



Superannuation Supervisory Levy Imposition Act 1998

Act No. 60 of 1998 as amended

This compilation was prepared on 27 September 2007
taking into account amendments up to Act No. 154 of 2007

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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Contents

1	Short title [see Note 1].....	1
2	Commencement [see Note 1].....	1
3	Act binds the Crown.....	1
4	External Territories.....	1
5	Definitions.....	1
6	Imposition of superannuation industry supervisory levy	2
7	Amount of levy.....	2
8	Calculation of indexation factor	4
9	Regulations.....	4

Notes

5

An Act to impose a levy on trustees of certain superannuation entities

1 Short title [see Note 1]

This Act may be cited as the *Superannuation Supervisory Levy Imposition Act 1998*.

2 Commencement [see Note 1]

- (1) This Act commences on the commencement of the *Australian Prudential Regulation Authority Act 1998*.
- (2) If this Act commences during a financial year (but not on 1 July of that financial year), this Act has effect in relation to that financial year subject to the modifications specified in the regulations.

3 Act binds the Crown

This Act binds the Crown in each of its capacities.

4 External Territories

This Act extends to each external Territory.

5 Definitions

In this Act, unless the contrary intention appears:

indexation factor means the indexation factor calculated under section 8.

index number, in relation to a quarter, means the All Groups Consumer Price Index number, being the weighted average of the 8 capital cities, published by the Australian Statistician in respect of that quarter.

levy imposition day, in relation to a trustee of a superannuation entity for a financial year, means:

- (a) if the superannuation entity is a superannuation entity on 1 July of the financial year—that day; or

- (b) in any other case—the day, during the financial year, on which the superannuation entity becomes a superannuation entity.

statutory upper limit means:

- (a) in relation to the financial year commencing on 1 July 2005—\$1,500,000; or
- (b) in relation to a later financial year—the amount calculated by multiplying the statutory upper limit for the previous financial year by the indexation factor for the later financial year.

superannuation entity means an entity that:

- (a) is a superannuation entity within the meaning of the *Superannuation Industry (Supervision) Act 1993*; and
- (b) is not a self managed superannuation fund within the meaning of that Act.

trustee, in relation to a superannuation entity, means the person who is the trustee of the entity for the purposes of the *Superannuation Industry (Supervision) Act 1993*.

unregulated entity at a particular time means:

- (a) a fund, trust or scheme that, at that time, is not a superannuation entity within the meaning of the *Superannuation Industry (Supervision) Act 1993*; or
- (b) a fund or scheme that, at that time, is a self managed superannuation fund within the meaning of that Act.

6 Imposition of superannuation industry supervisory levy

Levy payable in accordance with subsection 8(6) of the *Financial Institutions Supervisory Levies Collection Act 1998* is imposed.

7 Amount of levy

- (1) Subject to subsection (2), the amount of levy payable by a trustee of a superannuation entity for a financial year is the sum of the restricted levy component and the unrestricted levy component for the financial year.

Note: For **restricted levy component**, see subsection (1A). For **unrestricted levy component**, see subsection (1B).

(1A) The ***restricted levy component*** for the financial year is:

- (a) unless paragraph (b) or (c) applies—the amount that, for the financial year, is the restricted levy percentage of:
 - (i) except where the superannuation entity was an unregulated entity on 30 June of the previous financial year—the superannuation entity’s asset value on that day; or
 - (ii) if the superannuation entity was an unregulated entity on 30 June of the previous financial year—the unregulated entity’s asset value on that day; or
- (b) if the amount worked out under paragraph (a) exceeds the maximum restricted levy amount for the financial year—the maximum restricted levy amount; or
- (c) if the amount worked out under paragraph (a) is less than the minimum restricted levy amount for the financial year—the minimum restricted levy amount.

Note: The restricted levy percentage, maximum restricted levy amount, minimum restricted levy amount and the method of working out the superannuation entity’s asset value are as determined under subsection (3).

(1B) The ***unrestricted levy component*** for the financial year is the amount that, for the financial year, is the unrestricted levy percentage of the superannuation entity’s asset value.

Note: The unrestricted levy percentage is as determined under subsection (3).

(2) If the levy imposition day for the trustee of a superannuation entity for the financial year is later than 1 July in the financial year, the amount of levy payable by the trustee for the financial year is the amount worked out using the following formula:

$$\frac{\text{The amount worked out under subsection (1)}}{\text{The number of days in the financial year}} \times \left(1 + \frac{\text{The number of days in the financial year after the levy imposition day}}{\text{The number of days in the financial year}} \right)$$

(3) The Treasurer is, by legislative instrument, to determine:

- (a) the ***maximum restricted levy amount*** for each financial year; and
- (b) the ***minimum restricted levy amount*** for each financial year; and

- (c) the *restricted levy percentage* for each financial year; and
 - (ca) the *unrestricted levy percentage* for each financial year; and
 - (d) how a *superannuation entity's asset value* is to be worked out.
- (4) An amount determined under subsection (3) as the maximum restricted levy amount must not exceed the statutory upper limit as at the time when the determination is made.
- (4A) A determination under subsection (3) may make different provision for different classes of superannuation entity.

8 Calculation of indexation factor

- (1) The indexation factor for a financial year is the number worked out by:
 - (a) dividing the index number for the March quarter immediately preceding that financial year by the index number for the March quarter immediately preceding that first-mentioned March quarter; and
 - (b) adding 0.030 to the number worked out under paragraph (a).
- (2) The indexation factor is to be calculated to 3 decimal places, but increased by .001 if the 4th decimal place is more than 4.
- (3) Calculations under paragraph (1)(a):
 - (a) are to be made using only the index numbers published in terms of the most recently published reference base for the Consumer Price Index; and
 - (b) are to be made disregarding index numbers that are published in substitution for previously published index numbers (except where the substituted numbers are published to take account of changes in the reference base).

9 Regulations

The Governor-General may make regulations for the purposes of subsection 2(2).

Table of Acts**Notes to the *Superannuation Supervisory Levy Imposition Act 1998*****Note 1**

The *Superannuation Supervisory Levy Imposition Act 1998* as shown in this compilation comprises Act No. 60, 1998 amended as indicated in the Tables below.

For all relevant information pertaining to application, saving and transitional provisions *see* Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Superannuation Supervisory Levy Imposition Act 1998</i>	60, 1998	29 June 1998	1 July 1998 (see s. 2 and <i>Gazette</i> 1998, No. S316)	
<i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i>	44, 1999	17 June 1999	Schedule 6 (item 28), Schedule 8 (items 22, 23): Royal Assent	Sch. 8 (items 22, 23)
<i>Superannuation Legislation Amendment Act (No. 3) 1999</i>	121, 1999	8 Oct 1999	Schedule 2 (items 41, 42): Royal Assent	Sch. 2 (item 42)
<i>Financial Sector Legislation Amendment Act (No. 1) 2002</i>	37, 2002	26 June 2002	Schedule 9: 27 June 2002	—
<i>Superannuation Supervisory Levy Imposition Amendment Act 2005</i>	18, 2005	22 Feb 2005	22 Feb 2005	Sch. 1 (item 8)
<i>Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007</i>	154, 2007	24 Sept 2007	Schedule 4 (items 75, 76): Royal Assent	—

Table of Amendments

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 5.....	am. No. 121, 1999; No. 37, 2002; No. 18, 2005
S. 7.....	am. No. 37, 2002; No. 18, 2005; No. 154, 2007
S. 8.....	am. No. 44, 1999; No. 18, 2005

Table A

Table A

Application, saving or transitional provisions

Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999 (No. 44, 1999)

Schedule 8

22 Regulations may deal with transitional, saving or application matters

- (1) The regulations may deal with matters of a transitional, saving or application nature relating to:
 - (a) the transition from the application of provisions of the replaced legislation to the application of provisions of the *Banking Act 1959*, the *Life Insurance Act 1995*, the *Financial Sector (Transfers of Business) Act 1999*, the *Financial Sector (Shareholdings) Act 1998* or the *Australian Prudential Regulation Authority Act 1998*; or
 - (b) the transition, for The Cairns Cooperative Weekly Penny Savings Bank Limited, from the application of provisions of the *Financial Intermediaries Act 1996* of Queensland to the application of provisions of any of the Acts referred to in paragraph (a); or
 - (c) the amendments and repeals made by the Schedules to this Act.
- (2) Without limiting subitem (1), the regulations may provide for a matter to be dealt with, wholly or partly, in any of the following ways:
 - (a) by applying (with or without modifications) to the matter:
 - (i) provisions of a law of the Commonwealth, or of a State or Territory; or
 - (ii) provisions of a repealed or amended law of the Commonwealth, or of a State or Territory, in the form that those provisions took before the repeal or amendment; or
 - (iii) a combination of provisions referred to in subparagraphs (i) and (ii);
 - (b) by otherwise specifying rules for dealing with the matter;

Table A

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- (c) by specifying a particular consequence of the matter, or of an outcome of the matter, for the purposes of a law of the Commonwealth.
- (3) Without limiting subitems (1) and (2), the regulations may provide for the continued effect, for the purposes of a provision of a law of the Commonwealth, of a thing done or instrument made, or a class of things done or instruments made, before the transfer date under or for the purposes of a provision of a law of a State or Territory. In the case of an instrument or class of instruments, the regulations may provide for the instrument or instruments to continue to have effect subject to modifications.
- (4) Without limiting subitem (3), regulations providing for the continued effect of things done or instruments made may permit all or any of the following matters to be determined in writing by a specified person, or by a person included in a specified class of persons:
- (a) the identification of a thing done or instrument made, or a class of things done or instruments made, that is to continue to have effect;
 - (b) the purpose for which a thing done or instrument made, or a class of things done or instruments made, is to continue to have effect;
 - (c) any modifications subject to which an instrument made, or a class of instruments made, is to continue to have effect.
- (5) Despite subsection 48(2) of the *Acts Interpretation Act 1901*, regulations for the purposes of this item:
- (a) may be expressed to take effect from a date before the regulations are notified in the *Gazette*; and
 - (b) may provide for a determination of a kind referred to in subitem (4) to take effect from a date before the determination is made (including a date before the regulations are notified in the *Gazette*).
- (6) In this item, a reference to a **law**, whether of the Commonwealth or of a State or Territory, includes a reference to an instrument made under such a law.
- (7) In this item:
- replaced legislation*** means:
- (a) the AFIC Codes; and
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Table A

- (b) the Financial Institutions Codes; and
- (c) the Friendly Societies Codes; and
- (d) the *Australian Financial Institutions Commission Act 1992* of Queensland, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in section 21 of the *Australian Financial Institutions Commission Act 1992* of Queensland; and
- (e) the *Financial Institutions (Queensland) Act 1992* of Queensland, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in section 30 of the *Financial Institutions (Queensland) Act 1992* of Queensland; and
- (f) the **Friendly Societies (Victoria) Act 1996** of Victoria, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in the Schedule to the **Friendly Societies (Victoria) Act 1996** of Victoria; and
- (g) the *Friendly Societies (Western Australia) Act 1999*; and
- (h) any other law of a State or Territory prescribed by the regulations for the purposes of this definition.

23 Power to make regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters required or permitted by this Act to be prescribed.

Superannuation Legislation Amendment Act (No. 3) 1999 (No. 121, 1999)

Schedule 2

42 Application provisions

- (1) The *Superannuation (Excluded Funds) Taxation Act 1987* continues to apply to the lodgment of a return in respect of the 1998-99 year of income as if the repeals and amendments of provisions of that Act made by this Schedule had not happened.
 - (2) The amendments of the *Financial Institutions Supervisory Levies Collection Act 1998* made by this Schedule apply to an entity in respect
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Table A

of the financial year beginning on 1 July 2000 and subsequent financial years.

- (3) Until 1 April 2000, the *Superannuation (Resolution of Complaints) Act 1993* continues to apply to a fund that was an excluded fund immediately before the later of:
- (a) 1 July 1999; and
 - (b) the day on which this Act received the Royal Assent;
- as if the amendments of that Act made by this Schedule had not happened.

Superannuation Supervisory Levy Imposition Amendment Act 2005
(No. 18, 2005)

Schedule 1

8 Application and transitional

The amendments made by this Schedule apply in relation to levy payable for:

- (a) the financial year commencing on 1 July 2005; and
- (b) each succeeding financial year.