation Act 2005

125 Subparagraph 14(4)(a)(v)

Repeal the subparagraph, substitute:

- (v) the person’s qualifying earnings (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) would be taken into account for the purpose of Division 2 of Part 3 of that Act; and

126 Paragraph 18(2)(d)

Repeal the paragraph, substitute:

- (d) the person’s qualifying earnings (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*)

would be taken into account for the purpose of Division 2 of Part 3 of that Act;

127 Paragraph 18(3)(e)

Repeal the paragraph, substitute:

- (e) the person's qualifying earnings (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) would be taken into account for the purpose of Division 2 of Part 3 of that Act;

128 Paragraph 18(5)(c)

Repeal the paragraph, substitute:

- (c) the person's qualifying earnings (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) would not be taken into account for the purpose of Division 2 of Part 3 of that Act;

Superannuation Industry (Supervision) Act 1993

129 Subsection 10(1)

Insert:

qualifying earnings has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

130 Subsection 10(1) (definition of *salary or wages*)

Repeal the definition.

131 Subsection 29R(4)

Omit "an increased individual superannuation guarantee shortfall", substitute "a choice loading".

132 Section 64 (heading)

Repeal the heading, substitute:

64 Superannuation contributions—deductions from qualifying earnings etc. to be remitted promptly

133 Subparagraph 64(1)(a)(i)

Omit “salary or wages”, substitute “qualifying earnings, or from salary or wages,”.

134 At the end of subsection 64(1)

Add:

Note: In subparagraph (a)(i), *salary or wages* has its ordinary meaning.

135 Subsection 64(2A)

Repeal the subsection.

136 Subsection 64(5)

Repeal the subsection, substitute:

Part-time domestic workers counted

- (5) For the purposes of this section, the *Superannuation Guarantee (Administration) Act 1992* has effect as if the employee’s qualifying earnings include any remuneration under a contract for the employment of the employee, for not more than 30 hours per week, in work that is wholly or principally of a domestic or private nature.

137 Subsection 68AAE(1)

Omit “a quarter”, substitute “a QE day”.

138 Paragraph 68AAE(1)(c)

Omit “the quarter ends”, substitute “the QE day is”.

139 Paragraph 68AAE(1)(d)

Repeal the paragraph, substitute:

- (d) the amount the employer-sponsor contributes to the fund for the QE day exceeds the amount that the employer-sponsor would need to contribute to avoid an individual base

superannuation guarantee shortfall that is greater than nil for the member and the QE day; and

140 Paragraph 68AAE(1)(e)

Omit “quarter”, substitute “QE day”.

141 Subsection 68AAE(2)

Repeal the subsection, substitute:

(2) In this section:

individual base superannuation guarantee shortfall has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

QE day has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

142 Subsection 68A(1) (note)

Omit “an increased individual superannuation guarantee shortfall”, substitute “a choice loading”.

143 Subsection 68A(3) (note)

Omit “an increased individual superannuation guarantee shortfall”, substitute “a choice loading”.

Superannuation (Productivity Benefit) Act 1988

144 Subsection 3(1)

Insert:

individual base superannuation guarantee shortfall has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

QE day has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

145 Subsection 3(1) (definition of *quarter*)

Repeal the definition.

146 Subsection 3(1)

Insert:

usual period has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

147 Paragraph 4F(1)(aa)

Repeal the paragraph, substitute:

- (aa) for each QE day for the employee occurring while the employee is a member of the fund—any contribution required to ensure (after taking into account contributions paid under paragraph (a)) that the employer does not have an individual base superannuation guarantee shortfall that is greater than nil for the employee and the QE day; and

148 Subsection 4F(2)

Repeal the subsection, substitute:

- (2) A contribution under paragraph (1)(a) or (aa) for a fund employee that is payable to a fund is payable:
 - (a) for a continuing contribution under paragraph (1)(a) for a pay period—on the day on which salary for the pay period is payable; or
 - (b) for a contribution under paragraph (1)(aa) for a QE day—before the end of the usual period for the QE day.

149 Subsection 8A(2) (definition of *Notional contributions*)

Omit “and quarters”, substitute “and QE days”.

Tax and Superannuation Laws Amendment (Norfolk Island Reforms) Act 2015

150 Paragraph 2(2)(b) of Schedule 2

Omit “1 July 2027”, substitute “1 July 2026”.

Taxation Administration Act 1953

151 Paragraph 8K(2A)(a)

Omit “, 2 or 2A”, substitute “or 2”.

152 Paragraph 8K(2A)(a)

Omit “(and no other item in that table)”.

153 Paragraph 8N(2)(a)

Omit “, 2 or 2A”, substitute “or 2”.

154 Paragraph 8N(2)(a)

Omit “(and no other item in that table)”.

155 Paragraph 15C(8)(b)

Omit “section 70”, substitute “section 69”.

156 Subsection 250-10(2) in Schedule 1 (table items 60 and 65)

Repeal the items, substitute:

60	superannuation guarantee charge	36	<i>Superannuation Guarantee (Administration) Act 1992</i>
65	late or non-payment of superannuation guarantee charge	59D	<i>Superannuation Guarantee (Administration) Act 1992</i>

157 Paragraph 265-90(1)(b) in Schedule 1

Omit “quarter under section 16”, substitute “*QE day under section 16A”.

158 Paragraph 265-90(3)(b) in Schedule 1

Repeal the paragraph, substitute:

- (b) if the amount referred to in paragraph (1)(a) or (b) relates to a
*QE day—set out the QE day; and

159 Paragraph 268-10(1)(b) in Schedule 1

Omit “*quarter under section 16”, substitute “*QE day under section 16A”.

160 Subsection 268-10(1A) in Schedule 1

Repeal the subsection, substitute:

- (1A) For the purposes of this Division, your superannuation guarantee charge for a *QE day is treated as being payable on the first day after the end of the usual period (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) for the QE day, even if the charge has not yet been assessed under that Act.

161 Subsection 268-10(3) in Schedule 1 (example 2)

Repeal the example, substitute:

Example 2: In the case of an underlying liability to pay superannuation guarantee charge for a QE day, the Commissioner may have regard to information about your contributions to RSAs and complying superannuation funds for earlier QE days.

162 Paragraph 268-90(2A)(b) in Schedule 1

Repeal the paragraph, substitute:

- (b) for each employee for whom you have an *individual base superannuation guarantee shortfall that is greater than nil for the relevant *QE day—the information that:
- (i) relates to the employee and the shortfall; and
 - (ii) is required by the approved form for a voluntary disclosure statement under section 33 of the *Superannuation Guarantee (Administration) Act 1992*;

163 Subsection 268-90(2A) in Schedule 1 (note)

Repeal the note, substitute:

Note: The amount of the individual base superannuation guarantee shortfall mentioned in paragraph (b) is a factor in determining the amount of the superannuation guarantee charge mentioned in paragraph 268-10(1)(b).

164 Subsection 269-10(1) in Schedule 1 (table, heading to column 1)

Repeal the heading, substitute:

Column 1

This Division applies if, on a particular day (the *initial day*), a company is a company registered under the *Corporations Act 2001*, and ...

165 Subsection 269-10(1) in Schedule 1 (table items 1, 2 and 3)

Before “the company”, insert “on the initial day”.

166 Subsection 269-10(1) in Schedule 1 (table item 5)

Repeal the item, substitute:

- | | | |
|---|--|---|
| 5 | the initial day is a *QE day for the company | superannuation guarantee charge for the QE day in accordance with the <i>Superannuation Guarantee (Administration) Act 1992</i> . |
|---|--|---|

167 Subsection 269-10(1) in Schedule 1 (table item 6)

Before “a *tax period”, insert “on the initial day”.

168 Subsection 269-10(1) in Schedule 1 (table item 7)

Before “a GST instalment quarter”, insert “on the initial day”.

169 Subsection 269-10(3) in Schedule 1

Repeal the subsection, substitute:

Superannuation guarantee charge

- (3) For the purposes of this Division, the company’s superannuation guarantee charge for a *QE day under the *Superannuation Guarantee (Administration) Act 1992* is treated as being payable on the earlier of the following days (the *due day*):
- (a) the first day after the end of the 60-day period starting on the QE day;

(b) the day the charge is payable (see subsection 36(4) of that Act);
even if, if paragraph (a) of this subsection applies, the charge has not yet been assessed under that Act.

170 Paragraph 269-10(5)(b) in Schedule 1

Omit “last day of the *quarter”, substitute “*QE day”.

171 Subsection 269-30(2) in Schedule 1 (table item 3)

Repeal the item, substitute:

- | | | | |
|---|--|--------------|--|
| 3 | superannuation
guarantee charge for
a *QE day, | the due day, | (a) if the company, on or
before the due day,
lodges under
section 33 of the
<i>Superannuation
Guarantee
(Administration) Act
1992</i> a voluntary
disclosure statement
for the QE day—the
extent (if any) that
the amount of
superannuation
guarantee charge
worked out using that
statement is less than
the amount of
superannuation
guarantee charge the
company is obliged
to pay for the QE
day; or
(b) otherwise—to any
extent. |
|---|--|--------------|--|

172 Subsection 269-30(2) in Schedule 1 (note 2)

Repeal the note.

173 Paragraph 284-75(8)(a) in Schedule 1

Omit “, 2 or 2A”, substitute “or 2”.

174 Paragraph 284-75(8)(a) in Schedule 1

Omit “(and no other item in that table)”.

175 Subsection 286-75(1) in Schedule 1 (note)

Omit “item 1, 2 or 2A”, substitute “an item”.

176 Subsection 355-65(3) in Schedule 1 (table item 9)

Repeal the item.

177 Subsection 384-10(1) in Schedule 1 (table item 2)

Repeal the item.

178 Subsection 389-5(1) in Schedule 1 (table items 2 and 2A)

Repeal the items, substitute:

- | | | |
|---|---|--|
| 2 | An amount that:
(a) is not covered by item 1; and
(b) is paid, on a particular day, by or on behalf of the entity; and
(c) constitutes the qualifying earnings (within the meaning of the <i>Superannuation Guarantee (Administration) Act 1992</i>) of an individual who is the entity’s employee (within the meaning of that Act but disregarding subsection 12(3) of that Act) | the day on which the amount is paid, or would be paid, as mentioned in column 1. |
|---|---|--|

179 Subsection 389-25(1) in Schedule 1

Omit “, 2 or 2A”, substitute “or 2”.

180 Subsection 389-25(1) in Schedule 1

Omit “(and no other item in that table)”.

Part 3—Application and transitional provisions

181 Definitions

In this Part:

new Act means the *Superannuation Guarantee (Administration) Act 1992* as amended by this Schedule.

new law means an Act as amended by this Schedule other than any of the following:

- (a) the *Corporations Act 2001*;
- (b) the *Fair Work Act 2009*;
- (c) the *Superannuation Guarantee (Administration) Act 1992*.

old Act, as in force on a particular day before 1 July 2026, means the *Superannuation Guarantee (Administration) Act 1992* as in force on that day.

old law means an Act amended by this Schedule (other than the *Superannuation Guarantee (Administration) Act 1992*) as that Act was in force immediately before 1 July 2026.

182 Application of amendments of the *Superannuation Guarantee (Administration) Act 1992*

Application of the amendments

- (1) The new Act applies in relation to a QE day that is 1 July 2026 or a later day.
- (2) Without limiting subitem (1), the new Act applies to:
 - (a) payments of qualifying earnings to or for an employee by an employer on such a QE day that relate to work, labour or performance of duties before, on or after 1 July 2026; and
 - (b) arrangements for such payments that are made before, on or after 1 July 2026.

Saving of the old Act

- (3) Despite the amendments made by this Schedule of the old Act, the old Act (as in force on the last day of a quarter ending before 1 July 2026) continues to apply on and after 1 July 2026 in relation to that quarter as if the amendments had not been made.

- (4) Without limiting subitem (3), the old Act (as in force on the last day of a quarter ending before 1 July 2026) continues to apply on and after 1 July 2026 in relation to:
- (a) a liability to pay superannuation guarantee charge relating to that quarter (whether the liability arose before, on or after 1 July 2026); or
 - (b) a related liability (whether the related liability arose before, on or after 1 July 2026).

Note: Paragraph (b) includes, for example, any additional superannuation guarantee charge under section 49 or Part 7 of the old Act relating to a liability to pay superannuation guarantee charge relating to a quarter ending before 1 July 2026.

- (5) Despite subitem (3), section 23A of the old Act (as in force on 31 March 2026) continues to apply (as described in that subitem) only in relation to contributions made before 1 July 2026.

Note: This means the late payment offset will not be available for the quarter ending on 30 June 2026, or for offsetting contributions made on or after 1 July 2026 for an earlier quarter.

183 Application of amendments of other Acts

Application of the amendments

- (1) The new law applies in relation to the following:
- (a) a QE day that is 1 July 2026 or a later day;
 - (b) a liability to pay superannuation guarantee charge relating to a QE day that is 1 July 2026 or a later day;
 - (c) individual base superannuation guarantee shortfalls relating to a QE day that is 1 July 2026 or a later day;
 - (d) individual final superannuation guarantee shortfalls relating to a QE day that is 1 July 2026 or a later day.

Saving of the old law

- (2) Despite the amendments made by this Schedule of the old law, the old law continues to apply on and after 1 July 2026 in relation to the following as if the amendments had not been made:
- (a) a liability to pay superannuation guarantee charge relating to a quarter ending before 1 July 2026 (whether the liability arose before, on or after 1 July 2026);

- (b) a related liability (whether the related liability arose before, on or after 1 July 2026);
- (c) individual superannuation guarantee shortfalls relating to a quarter ending before 1 July 2026;
- (d) contributions to reduce a charge percentage relating to a quarter ending before 1 July 2026;
- (e) salary or wages relating to a quarter ending before 1 July 2026;
- (f) an obligation to give a statement or information to the Commissioner under the *Superannuation Guarantee (Administration) Act 1992* relating to a quarter ending before 1 July 2026;
- (g) determining matters relevant to working out the SG minimum contribution (within the meaning of Part VIAA of the *Superannuation Act 1976*) for part of a period of employment that is before 1 July 2026.

Example: Under the old law, the *notional productivity amount* under subsection 128(8) of the *Superannuation Act 1976* is worked out by reference to so much of a person's earnings as are relevant for establishing whether an employer incurred an individual superannuation guarantee shortfall in relation to the person. Paragraph (c) of this subitem means that, on or after 1 July 2026, the notional productivity amount will continue to be worked out in this way in relation to periods ending before that day.

Note: Assume regulations or other instruments can be made for a provision of the old law. If that provision of the old law continues to apply because of this item, then any regulations or instruments made for that provision will also continue to apply (and can continue to be made) for any of the matters in paragraphs (a) to (g).

184 Transitional—reversal after commencement of pre-commencement sacrificed contributions

For the new Act, a reversal of a sacrificed contribution includes a payment made on or after 1 July 2026 that represents the reversal of all or part of a contribution that was:

- (a) a sacrificed contribution (within the meaning of the old Act on 30 June 2026); and
- (b) made before 1 July 2026.

185 Transitional—excess contributions made before 1 July 2026 can be applied under the new Act

- (1) This item applies to a contribution made on a day (the *contribution day*) before 1 July 2026 that would be an eligible contribution made by

an employer for the benefit of an employee if the new Act applied in relation to QE days before 1 July 2026.

- (2) For the purposes of the definition of *eligible contributions relevant for the QE day* in subsection 18C(1) of the new Act, treat so much of the contribution as is neither:
- (a) applied under the old Act (as in force on the contribution day) to reduce the charge percentage for the employer for a quarter ending before 1 July 2026; nor
 - (b) offset under section 23A of the old Act (as in force on the contribution day) against a liability of the employer relating to a quarter ending before 1 July 2026;
- as an *eligible contribution* made by the employer for the benefit of the employee.
- (3) To avoid doubt, the 12-month period mentioned in subparagraph (c)(ii) of that definition can start before 1 July 2026.

186 Transitional—how to apply contributions made between 1 July 2026 and 28 July 2026

- (1) This item applies to an eligible contribution made by an employer for the benefit of an employee if:
- (a) the contribution is made on a day (the *contribution day*) between 1 July 2026 and 28 July 2026; and
 - (b) under the old Act (as in force on 30 June 2026), the employer has on the contribution day an individual superannuation guarantee shortfall that is greater than nil for the employee for the quarter ending on 30 June 2026.

First apply the contribution under the old Act

- (2) Without limiting subitem 182(3) of this Schedule, the old Act (as in force on 30 June 2026) continues to apply on and after 1 July 2026 in relation to the contribution in order to reduce the charge percentage for the employer for the employee for that quarter.

Then apply any remainder under the new Act

- (3) Despite subsection 18C(1) of the new Act, only so much of the contribution as is not applied under the old Act in the way described in

subitem (2) is able to be applied under that subsection for a QE day that is on or after 1 July 2026.

187 Transitional—ending notice periods under the old Act

An employer's notice period that:

- (a) was within the meaning of subsection 19A(4) of the old Act (as in force on 30 June 2026); and
- (b) was in force on 30 June 2026;

is taken to end at the end of 30 June 2026.

188 Application of amendments—repayments of overpayments relating to a shortfall component

Section 69 of the new Act applies in relation to a payment by the Commissioner before, on or after 1 July 2026.

Note: The excess amount paid by the Commissioner can only be recovered once (see subsection 69(7) of the new Act.

189 Transitional—Norfolk Island salary or wages

- (1) This item applies if:
 - (a) some or all of an employer's payment of qualifying earnings to or for an employee on a QE day consists of Norfolk Island salary or wages; and
 - (b) the QE day is in the financial year ending on 30 June 2027; whether the payment of qualifying earnings relates to work done before, during or after that financial year.
- (2) For the purposes of subsection 17A(2) of the new Act, treat the **amount of the qualifying earnings** for the employer, employee and the QE day as if it were reduced by the result of the following:
$$\frac{\text{Total Norfolk Island salary or wages paid to or for the employee by the employer on the QE day}}{12} \times \frac{1}{12}$$
- (3) In this item:

Norfolk Island salary or wages means qualifying earnings paid to or for the employee:

 - (a) while the employee is a resident of Norfolk Island, and for work done in Norfolk Island or outside Australia; or

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- (b) while the employer is a resident of Norfolk Island, and while the employee is a resident of Australia for work done in Norfolk Island.

Note: For a similar result for quarters in a financial year starting on or after 1 July 2016 and ending before 1 July 2026, see subitem 2(2) of Schedule 2 to the *Tax and Superannuation Laws Amendment (Norfolk Island Reforms) Act 2015* (as amended by this Schedule).

*[Minister's second reading speech made in—
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(75/25)
