



Superannuation Supervisory Levy Imposition Act 1998

No. 60, 1998

Compilation No. 9

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Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Superannuation Supervisory Levy Imposition Act 1998* that shows the text of the law as amended and in force on 20 June 2020 (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. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

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.

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. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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

1 Short title

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

2 Commencement

- (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) for the financial year commencing on 1 July 2020—\$10,000,000; or
- (b) for 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 levy base on that day; or
 - (ii) if the superannuation entity was an unregulated entity, or was not in existence, on 30 June of the previous financial year—the entity's levy base on the day when the entity became a superannuation entity; 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 levy base 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:
- (a) if the superannuation entity was an unregulated entity, or was not in existence, on 30 June of the previous financial year—the entity's levy base on the day when the entity became a superannuation entity; or

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- (b) otherwise—the superannuation entity’s levy base on 30 June of the previous financial year.

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 levy base** is to be worked out.
- (4) An amount determined under subsection (3) as the maximum restricted levy amount for a financial year must not exceed the statutory upper limit for the financial year.
- (4A) A determination under subsection (3) may make different provision for different classes of superannuation entity.
- (5) Without limiting subsection (3), the Treasurer may make more than one determination, for a financial year, about any or all of the matters referred to in that subsection.

8 Calculation of indexation factor

- (1) The indexation factor for a financial year is the number worked out by:
 - (a) ascertaining the index number for the most recent quarter for which the Australian Statistician has published an index number, as at the start of the day on which the Treasurer makes the first determination under subsection 7(3) of an amount or percentage for the financial year; and
 - (b) dividing that index number by the index number for the quarter 12 months before the quarter mentioned in paragraph (a); and
 - (c) adding 0.030 to the number worked out under paragraph (b).
- (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 subsection (1):
 - (a) are to be made using only the index numbers published in terms of the most recently published index reference period 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 index reference period).

9 Regulations

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

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 the amendment to be made. If, despite the misdescription, the amendment can

Endnote 1—About the endnotes

be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

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A = Act	o = order(s)
ad = added or inserted	Ord = Ordinance
am = amended	orig = original
amdt = amendment	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
c = clause(s)	pres = present
C[x] = Compilation No. x	prev = previous
Ch = Chapter(s)	(prev...) = previously
def = definition(s)	Pt = Part(s)
Dict = Dictionary	r = regulation(s)/rule(s)
disallowed = disallowed by Parliament	Reg = Regulation/Regulations
Div = Division(s)	reloc = relocated
exp = expires/expired or ceases/ceased to have effect	renum = renumbered
F = Federal Register of Legislative Instruments	rep = repealed
gaz = gazette	rs = repealed and substituted
LI = Legislative Instrument	s = section(s)/subsection(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sch = Schedule(s)
(md) = misdescribed amendment can be given effect	Sdiv = Subdivision(s)
(md not incorp) = misdescribed amendment cannot be given effect	SLI = Select Legislative Instrument
mod = modified/modification	SR = Statutory Rules
No. = Number(s)	Sub-Ch = Sub-Chapter(s)
	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent date	Commencement date	Application, saving and transitional provisions
Superannuation Supervisory Levy Imposition Act 1998	60, 1998	29 June 1998	1 July 1998 (s 2(1))	
Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999	44, 1999	17 June 1999	Sch 6 (item 28) and Sch 8 (items 22, 23): 17 June 1999 (s 3(1))	Sch 8 (items 22, 23)
Superannuation Legislation Amendment Act (No. 3) 1999	121, 1999	8 Oct 1999	Sch 2 (items 41, 42): 8 Oct 1999 (s 2(1))	Sch 2 (item 42)
Financial Sector Legislation Amendment Act (No. 1) 2002	37, 2002	26 June 2002	Sch 9: 27 June 2002 (s 2(1) item 5)	—
Superannuation Supervisory Levy Imposition Amendment Act 2005	18, 2005	22 Feb 2005	22 Feb 2005 (s 2)	Sch 1 (item 8)
Financial Sector Legislation Amendment (Simplifying Regulation and Review) Act 2007	154, 2007	24 Sept 2007	Sch 4 (items 75, 76): 24 Sept 2007 (s 2(1) item 7)	—
Financial Sector Legislation Amendment (Prudential Refinements and Other Measures) Act 2010	82, 2010	29 June 2010	Sch 5 (items 29–33): 1 July 2010 (s 2(1) item 16)	—
Superannuation Supervisory Levy Imposition Amendment Act 2012	92, 2012	28 June 2012	28 June 2012 (s 2)	Sch 1 (item 2)

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Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent date	Commencement date	Application, saving and transitional provisions
Statute Law Revision Act (No. 2) 2015	145, 2015	12 Nov 2015	Sch 4 (item 38): 10 Dec 2015 (s 2(1) item 7)	—
Superannuation Supervisory Levy Imposition Amendment Act 2020	60, 2020	19 June 2020	20 June 2020 (s 2(1) item 1)	Sch 1 (item 6)

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
s 5	am No 121, 1999; No 37, 2002; No 18, 2005; No 60, 2020
s 7	am No 37, 2002; No 18, 2005; No 154, 2007; No 82, 2010; No 92, 2012; No 60, 2020
s 8	am No 44, 1999; No 18, 2005; No 145, 2015; No 60, 2020