



Superannuation Guarantee (Administration) Regulations 2018

made under the

Superannuation Guarantee (Administration) Act 1992

Compilation No. 8

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About this compilation

This compilation

This is a compilation of the *Superannuation Guarantee (Administration) Regulations 2018* that shows the text of the law as amended and in force on 1 July 2026 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. Any uncommenced amendments affecting the law are accessible on the Register (www.legislation.gov.au).

Application, saving and transitional provisions

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Presentational changes

The *Legislation Act 2003* provides for First Parliamentary Counsel to make presentational changes to a compilation. Presentational changes are applied to give a more consistent look and feel to legislation published on the Register, and enable the user to more easily navigate those documents.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. Any modifications affecting the law are accessible on the Register.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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Part 1—Preliminary

1 Name

This instrument is the *Superannuation Guarantee (Administration) Regulations 2018*.

3 Authority

This instrument is made under the *Superannuation Guarantee (Administration) Act 1992*.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) actuary;
- (b) administrative uplift amount;
- (c) assessment;
- (d) defined benefit superannuation scheme;
- (e) MySuper member;
- (f) QE day;
- (g) qualifying earnings;
- (h) voluntary disclosure statement.

In this instrument:

Act means the *Superannuation Guarantee (Administration) Act 1992*.

capital guaranteed fund has the same meaning as in the *Corporations Regulations 2001*.

eligible community service activity has the same meaning as in subsection 109(1) of the *Fair Work Act 2009*.

employer contribution rate, in relation to a member of a superannuation scheme, means the rate:

- (a) at which contributions relating to the member are paid into the superannuation fund in respect of the scheme by an employer of the member; and
- (b) that is expressed as a percentage of the member's qualifying earnings.

minimum requisite benefit has the same meaning as in the *Superannuation Industry (Supervision) Regulations 1994*.

parental leave includes any of the following:

- (a) maternity leave;
- (b) early paid leave for an expectant mother if the employer is unable to transfer her to a safe job;

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- (c) paternity leave;
- (d) pre-adoption leave;
- (e) adoption leave.

relevant fund means any of the following:

- (a) a complying approved deposit fund;
- (b) a complying superannuation fund;
- (c) an RSA.

responsible officers means:

- (a) in relation to a relevant fund that is a complying approved deposit fund or a complying superannuation fund—the trustees of the fund; or
- (b) in relation to a relevant fund that is an RSA—the RSA provider of the RSA.

scheduled international social security agreement has the meaning given by subsection 5(1) of the *Social Security (International Agreements) Act 1999*.

selection period has the meaning given by subsection 17A(4).

shortfall component has the meaning given by sections 64A and 64B of the Act.

successor fund has the same meaning as in the *Superannuation Industry (Supervision) Regulations 1994*.

Part 2—Defined benefit members

5A Circumstances in which member taken to be defined benefit member for the purposes of the Act

- (1) For the purposes of paragraph 6AA(b) of the Act, subsection (2) sets out a circumstance in which a member of a superannuation fund is to be taken to be a **defined benefit member** for the purposes of the Act.
- (2) The circumstance is that:
 - (a) the superannuation fund is a defined benefit superannuation scheme and a superannuation entity (within the meaning of the *Superannuation Industry (Supervision) Act 1993*); and
 - (b) the person's minimum benefits in the scheme are met, or will be met, wholly or partly, from a reserve of the scheme; and
 - (c) a benefit certificate is currently in effect for the scheme.
- (3) For the purposes of paragraph (2)(b), **reserve** has the same meaning as in section 115 of the *Superannuation Industry (Supervision) Act 1993*.

6 Circumstances in which member taken to be defined benefit member for the purposes of subsection 20A(3) of the Act

- (1) For the purposes of paragraph 6AA(b) of the Act, subsection (2) sets out circumstances in which a member of a superannuation fund is to be taken to be a **defined benefit member** for the purposes of subsection 20A(3) of the Act.
- (2) A circumstance is that the member:
 - (a) is a member of the scheme established under the *Military Superannuation and Benefits Act 1991* (the **military superannuation scheme**); or
 - (b) holds an interest, as a **non-member spouse** within the meaning of Part VIIIB or VIIC of the *Family Law Act 1975*, in the military superannuation scheme; or
 - (c) has a preserved benefit in the military superannuation scheme; or
 - (d) has an ancillary account in the military superannuation scheme; or
 - (e) both:
 - (i) is a member of the scheme established under the *Defence Force Retirement and Death Benefits Act 1973*; and
 - (ii) has an ancillary account in the military superannuation scheme; or
 - (f) holds an interest, as a **non-member spouse** within the meaning of Part VIIIB or VIIC of the *Family Law Act 1975*, in a superannuation scheme established under the *Superannuation Act 1976* or the *Superannuation Act 1990*; or
 - (g) has made an election under section 137 of the *Superannuation Act 1976*; or
 - (h) is a **preserved benefit member** within the meaning of the *Public Sector Superannuation Scheme Trust Deed*.

Part 3—Benefit certificates

7 Benefit certificates

- (1) An employer must obtain a benefit certificate from an actuary:
 - (b) at or before the time ascertained under subsections 10(3) and (4) of the Act;
or
 - (c) on or before such later date as the Commissioner allows.
- (2) A benefit certificate must:
 - (a) include the name of each defined benefit superannuation scheme to which the certificate relates; and
 - (b) specify, or identify by reference to the governing rules of each scheme to which the certificate relates, the minimum requisite benefit; and
 - (c) specify:
 - (i) the notional employer contribution rate in relation to each scheme, or combination of schemes, to which the certificate relates; and
 - (ii) the class of members of the scheme or schemes to which the notional employer contribution rate relates; and
 - (d) include a statement to the effect that each notional employer contribution rate referred to in paragraph (c) has been calculated in accordance with this instrument; and
 - (e) specify the date of effect of the benefit certificate in relation to each scheme to which the certificate relates; and
 - (f) include the name, business address and actuarial qualifications of the actuary who issues the certificate; and
 - (g) include the signature of the actuary and the date on which the certificate is signed.

8 Notional employer contribution rate—general

- (1) Subject to subsection (2), the notional employer contribution rate in relation to a class of employees who are:
 - (a) defined benefit members; and
 - (b) members of a defined benefit superannuation scheme;is the rate determined in accordance with section 9 or 10.
- (2) If section 9 or 10 is not applicable to a class of employees, the notional employer contribution rate for that class is calculated in accordance with a method determined by an actuary, who certifies that the method:
 - (a) is applicable to the class; and
 - (b) is consistent with section 9 or 10; and
 - (c) determines a rate that is comparable to the rate at which the employer of the employees must contribute to the superannuation scheme, or schemes, to provide the employees with the minimum requisite benefit.

9 Notional employer contribution rate—accumulation benefits

If, in relation to a class of employees who are:

- (a) defined benefit members; and
- (b) members of a defined benefit superannuation scheme;

both of the following are satisfied:

- (c) the minimum requisite benefit in respect of each employee in that class is calculated as an accumulation of employer contributions;
- (d) the employer contribution rate used in that calculation is the same for each employee in the class;

then the notional employer contribution rate in relation to the class is that employer contribution rate.

10 Notional employer contribution rate—defined benefits

- (1) For the purposes of this section:

DF, in relation to a person:

- (a) who has not turned 45—is 0.3; or
- (b) who has turned 45 but has not turned 65—is the number that is calculated by multiplying 0.00125 by:
 - (i) in the case of a person whose age, expressed in months, when the person withdraws from a superannuation scheme is a whole number of months—the number that is equal to 780 less the number of months; or
 - (ii) in the case of a person whose age, expressed in months, when the person withdraws from a superannuation scheme exceeds a whole number of months—the number that is equal to 779 less the number of months; or
- (c) who has turned 65—is 0.

FQE is:

- (a) if a benefit accruing in respect of membership after 30 June 2008 is expressed in the governing rules of a superannuation scheme as a multiple of the annual qualifying earnings of the person as at the day on which the person withdraws from the scheme—0.0833; or
- (b) if a benefit accruing in respect of membership after 30 June 2008 is expressed in the governing rules of the scheme as a multiple of the average annual qualifying earnings of the person in the period of 3 years ending on the day on which the person withdraws from the scheme—0.09; or
- (c) if a benefit accruing in respect of membership after 30 June 2008 is expressed in those governing rules as a multiple of the average annual qualifying earnings of the person in a particular number of years of membership of the person ending on the day on which the person withdraws from the scheme:

$$0.0833 + \left(0.0022 \times A \right)$$

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where:

A is the number of years specified in the governing rules of the scheme ending on the day on which the person withdraws from the scheme.

FSAL is:

- (a) if **SAL** is the annual salary of the person, calculated in accordance with the governing rules of the scheme applicable as at 30 June 1992, as at the day on which the person withdraws from the scheme—0.0833; or
- (b) if **SAL** is the average annual salary of the person in the period of 3 years ending on the day on which the person withdraws from the scheme, calculated in accordance with the governing rules of the scheme applicable as at 30 June 1992—0.09; or
- (c) if **SAL** is the average annual salary of the person in a number of years, specified in the governing rules of the scheme, ending on the day on which the person withdraws from the scheme, calculated in accordance with the governing rules of the scheme applicable as at 30 June 1992:

$$0.0833 + \left(0.0022 \times A \right)$$

where:

A is the number of years specified in the governing rules of the scheme ending on the day on which the person withdraws from the scheme.

MB has the same meaning as in subsection (5).

MCR, in relation to a member of a superannuation scheme, is the rate at which contributions are paid by the member into a superannuation fund in respect of the scheme for the period from 1 July 2008, being a rate that is expressed, for the purposes of the governing rules of the scheme, as a percentage of the member's annual qualifying earnings.

MRB means the minimum requisite benefit in respect of the person.

NM, in relation to contributions to a superannuation scheme in respect of a person that are made after 30 June 2008, is:

- (a) in the case of a person who withdraws from the scheme at the end of a period that is a whole number of months after the day on which the first contribution was made—that whole number; and
- (b) in the case of a person who withdraws from the scheme at the end of a period that exceeds a whole number of months after the day on which the first contribution was made—the number that is equal to the sum of:
 - (i) that whole number; and
 - (ii) the fraction that is calculated by dividing the number of days in the month in which the person withdrew from the scheme, up to and including the day of withdrawal, by the total number of days in that month.

NMI, in relation to contributions to a superannuation scheme in respect of a person that are made between 1 July 1992 and 30 June 2008, is:

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- (a) if the number of months from the day on which the first contribution was made to 30 June 2008 is a whole number—that whole number; and
- (b) if the number of months from the day on which the first contribution was made to 30 June 2008 exceeds a whole number—the number that is equal to the sum of:
 - (i) the whole number; and
 - (ii) the fraction that is calculated by dividing the number of days in the month in which the first contribution was made, from the day the first contribution was made to the end of the last day of the month, by the total number of days in that month.

PAB1 means that part of the minimum requisite benefit that accrued to the person before 1 July 1992, calculated in accordance with subsection (6).

PAB2 means that part of the minimum requisite benefit that accrued to the person between 1 July 1992 and 30 June 2008, calculated in accordance with subsection (7).

QE is:

- (a) if a benefit accruing in respect of the period from 1 July 2008 is expressed in the governing rules of a superannuation scheme as a multiple of the annual qualifying earnings of a member of that scheme as at the day on which the member withdraws from the scheme—the member's annual rate of qualifying earnings as at that day; or
- (b) if a benefit accruing in respect of the period from 1 July 2008 is expressed in the governing rules of the scheme as a multiple of the average annual qualifying earnings of a member of the scheme in a period referred to in paragraph (b) or (c) of the definition of **FQE**—the member's average annual rate of qualifying earnings in the relevant period.

SAL is the annual salary of the member on the day on which the member withdraws from the scheme, calculated in accordance with the governing rules of the scheme applicable as at 30 June 1992, or if a benefit is expressed in the governing rules of the scheme applicable as at 30 June 1992 as a multiple of the annual salary of the member averaged over a period, the member's average annual rate of salary in the relevant period.

SAL1 is the amount that would have been SAL if the member had withdrawn from the scheme on 30 June 1992.

TCR has the same meaning as in subsection (4).

TR, in relation to a complying superannuation scheme, is the rate of tax payable in respect of the scheme in relation to the low tax component (within the meaning of the *Income Tax Assessment Act 1997*) of the taxable income of the scheme.

- (2) The notional employer contribution rate in relation to a defined benefit superannuation scheme in respect of a class of employees is calculated in accordance with this section if:

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- (a) MCR and TCR are greater than 0, and have not changed since 1 July 1992; and
- (b) MCR and TCR are the same in respect of each employee in the class; and
- (c) TR has not changed since 1 July 2008; and
- (d) the definition of **SAL** in the governing rules of the scheme did not change between 1 July 1992 and 30 June 2008; and
- (e) no part of the minimum requisite benefit constitutes an element untaxed in the fund of the taxable component (within the meaning of the *Income Tax Assessment Act 1997*); and
- (f) the benefit certificate to which the notional employer contribution rate relates is in respect of a single superannuation scheme; and
- (g) the date of effect of the benefit certificate is on or after 1 July 2008; and
- (h) the minimum requisite benefit as at 30 June 2008 in respect of each employee in the class was equal to the amount calculated using the formula:

$$TCR \times FSAL \times NM1 \times SAL \times \left(1 - DF\right) + A \times \frac{SAL}{SAL1}$$

with the values of **SAL** and **DF** determined as at 30 June 2008 and the value of **A** calculated in accordance with subsection (6); and

- (i) the minimum requisite benefit accruing in respect of the period from 1 July 2008 in respect of each employee in the class is prescribed in the governing rules of the scheme as a multiple of:
 - (i) the annual qualifying earnings of the employee as at the day when the employee withdraws from the fund; or
 - (ii) the average annual qualifying earnings of the employee in a period ending when the employee withdraws from the scheme.
- (3) The notional employer contribution rate in relation to a class of employees specified in a benefit certificate relating to a defined benefit superannuation scheme is calculated using the formula:

$$\frac{TCR}{1} - \frac{MCR}{1 - TR}$$

- (4) **TCR** is calculated using the formula:

$$\frac{MB}{FQE \times NM \times QE \times (1 - DF)}$$

- (5) **MB** is calculated using the formula:

$$MRB - PAB1 - PAB2$$

- (6) **PAB1** is calculated using the formula:

$$\frac{A \times SAL}{SAL1}$$

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where:

A is the lesser of:

- (a) the amount of the benefit vested in the member as at 30 June 1992 in accordance with the governing rules of the superannuation scheme; and
- (b) the amount of the benefit that has accrued in respect of the member as at 30 June 1992 in accordance with those governing rules.

(7) **PAB2** is calculated using the formula:

$$\text{TCR} \times \text{FSAL} \times \text{NM1} \times \text{SAL} \times \left(1 - \text{DF}\right)$$

Part 4—Liability of employers to superannuation guarantee charge

Division 1—Exclusions from qualifying earnings

11 Exclusions from qualifying earnings—kinds of employees

For the purposes of subparagraph 10A(3)(b)(i) of the Act, a person's qualifying earnings do not include earnings or remuneration of, or payments to, the person to the extent that the person is an employee of any of the following kinds:

- (a) an employee who has been appointed by a company operating in Australia to be the national managing executive or deputy national managing executive or a state manager and who is the holder of:
 - (i) a Subclass 456 (Business (Short Stay)) visa granted under the *Migration Act 1958*; or
 - (ii) a Subclass 400 (Temporary Work (Short Stay Specialist)) visa granted under that Act;
- (b) an employee who is the holder of a visa referred to in paragraph (a) if:
 - (i) the employee holds a position as a senior executive of a company operating in Australia or is establishing a business activity in Australia on behalf of the employer; and
 - (ii) the employee's position carries substantial executive responsibility; and
 - (iii) the employee's qualifications for the position are appropriate; and
 - (iv) the employee's position is a full-time position;
- (c) an employee who is the holder of a Subclass 482 (Skills in Demand or Temporary Skill Shortage) visa or a Subclass 457 (Temporary Work (Skilled)) visa granted under the *Migration Act 1958* if:
 - (i) the employee has been appointed by a company operating in Australia to be the national managing executive or deputy national managing executive or a state manager; and
 - (ii) the employee was nominated as mentioned in clause 482.212 of Schedule 2 to the *Migration Regulations 1994* or in paragraph 457.223(2)(c) or 457.223(4)(a) of that Schedule (as in force before 18 March 2018);
- (d) an employee who is the holder of a Subclass 482 (Skills in Demand or Temporary Skill Shortage) visa or a Subclass 457 (Temporary Work (Skilled)) visa granted under the *Migration Act 1958* if:
 - (i) the employee holds a position as a senior executive of a company operating in Australia; and
 - (ii) the employee was nominated as mentioned in clause 482.212 of Schedule 2 to the *Migration Regulations 1994* or in paragraph 457.223(2)(c) or 457.223(4)(a) of that Schedule (as in force before 18 March 2018); and

- (iii) the employee's position carries substantial executive responsibility;
and
- (iv) the employee's qualifications for the position are appropriate; and
- (v) the employee's position is a full-time position;
- (e) an employee who is the holder of a Subclass 482 (Skills in Demand or Temporary Skill Shortage) visa or a Subclass 457 (Temporary Work (Skilled)) visa granted under the *Migration Act 1958* if:
 - (i) the employee is establishing a business activity in Australia on behalf of the employer; and
 - (ii) the employee's position carries substantial executive responsibility;
and
 - (iii) the employee's qualifications for the position are appropriate; and
 - (iv) the employee's position is a full-time position;
- (f) a part-time employee who is under 18.

12 Exclusions from qualifying earnings—kinds of earnings, remuneration or payments

- (1) For the purposes of subparagraph 10A(3)(b)(iii) of the Act, a person's qualifying earnings do not include earnings or remuneration of, or payments to, the person (the ***payments to the person***) to the extent that the payments to the person are of any of the following kinds:
 - (a) payments to the person for a period of parental leave;
 - (b) payments to the person:
 - (i) where the person is engaged in an eligible community service activity;
and
 - (ii) by the person's usual employer while the person is absent from the employee's usual employment;
 - (c) payments to the person:
 - (i) in respect of service that the person is undertaking with the Australian Defence Force; and
 - (ii) by the person's usual employer while the person is absent from the person's usual employment; and
 - (iii) that are not paid by the Australian Defence Force;
 - (d) if a scheduled international social security agreement provides that an employer to which the payments to the person relate is not subject to the Act in relation to the work for which the payments to the person are paid—the payments to the person so paid;
 - (e) payments to the person:
 - (i) paid on or after 1 November 2022; and
 - (ii) funded by a payment made to the person's employer under the program established by the Commonwealth and known as the Aged Care Registered Nurses' Payment to reward clinical skills and leadership;
 - (f) payments to the person that are fringe benefits (within the meaning of the *Fringe Benefits Tax Assessment Act 1986*);

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- (g) if the person is not a resident of Australia, either of the following:
 - (i) payments to the person for work done outside Australia (except to the extent that the payments to the person relate to employment covered by a certificate under section 15C of the Act);
 - (ii) payments to the person by their employer for work done in the Joint Petroleum Development Area (within the meaning of the *Petroleum (Timor Sea Treaty) Act 2003*);
- (h) if the person is a resident of Australia and the employer is not a resident of Australia—payments to the person by their employer for work done outside Australia;
 - (i) payments to the person that are exempt from income tax under item 1.4 of the table in section 51-5 of the *Income Tax Assessment Act 1997*;
 - (j) payments to the person under a contract for the employment of the person, for not more than 30 hours per week, for work that is wholly or principally of a domestic or private nature.
- (2) Paragraph (1)(b) does not apply to payments to the person where the person engages in the eligible community service activity in the capacity of an employee of the employer that carries on the activity.
- (3) Paragraphs (1)(b) and (c) do not apply to a payment to the person relating to:
 - (a) annual leave; or
 - (b) sick leave; or
 - (c) long service leave;that is paid in relation to the period during which the person is engaged in the relevant activity or performing the relevant work.

Division 2—Superannuation guarantee shortfalls

13 Exceptional circumstances that affect ability of employers to make eligible contributions

For the purposes of paragraph 18C(4)(a) of the Act, the following kinds of exceptional circumstances are prescribed:

- (a) natural disasters;
- (b) widespread outages of:
 - (i) information and communication technology services; or
 - (ii) other technology services or platforms that facilitate or support employers to make contributions.

Section 13A

Division 3—Administrative uplift amounts for superannuation guarantee shortfalls

13A Simplified outline of this Division

An employer's administrative uplift amount for a QE day is 60% of the sum of the totals of its individual final superannuation guarantee shortfalls, and individual notional earnings components, for the QE day.

However, this 60% can be reduced by this Division in 2 ways and can be reduced to 0%.

The first way can reduce the percentage to 40% if the Commissioner has not initiated an assessment, or made an estimate, of superannuation guarantee charge for the employer during the past 24 months.

The second way can reduce the percentage if the employer lodges a voluntary disclosure statement for the QE day:

- (a) in the approved form; and
- (b) before the day an assessment is made for the employer and the QE day.

13B Reducing an employer's administrative uplift amount

- (1) This Division sets out how an employer's administrative uplift amount for a QE day can be reduced.
- (2) This amount is reduced (but not below nil) if either or both of sections 13C or 13D apply to reduce the percentage in subsection 19B(1) of the Act.

Note: That percentage is 60% of the sum of the totals of the employer's individual final superannuation guarantee shortfalls, and individual notional earnings components, for the QE day (see subsection 19B(1) of the Act).

13C Reduction if no Commissioner-initiated assessment in the past 24 months

- (1) This section applies to reduce the percentage for the QE day by 20% if, during the 24-month period ending on the QE day:
 - (a) no Commissioner-initiated assessment that is made, during the period, for the employer is in force on the QE day; and
 - (b) no estimate under subsection 268-10(1) in Schedule 1 to the *Taxation Administration Act 1953* has been made, during the period, for the employer for a liability to pay superannuation guarantee charge.

Note: If this subsection applies, then the 60% in subsection 19B(1) of the Act is reduced to 40%.

- (2) For the purposes of paragraph (1)(b), disregard an estimate for which either of the following is satisfied on or before the QE day:

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- (a) the estimate has been revoked;
- (b) the amount of the estimate has been reduced to nil.

Note: Subdivision 268-D in Schedule 1 to the *Taxation Administration Act 1953* deals with reducing and revoking estimates.

- (3) Despite subsection (1), if the QE day is between 1 July 2026 and 30 June 2028 (inclusive), then treat the period mentioned in subsection (1) as if it started on 1 July 2026.
- (4) A **Commissioner-initiated assessment**, for the employer, is an assessment of superannuation guarantee charge that:
 - (a) is of an amount of charge that is greater than nil; and
 - (b) is made under subsection 36(1) of the Act for the employer and a QE day; and
 - (c) satisfies subsection (5).
- (5) The assessment satisfies this subsection if:
 - (a) it was made on the Commissioner's own initiative; or
 - (b) it was made in response to a statement that:
 - (i) was purportedly lodged by the employer under section 33 of the Act as a voluntary disclosure statement; but
 - (ii) is not a voluntary disclosure statement.

Note: Section 33 of the Act sets out when a statement is a voluntary disclosure statement.

13D Reduction if a voluntary disclosure statement is lodged for the QE day

This section applies to reduce the percentage for the QE day by the percentage in column 1 of an item of the following table if the employer lodges a voluntary disclosure statement for the QE day:

- (a) on a day covered by column 2 of that table item (the **lodgment day**); and
- (b) before the day an assessment under subsection 36(1) of the Act is made for the employer and the QE day.

Reductions in percentage if a voluntary disclosure statement is lodged for the QE day		
	Column 1	Column 2
Item	Reduce the percentage by:	... if the lodgment day is:
1	40%	before the end of the 30-day period starting on the QE day.
2	35%	during the period: (a) starting immediately after the end of the period mentioned in item 1; and (b) ending at the end of the 60-day period starting on the QE day.
3	30%	during the period: (a) starting immediately after the end of the period mentioned in item 2; and (b) ending at the end of the 120-day period starting on the QE day.

Part 4 Liability of employers to superannuation guarantee charge

Division 3 Administrative uplift amounts for superannuation guarantee shortfalls

Section 13D

Reductions in percentage if a voluntary disclosure statement is lodged for the QE day		
	Column 1	Column 2
Item	Reduce the percentage by:	... if the lodgment day is:
4	15%	after the end of the 120-day period starting on the QE day.

Example 1: If section 13C applies and table item 1 applies, the 60% in subsection 19B(1) of the Act is reduced to 0%.

Example 2: If section 13C does not apply but table item 2 applies, the 60% in subsection 19B(1) of the Act is reduced to 25%.

Note: Section 33 of the Act sets out when a statement is a voluntary disclosure statement.

Part 5—Choice of fund requirements

14 Requirement for providing or offering insurance in respect of death

MySuper members

- (1) For the purposes of paragraph 32C(2)(d) of the Act, for a MySuper member, other than a member who is a defined benefit member, the requirement is that insurance be provided by the fund in the event of the death of the member:
 - (a) for a person of an age in an age range mentioned in subsection (5)—at the level mentioned or higher; or
 - (b) for a person who is under 56 years—at a premium of at least \$0.50 per week, or the equivalent.
- (2) However, if a MySuper member, other than a member who is a defined benefit member, has elected that insurance in relation to death not be provided, or that insurance in relation to death be provided at a lower level than provided for in subsection (1), the requirement is that insurance be offered by the fund in the event of the death of the member:
 - (a) for a person of an age in an age range mentioned in subsection (5)—at the level mentioned or higher; or
 - (b) for a person who is under 56 years—at a premium of at least \$0.50 per week, or the equivalent.
- (3) The provision, by a regulated superannuation fund, of insurance in respect of death in accordance with subsection (1) is subject to such reasonable conditions as the trustees of the fund determine.

Members other than MySuper members

- (4) For the purposes of paragraph 32C(2)(e) of the Act, for a defined benefit member, or a member other than a MySuper member, the requirement is that insurance be offered by the fund in the event of the death of the member:
 - (a) for a person of an age in an age range mentioned in subsection (5)—at the level mentioned or higher; or
 - (b) for a person who is under 56 years—at a premium of at least \$0.50 per week, or the equivalent; or
 - (c) if the contribution is made to a defined benefit superannuation scheme on behalf of a defined benefit member—that provides a death benefit with a future service component that is at least equivalent to the level of insurance in relation to death mentioned in paragraph (a).

Level of insurance

- (5) For the purposes of paragraph (1)(a), (2)(a) or (4)(a), the level of insurance in respect of death is as follows:
 - (a) if the person is aged from 20 to 34 years—\$50,000;

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- (b) if the person is aged from 35 to 39 years—\$35,000;
- (c) if the person is aged from 40 to 44 years—\$20,000;
- (d) if the person is aged from 45 to 49 years—\$14,000;
- (e) if the person is aged from 50 to 55 years—\$7,000.

Exceptions

- (6) The requirement in subsection (1), (2) or (4) does not apply to an employer:
 - (a) if, on or after 1 July 2005, the employer is making contributions under a Federal award in respect of an employee to a fund that does not meet the requirement—to the extent that the employer continues to contribute to a fund under that award in respect of the employee; or
 - (b) if the employer makes contributions to an RSA on behalf of an employee—to the extent that the requirement relates to the employee; or
 - (c) if the employer makes contributions to a capital guaranteed fund on behalf of an employee—to the extent that the requirement relates to the employee; or
 - (d) to the extent that the requirement relates to an employee in respect of whom an arrangement by the employer results in the provision of insurance cover that includes death cover:
 - (i) other than with the fund that the employer will contribute to if the employee does not make a choice; and
 - (ii) at a level that is at least equivalent to the level mentioned in subsection (1), (2) or (4); and
 - (iii) that does not provide for a potential benefit to the employer following the death of the employee; or
 - (e) if, due to a particular employee's health, occupation, hours worked or other circumstances determined by an insurer, the insurance requirement mentioned in subsection (1), (2) or (4) is not available in respect of the employee from the fund normally used by the employer; or
 - (f) if, in respect of an employee, the employer makes contributions:
 - (i) to a fund or successor fund governed by rules that, on 11 March 2005, determined that an amount of not less than \$50,000 will be payable in respect of the death of an employee; and
 - (ii) that were continuing on, or commenced after, 11 March 2005.
- (7) The requirement in subsection (1) does not apply to an employer if, under section 68AAA of the *Superannuation Industry (Supervision) Act 1993*, insurance in the event of the death of the employee is not to be provided.

15 Contributions under prescribed legislation

For the purposes of subsection 32C(9) of the Act, a contribution to a fund by an employer for the benefit of an employee is made in compliance with the choice of fund requirements if:

- (a) the contribution is made on or after 1 July 2005 under any of the following laws:

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- (i) the *Parliamentary Superannuation Act 2004*;
- (ii) the *First State Superannuation Act 1992* (NSW);
- (iii) the *Emergency Services Superannuation Act 1986* (Vic.);
- (iv) the *Parliamentary Salaries and Superannuation Act 1968* (Vic.);
- (v) the *State Employees Retirement Benefits Act 1979* (Vic.);
- (vi) the *State Superannuation Act 1988* (Vic.);
- (vii) the *Transport Superannuation Act 1988* (Vic.);
- (viii) the *Coal Industry Superannuation Act 1989* (WA);
- (ix) the *Fire and Emergency Services Superannuation Act 1985* (WA);
- (x) the *State Superannuation Act 2000* (WA);
- (xi) the *Electricity Corporations Act 1994* (SA);
- (xii) the *Local Government Act 1999* (SA); or
- (b) the contribution is made on or after 1 August 2009 under the *Southern State Superannuation Act 2009* (SA); or
- (c) the contribution is made on or after 1 July 2010 under the *Local Government Act 2009* (Qld); or
- (d) the contribution is made on or after 31 March 2017 under the *Public Sector Superannuation Reform Act 2016* (Tas.).

16 Chosen funds—information to be provided by employee

For the purposes of subparagraph 32FA(1)(a)(ii) of the Act, the following information is prescribed:

- (a) the employee's account name in the fund;
- (b) if the fund uses a number or other unique identifier to refer to the employee's account—the number or identifier that relates to the account;
- (c) the full name of the fund;
- (d) if the fund has an Australian Business Number—the number;
- (e) a written statement that complies with subsection 18A(2) of the Act from the trustee of the fund;
- (f) if the fund is a self managed superannuation fund within the meaning of section 17A of the *Superannuation Industry (Supervision) Act 1993*—evidence from the Australian Taxation Office that the fund is a regulated superannuation fund (within the meaning of that Act);
- (g) information concerning the method of payment for the employee's contributions, and details necessary to make the payment;
- (h) if the fund uses a number or other unique identifier to refer to its superannuation products—the number or identifier that relates to the product provided to the employee;
- (i) if the employer uses a number or other unique identifier to refer to the employee—the number or identifier that relates to the employee.

Section 17

17 Standard choice form

For the purposes of paragraphs 32P(1)(e) and (g) of the Act, the standard choice form is the form approved for those paragraphs under section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

17A Stapled funds—requirements for a fund to be a stapled fund

- (1) For the purposes of section 32Q of the Act, the following requirements are prescribed for working out if a fund is the stapled fund for an employee at a particular time:
- (a) the requirements in subsection (2);
 - (b) if at that time the requirements in subsection (2) are met for 2 or more funds (the **eligible funds**)—the fund is covered by subsection (3) for the employee at that time.

Basic requirements

- (2) The requirements in this subsection are that:
- (a) the fund:
 - (i) is a complying superannuation fund, or a complying superannuation scheme, for the financial year that includes that time; or
 - (ii) is an RSA at that time; and
 - (b) at that time, the employee is:
 - (i) a member of that fund or scheme; or
 - (ii) a holder of that RSA; and
 - (c) at that time, insofar as the Commissioner is aware, that fund, scheme or RSA is able to accept contributions from the employee's employer; and
 - (d) at that time, the Commissioner is able to disclose to the employee's employer (and the employer's agent if necessary) information about:
 - (i) the employee; or
 - (ii) the fund, scheme or RSA.

Note: For paragraph (d), the Commissioner will need to disclose information to the employer's agent if the agent had requested the Commissioner to identify any stapled fund for the employee (see section 32R of the Act).

Tiebreaker requirement

- (3) A fund (the **selected fund**) is covered by this subsection for the employee at that time if:
- (a) in the case where during the selection period the Commissioner has given one or more notices under section 32R of the Act identifying an eligible fund that the Commissioner is satisfied is the stapled fund for the employee—the selected fund is the eligible fund that was identified in the most recent of those notices; or
 - (b) in the case where paragraph (a) does not apply to any eligible fund for the employee at that time—the selected fund is the eligible fund that received the most recent contribution for the benefit of the employee during the

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selection period, based on statements given to the Commissioner under Subdivision 390-A in Schedule 1 to the *Taxation Administration Act 1953*; or

- (c) in the case where paragraphs (a) and (b) do not apply to any eligible fund for the employee at that time—the selected fund held the largest account balance for the employee at the end of the previous financial year out of all the eligible funds; or
- (d) in the case where paragraphs (a), (b) and (c) do not apply to any eligible fund for the employee at that time—the Commissioner is satisfied that the selected fund is the most appropriate of the eligible funds to be selected as the stapled fund for the employee after having regard to:
 - (i) when the employee became a member, or holder, of each of the eligible funds; and
 - (ii) any other relevant matters.

Meaning of selection period

- (4) The **selection period**, for working out if an eligible fund is the stapled fund for an employee at a particular time, is the period:
 - (a) starting at the start of the most recent financial year that has ended before that time; and
 - (b) ending at that time.

17B Stapled funds—requirements for making requests to the Commissioner

A requirement prescribed for the purposes of paragraph 32R(1)(b) of the Act for a request by an employer, or by an employer's agent, is that the request must be made for the purposes of complying with the aspects of the choice of fund requirements that relate to stapled funds.

17C Stapled funds—circumstances for changing an earlier notification

For the purposes of subsection 32R(3) of the Act, the circumstances in which the Commissioner may change an earlier notification given to an employer in relation to an employee are when:

- (a) the Commissioner has identified an error in the earlier notification; and
- (b) if the earlier notification stated that the Commissioner is satisfied that there is a stapled fund for the employee—the Commissioner is unaware of any contributions being made to the fund by the employer for the benefit of the employee.

Note: The earlier notification will also have been given to the employer's agent if that agent made the request that resulted in the notification (see paragraph 32R(2)(b) of the Act).

Section 18

Part 6—Payments of amounts of shortfall components for the benefit of employees

18 Employee must be notified of certain shortfall components

- (1) The Commissioner must give written notice to an employee if the employee's shortfall component exceeds \$20.
- (2) The Commissioner may give written notice to an employee if the employee's shortfall component is equal to or less than \$20.
- (3) A notice must:
 - (a) state the date of the notice; and
 - (b) state the name of the employer; and
 - (c) state the amount, or the sum of the amounts, of the shortfall component.
- (4) A notice may also specify a relevant fund for the purposes of subsection 19(5).
- (5) The Commissioner may give more than one notice under this section.

19 Responses to notice of a shortfall component

- (1) This section applies to an employee who receives a notice under section 18.
- (2) If the employee is under 55 years and has retired from the workforce because of permanent incapacity or permanent invalidity, the employee must lodge the documents mentioned in paragraph 66(b) of the Act.
- (3) If the employee has died, the legal personal representative of the deceased employee must lodge:
 - (a) written notice of the death, signed by the legal personal representative; and
 - (b) a copy of the death certificate of the deceased employee.
- (4) If subsections (2) and (3) do not apply, and the notice does not specify a relevant fund, the employee may:
 - (a) request in writing the responsible officers of a relevant fund to collect from the Commissioner the amount, or the sum of the amounts, of the shortfall component; or
 - (b) lodge a written nomination of a relevant fund.
- (5) If:
 - (a) subsections (2) and (3) do not apply; and
 - (b) the notice specifies a relevant fund; and
 - (c) the employee does not wish to have the amount, or the sum of the amounts, of the shortfall component paid into the relevant fund specified in the notice;the employee may lodge a written nomination of another relevant fund.

20 Obligation of responsible officers who receive a request from an employee

- (1) This section applies if the responsible officers of a relevant fund receive a request under paragraph 19(4)(a) or 22(a).
- (2) The responsible officers must:
 - (a) give the employee written notice of receipt of the request; and
 - (b) specify in the notice the date of its receipt.

Penalty: 5 penalty units.

- (3) An offence against subsection (2) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (4) If the responsible officers decline to comply with the request, the responsible officers must notify the employee within 14 days after receiving the request.

Penalty: 5 penalty units.

- (5) An offence against subsection (4) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

- (6) If the responsible officers agree to comply with the request, the responsible officers must lodge the request, or a copy of it, at an office of the Australian Taxation Office, within:

- (a) 14 days after receiving the request; or
- (b) a further period determined by the Commissioner in writing.

Penalty: 5 penalty units.

- (7) An offence against subsection (6) is an offence of strict liability.

Note: For strict liability, see section 6.1 of the *Criminal Code*.

21 Responses to notice are nominations

- (1) If a request, or a copy of the request, is lodged by the responsible officers of a relevant fund under subsection 20(6), the employee is taken to have nominated the fund specified in the request for the purposes of paragraph 65(1)(b) of the Act.
- (2) A written nomination of a relevant fund lodged under paragraph 19(4)(b), subsection 19(5) or paragraph 22(b) is a nomination for the purposes of paragraph 65(1)(b) of the Act.
- (3) If a notice given under section 18 specifies a relevant fund, and the employee does not otherwise nominate another relevant fund within 28 days after the date of the notice, the employee is taken, for the purposes of paragraph 65(1)(b) of the Act, to have nominated the relevant fund specified in the notice.

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22 Nomination of relevant fund by employee

Whether or not the Commissioner has given an employee a notice under section 18, the employee may:

- (a) request in writing the responsible officers of a relevant fund to collect from the Commissioner the amount, or the sum of the amounts, of the employee's shortfall component; or
- (b) lodge, at an office of the Australian Taxation Office, a written nomination of a relevant fund.

23 Shortfall component not to be paid in certain circumstances

The Commissioner must not pay the amount of a shortfall component in respect of an employee unless sufficient information is reasonably available to the Commissioner to allow the Commissioner to identify the employee.

Part 8—Application and transitional provisions

25 Application—contributions

Paragraph 15(d) applies in relation to contributions made on or after 31 March 2017 under the *Public Sector Superannuation Reform Act 2016* (Tas.).

26 Things done under the *Superannuation Guarantee (Administration) Regulations 1993*

- (1) If:
 - (a) a thing was done for a particular purpose under the *Superannuation Guarantee (Administration) Regulations 1993* as in force immediately before those Regulations were repealed; and
 - (b) the thing could be done for that purpose under this instrument;the thing has effect for the purposes of this instrument as if it had been done for that purpose under this instrument.
- (2) Without limiting subsection (1), a reference in that subsection to a thing being done includes a reference to a notice, application or other instrument being given or made.

27 Application—insurance requirements after amendment made by the *Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019*

The amendment made by item 29 of Schedule 1 to the *Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019* applies in relation to contributions made on or after 1 July 2019.

Endnotes

Endnote 1—About the endnotes

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe how an amendment is to be made. If, despite the misdescription, the amendment can be given effect as intended, then the misdescribed amendment can be incorporated through an editorial change made under section 15V of the *Legislation Act 2003*.

If a misdescribed amendment cannot be given effect as intended, the amendment is not incorporated and “(md not incorp)” is added to the amendment history.

Endnote 2—Abbreviation key

ad = added or inserted	orig = original
am = amended	p = page(s)
amdt = amendment	para = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
ch = Chapter(s)	prev = previous
cl = clause(s)	(prev...) = previously
cont. = continued	pt = Part(s)
def = definition(s)	r = regulation(s)/Court rule(s)
Dict = Dictionary	reloc = relocated
disallowed = disallowed by Parliament	renum = renumbered
div = Division(s)	rep = repealed
ed = editorial change	rs = repealed and substituted
exp = expires/expired or ceases/ceased to have effect	s = section(s)/subsection(s) /rule(s)/subrule(s)/order(s)/suborder(s)
gaz = gazette	sch = Schedule(s)
LA = <i>Legislation Act 2003</i>	SLI = Select Legislative Instrument
LIA = <i>Legislative Instruments Act 2003</i>	SR = Statutory Rules
(md) = misdescribed amendment can be given effect	sub ch = Sub-Chapter(s)
(md not incorp) = misdescribed amendment cannot be given effect	sub div = Subdivision(s)
mod = modified/modification	sub pt = Subpart(s)
No. = Number(s)	<u>underlining</u> = whole or part not commenced or to be commenced
Ord = Ordinance	

Endnotes

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Superannuation Guarantee (Administration) Regulations 2018	14 Sept 2018 (F2018L01289)	15 Sept 2018 (s 2(1) item 1)	
Treasury Laws Amendment (Protecting Your Superannuation Package) Regulations 2019	5 Apr 2019 (F2019L00539)	sch 1 (items 29, 33): 6 Apr 2019 (s 2(1) item 1)	—
Superannuation Guarantee (Administration) Amendment (Jobkeeper Payment) Regulations 2020	2 June 2020 (F2020L00655)	3 June 2020 (s 2(1) item 1)	—
Superannuation Guarantee (Administration) Amendment (Aged Care Retention Bonus) Regulations 2020	30 June 2020 (F2020L00859)	1 July 2020 (s 2(1) item 1)	—
Treasury Laws Amendment (Miscellaneous and Technical Amendments) Regulations 2020	14 Dec 2020 (F2020L01610)	sch 2 (item 12): 18 Dec 2020 (s 2(1) item 4)	—
Treasury Laws Amendment (Your Future, Your Super—Single Default Account) Regulations 2021	5 Aug 2021 (F2021L01073)	6 Aug 2021 (s 2(1) item 1)	—
Superannuation Legislation Amendment (Western Australia De Facto Superannuation Splitting) Regulations 2021	23 Dec 2021 (F2021L01893)	sch 1 (item 173): 28 Sept 2022 (s 2(1) item 1)	—
Superannuation Guarantee (Administration) Amendment (Aged Care Registered Nurses' Payment) Regulations 2022	17 Oct 2022 (F2022L01355)	18 Oct 2022 (s 2(1) item 1)	—
Treasury Laws Amendment (Payday Superannuation) Regulations 2026	23 Feb 2026 (F2026L00133)	sch 1 (items 1-20): 1 July 2026 (s 2(1) item 1)	—

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2.....	rep LA s 48D
s 4.....	rep LA s 48C
s 5.....	am F2021L01073; F2026L00133
Part 2	
s 5A.....	ad F2026L00133
s 6.....	am F2021L01893; F2026L00133
Part 3	
s 7.....	am F2026L00133
s 8.....	am F2026L00133
s 9.....	rs F2026L00133
s 10.....	am F2026L00133
Part 4	
Part 4.....	rs F2026L00133
Division 1	
Division 1	ad F2026L00133
s 11.....	rs F2026L00133
s 12.....	am F2020L00859; F2022L01355
	rs F2026L00133
s 12A.....	ad F2020L00655
	am F2020L01610
	rep F2026L00133
Division 2	
Division 2	ad F2026L00133
s 13.....	rs F2026L00133
Division 3	
Division 3	ad F2026L00133
s 13A.....	ad F2026L00133
s 13B.....	ad F2026L00133
s 13C.....	ad F2026L00133
s 13D.....	ad F2026L00133
Part 5	
s 14.....	am F2019L00539
s 16.....	am F2026L00133
s 17A.....	ad F2021L01073
s 17B.....	ad F2021L01073
s 17C.....	ad F2021L01073

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Part 7.....	rep F2026L00133
s 24.....	rep F2026L00133
Part 8	
s 27.....	ad F2019L00539
Schedule 1.....	rep LA s 48C