



Superannuation (Government Co-contribution for Low Income Earners) Act 2003

No. 110, 2003

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About this compilation

This compilation

This is a compilation of the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* that shows the text of the law as amended and in force on 25 June 2015 (the **compilation date**).

This compilation was prepared on 30 June 2015.

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 ComLaw (www.comlaw.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 ComLaw 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.

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 ComLaw 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.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 provide for contributions to be made towards the superannuation of low income earners, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*.

2 Commencement

This Act commences on the day on which it receives the Royal Assent.

3 Act binds Crown

- (1) This Act binds the Crown in each of its capacities.
- (2) However, this Act does not make the Crown liable to be prosecuted for an offence.

4 Geographical application of Act

This Act extends to:

- (a) Norfolk Island; and
- (b) the Territory of Cocos (Keeling) Islands; and
- (c) the Territory of Christmas Island.

5 Overview of the Act

- (1) This Act provides for Government co-contributions to be made towards the superannuation of low income earners.

Superannuation (Government Co-contribution for Low Income Earners) Act 1
2003

Section 5

Note: The Government co-contributions replace the rebates that used to be provided for in Subdivision AAC of Division 17 of Part III of the *Income Tax Assessment Act 1936*.

(2) The following is a simplified explanation of this Act:

- Part 2 (sections 6 to 12) tells you who are the people in respect of whom a Government co-contribution is payable. It also tells you how much the co-contribution is.
- Part 2A (sections 12B to 12G) tells you who are the people entitled to a low income superannuation contribution. It also tells you how much the low income superannuation contribution is.
- Part 3 (sections 13 and 14) tells you how the Commissioner of Taxation determines whether a Government co-contribution is payable in respect of a person.
- Part 4 (sections 15 to 18) tells you how the Government co-contribution is paid.
- Part 5 (sections 19 to 24) tells you what happens if there is an overpayment or an underpayment of a Government co-contribution.
- Part 5A (section 25) sets out circumstances in which general interest charge is payable.
- Part 6 (sections 30 to 45) tells you how the Commissioner of Taxation gathers some of the information needed for making decisions about Government co-contributions.
- Parts 7 and 8 (sections 46 to 55) provide for administrative matters.

Section 5

- Part 9 (section 56) sets out the terms that are defined to have a particular meaning when used in this Act.

Part 2—Government co-contribution in respect of low income earners

Division 1—Government co-contribution

6 Person in respect of whom Government co-contribution payable

- (1) A Government co-contribution is payable under this Act in respect of a person for an income year of the person if:
- (a) the person makes one or more eligible personal superannuation contributions during the income year; and
 - (b) 10% or more of the person's total income for the income year is attributable to either or both of the following:
 - (i) the person engaging in activities covered under subsection (2);
 - (ii) the person carrying on a business (within the meaning of the *Income Tax Assessment Act 1997*); and
 - (c) the person's total income for the income year is less than the higher income threshold; and
 - (d) an income tax return for the person for the income year is lodged; and
 - (e) the person is less than 71 years old at the end of the income year; and
 - (f) the person:
 - (i) is not the holder of a temporary visa under the *Migration Act 1958* at any time in the income year; or
 - (ii) at all times when he or she holds such a temporary visa during the income year, is a New Zealand citizen or the holder of a visa prescribed for the purposes of subsection 20AA(2) of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.
- (2) A person engages in activities covered under this subsection if:

- (a) the person engages in any of these activities in the income year in which the person makes the contribution:
 - (i) holding an office or appointment;
 - (ii) performing functions or duties;
 - (iii) engaging in work;
 - (iv) doing acts or things; and
- (b) the activities result in the person being treated as an employee for the purposes of the *Superannuation Guarantee (Administration) Act 1992* (assuming that subsection 12(11) of that Act had not been enacted).

7 Contributions that attract matching Government co-contributions

- (1) A contribution a person made or makes is an ***eligible personal superannuation contribution*** if:
 - (a) the contribution was or is made on or after 1 July 2003 to:
 - (i) a fund that is a complying superannuation fund in relation to the income year of the fund in which the contribution was or is made; or
 - (ii) an RSA the person holds; and
 - (b) the contribution was or is made for the purpose of providing superannuation benefits for the person (regardless whether the benefits are payable to the person's dependants if the person dies before or after becoming entitled to receive the benefits); and
 - (c) the contribution is not any of the following:
 - (i) a roll-over superannuation benefit (within the meaning of the *Income Tax Assessment Act 1997*);
 - (ii) a superannuation lump sum that is paid from a foreign superannuation fund (within the meaning of the *Income Tax Assessment Act 1997*);
 - (iia) an amount transferred from a KiwiSaver scheme to a complying superannuation fund as mentioned in section 312-10 of the *Income Tax Assessment Act 1997*;

Section 8

- (iii) a directed termination payment (within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*);
 - (iv) an amount transferred from a scheme mentioned in paragraph 290-5(c) of the *Income Tax Assessment Act 1997*;
 - (v) a payment from an FHSA required under the *First Home Saver Accounts Act 2008*;
 - (vi) a Government FHSA contribution (within the meaning of the *First Home Saver Accounts Act 2008*).
- (2) However, the contribution is an ***eligible personal superannuation contribution*** only to the extent that the Commissioner has not allowed the contribution as a deduction for the person.

8 Total income for income year

- (1) The person's ***total income*** for the income year is the sum of:
- (a) the person's assessable income for the income year; and
 - (b) the person's reportable fringe benefits total for the income year; and
 - (c) the total of the person's reportable employer superannuation contributions (within the meaning of the *Income Tax Assessment Act 1997*) for the income year.
- (1A) For the purposes of paragraph (1)(c) of this section, reduce (but not below zero) the reportable employer superannuation contributions by any excess concessional contributions (within the meaning of the *Income Tax Assessment Act 1997*) included in the person's assessable income under paragraph 291-15(a) of that Act for the income year.
- (2) However, the person's ***total income*** for the income year is reduced by amounts (if any) for which the person is entitled to a deduction as a result of carrying on a business (within the meaning of the *Income Tax Assessment Act 1997*).

- (3) Subsection (2) does not apply for the purposes of paragraph 6(1)(b).

Division 2—Amount of the Government co-contribution

9 Basic rule—Government co-contribution matches personal contributions

- (1) The amount of the Government co-contribution in respect of a person for an income year is:
 - (a) for the 2003-04 income year—an amount equal to the sum of the eligible personal superannuation contributions the person makes during the income year; and
 - (b) for the 2004-05 income year, the 2005-06 income year, the 2006-07 income year, the 2007-08 income year or the 2008-09 income year—an amount equal to 150% of the sum of the eligible personal superannuation contributions the person makes during the income year; and
 - (c) for the 2009-10, 2010-11 and 2011-12 income years—an amount equal to the sum of the eligible personal superannuation contributions the person makes during the income year; and
 - (d) for the 2012-13 income year or a later income year—an amount equal to 50% of the sum of the eligible personal superannuation contributions the person makes during the income year.
- (2) Subsection (1) has effect subject to sections 10, 10A, 11, 12, 21, 22 and 23.

10 Taper based on total income for the income year

- (1) The amount of the Government co-contribution in respect of a person for the 2003-04 income year must not exceed the maximum amount worked out using the following table:

Maximum Government co-contribution

Item	Person's total income for the income year	Maximum amount
1	the lower income threshold or less	\$1,000
2	more than the lower income threshold but less than the higher income threshold	\$1,000 reduced by 8 cents for each dollar by which the person's total income for the income year exceeds the lower income threshold

(1A) The amount of the Government co-contribution in respect of a person for the 2004-05 income year, the 2005-06 income year, the 2006-07 income year, the 2007-08 income year or the 2008-09 income year must not exceed the maximum amount worked out using the following table:

Maximum Government co-contribution

Item	Person's total income for the income year	Maximum amount
1	the lower income threshold or less	\$1,500
2	more than the lower income threshold but less than the higher income threshold	\$1,500 reduced by 5 cents for each dollar by which the person's total income for the income year exceeds the lower income threshold

(1B) The amount of the Government co-contribution in respect of a person for the 2009-10 income year, 2010-11 income year or 2011-12 income year must not exceed the maximum amount worked out using the following table:

Part 2 Government co-contribution in respect of low income earners

Division 2 Amount of the Government co-contribution

Section 10A

Maximum Government co-contribution

Item	Person's total income for the income year	Maximum amount
1	the lower income threshold or less	\$1,000
2	more than the lower income threshold but less than the higher income threshold	\$1,000 reduced by 3.333 cents for each dollar by which the person's total income for the income year exceeds the lower income threshold

- (1C) The amount of the Government co-contribution in respect of a person for the 2012-13 income year or a later income year must not exceed the maximum amount worked out using the following table:

Maximum Government co-contribution

Item	Person's total income for the income year	Maximum amount
1	the lower income threshold or less	\$500
2	more than the lower income threshold but less than the higher income threshold	\$500 reduced by 3.333 cents for each dollar by which the person's total income for the income year exceeds the lower income threshold

- (2) Subsections (1), (1A), (1B) and (1C) have effect subject to sections 10A, 11, 12, 21, 22 and 23.

10A Increases in lower and higher income threshold

- (1) This section provides for:
- (a) indexation of the lower income threshold for the 2007-08 income year and later income years (apart from the 2010-11, 2011-12 and 2012-13 income years); and

- (b) increases in the higher income threshold for the 2007-08 income year and each later income year (apart from the 2010-11, 2011-12 and 2012-13 income years) equal to the indexation increase in the lower income threshold for that year.
 - (2) The **lower income threshold** for an income year is:
 - (a) for the 2003-04 income year—\$27,500; or
 - (b) for the 2004-05 income year or a later income year before the 2007-08 income year—\$28,000; or
 - (c) for the 2007-08 income year—\$28,000 multiplied by the indexation factor for that income year; or
 - (d) for a later income year—the amount of the lower income threshold for the previous income year multiplied by the indexation factor for that later income year.
 - (3) The **higher income threshold** for an income year is:
 - (a) for the 2003-04 income year—\$40,000; or
 - (b) for the 2004-05 income year or a later income year before the 2007-08 income year—\$58,000; or
 - (c) for the 2007-08 income year or a later income year before the 2012-13 income year—the sum of:
 - (i) the lower income threshold for that income year; and
 - (ii) \$30,000; or
 - (d) for the 2012-13 income year or a later income year—the sum of:
 - (i) the lower income threshold for that income year; and
 - (ii) \$15,000.
 - (4) If the lower income threshold for an income year is an amount of dollars and cents:
 - (a) if the number of cents is less than 50—the lower income threshold is to be rounded down to the nearest whole dollar; or
 - (b) otherwise—the lower income threshold is to be rounded up to the nearest whole dollar.
-

Section 10A

- (5) The ***indexation factor*** for an income year is the number calculated, to 3 decimal places, using the formula:

$$\frac{\text{Index number for the last quarter in current year}}{\text{Index number for the last quarter in previous year}}$$

where:

current year means the period of 12 months ending on 31 December immediately before the income year for which the lower income threshold is being calculated.

index number, for a quarter, means the estimate of full-time adult average weekly ordinary time earnings for the middle month of the quarter published by the Australian Statistician.

previous year means the period of 12 months immediately before the current year.

- (5A) Despite subsection (5), the ***indexation factor*** for the 2010-11, 2011-12 and 2012-13 income years is 1.
- (6) If the number calculated under subsection (5) for a financial year would, if it were worked out to 4 decimal places, end with a number greater than 4, the number so calculated is increased by 0.001.
- (7) If at any time, whether before or after the commencement of this Act, the Australian Statistician has published or publishes an index number for a quarter in substitution for an index number previously published for the quarter, the publication of the later index number is to be disregarded.
- (8) The Commissioner must publish before, or as soon as practicable after, the start of the 2007-08 income year, and before the start of each later income year, the lower income threshold and the higher income threshold for the income year.

11 Minimum Government co-contribution

If the amount of the Government co-contribution in respect of a person for an income year, as calculated under sections 9 and 10 would be less than \$20, the amount of the co-contribution is to be increased to \$20.

12 Government co-contribution increased by interest amount if paid late in certain circumstances

- (1) The amount of the Government co-contribution in respect of a person for an income year is increased by the amount of interest worked out under subsection (2) if the Commissioner pays none of the Government co-contribution on or before the payment date for the co-contribution.
- (2) The interest is to be calculated:
 - (a) on the amount of the Government co-contribution; and
 - (b) for the period from the payment date for the Government co-contribution until the day on which the Commissioner first pays an amount in satisfaction of the Government co-contribution; and
 - (c) on a daily basis; and
 - (d) at the base interest rate for the day on which the interest is calculated.

12A Amount of the Government co-contribution for 2005-06 income year

- (1) This section applies for the purposes of working out the amount of the Government co-contribution in respect of a person for the 2005-06 income year.
- (2) Despite sections 9, 10, 10A and 11, that amount is double the amount worked out under those sections in respect of the person for the 2005-06 income year.

Part 2 Government co-contribution in respect of low income earners

Division 2 Amount of the Government co-contribution

Section 12A

- (3) Subsection (2) has effect subject to sections 12, 21, 22 and 23.
- (4) For the purposes of working out an amount of interest under section 12, 21 or 22 in relation to the Government co-contribution in respect of a person for the 2005-06 income year:
 - (a) disregard subsection (2); and
 - (b) treat an amount paid by the Commissioner as not including any amount paid by the Commissioner because of subsection (2).

Part 2A—Low income superannuation contribution

12B Reference to Government co-contribution includes reference to low income superannuation contribution

- (1) A law of the Commonwealth applies in relation to a low income superannuation contribution in the same way as it applies in relation to a Government co-contribution.
- (2) Subsection (1) does not apply to:
 - (a) the following provisions:
 - (i) Part 2 of this Act (other than section 12);
 - (ii) this Part;
 - (ia) section 23;
 - (iii) section 54 of this Act; and
 - (b) any other law of the Commonwealth, to the extent that the other law relates to a provision mentioned in paragraph (a) of this subsection.
- (3) Paragraph 14(1)(a) (Commissioner to have regard to income tax return) does not apply in deciding whether to make a determination under section 13 that a low income superannuation contribution is payable under subsection 12C(2) in respect of a person for an income year.
- (4) Subsections 24(3) and (4) have an operation in respect of low income superannuation contributions that is separate to their operation in respect of Government co-contributions.

12C Person entitled to low income superannuation contribution

- (1) A low income superannuation contribution is payable under this subsection in respect of a person for an income year of the person if:

Section 12C

- (a) the person's concessional contributions for the financial year that corresponds to the income year are for a financial year starting on or after 1 July 2012; and
 - (b) the person's adjusted taxable income for the income year (worked out in accordance with Schedule 3 to the *A New Tax System (Family Assistance) Act 1999* (disregarding clauses 3 and 3A of that Schedule)) does not exceed \$37,000; and
 - (c) the requirement in paragraph 6(1)(b) is satisfied in respect of the person in relation to the income year; and
 - (d) the requirement in paragraph 6(1)(f) is satisfied in respect of the person in relation to the income year.
- (2) A low income superannuation contribution is payable under this subsection in respect of a person for an income year of the person if:
 - (a) the person's concessional contributions for the financial year that corresponds to the income year are for a financial year starting on or after 1 July 2012; and
 - (b) 12 months after the end of the income year, the Commissioner reasonably believes there is insufficient information to decide whether to make a determination under section 13 that a low income superannuation contribution is payable under subsection (1) in respect of the person for the income year; and
 - (c) the Commissioner estimates that:
 - (i) the person's adjusted taxable income for the income year (worked out in accordance with Schedule 3 to the *A New Tax System (Family Assistance) Act 1999* (disregarding clauses 3 and 3A of that Schedule)) does not exceed \$37,000; and
 - (ii) 10% or more of the person's total income for the income year (disregarding subsections 8(2) and (3)) is attributable to the person engaging in activities covered under subsection 6(2); and
 - (d) the requirement in paragraph 6(1)(f) is satisfied in respect of the person in relation to the income year.

Section 12E

- (3) For the purposes of paragraph (1)(c), disregard the words “in which the person makes the contribution” in paragraph 6(2)(a).
- (4) For the purposes of subparagraph (2)(c)(i), treat the person as having total deductions of \$300 for the income year unless the Commissioner has information to the contrary.
- (5) For the purposes of subparagraph (2)(c)(ii), disregard the words “in the income year in which the person makes the contribution” in paragraph 6(2)(a).

12E Amount of low income superannuation contribution

- (1) This section applies if a low income superannuation contribution is payable under subsection 12C(1) or (2) in respect of a person for an income year.
- (2) The amount of the person’s low income superannuation contribution for the income year is:
 - (a) unless paragraph (b) or (c) applies—15% of the total of the person’s concessional contributions for the financial year that corresponds to the income year; or
 - (b) if the amount worked out under paragraph (a) exceeds \$500—\$500; or
 - (c) if the amount worked out under paragraph (a) is less than \$10—\$10.
- (3) If, apart from this subsection:
 - (a) there would be an underpaid amount as mentioned in section 19 in respect of the person’s low income superannuation contribution for the income year; and
 - (b) the underpaid amount would be less than \$10;
 decrease the amount of that low income superannuation contribution by that underpaid amount.
- (4) If, apart from this subsection:

Section 12F

- (a) there would be an amount overpaid as mentioned in section 24 in respect of the person's low income superannuation contribution for the income year; and
 - (b) the amount overpaid would be less than \$10;
- increase the amount of that low income superannuation contribution by that amount overpaid.

12F Consequences if estimates no longer accurate

- (1) Treat a low income superannuation contribution as never having been payable under subsection 12C(2) in respect of a person for an income year if:
 - (a) the Commissioner obtains information after making the determination under section 13 that the contribution was so payable; and
 - (b) the Commissioner decides that, had the Commissioner obtained that information before making the determination, the Commissioner would not have made the determination.

Note: The contribution will be recoverable under section 24.

- (2) The Commissioner must give the person written notice of the Commissioner's decision under paragraph (1)(b).

12G Reports on this Part

- (1) After the end of each quarter the Commissioner must give the Minister a report, for presentation to the Parliament, on the working of this Part during the quarter. The report must include, for the quarter to which the report relates, the prescribed details about beneficiaries of, and amounts of, low income superannuation contributions.
- (2) After the end of each financial year the Commissioner must give the Minister a report, for presentation to the Parliament, that:
 - (a) is on the working of this Part during the financial year; and

Section 12G

- (b) includes, for the financial year to which the report relates, the prescribed details about beneficiaries of, and amounts of, low income superannuation contributions.

Section 13

Part 3—Determination that Government co-contribution payable

13 Commissioner's determination

- (1) The Commissioner must determine that a Government co-contribution is payable in respect of a person for an income year if the Commissioner is satisfied that the co-contribution is payable in respect of the person for the income year.
- (2) The regulations may prescribe the time within which determinations under this section are to be made.

14 Matters Commissioner has regard to in making determination

- (1) In deciding whether to make a determination under section 13, the Commissioner must have regard to:
 - (a) the income tax return lodged for the person for the income year; and
 - (b) information about the contributions made to a complying superannuation fund, or an RSA, during the income year by, or in respect of, the person contained in:
 - (i) statements given to the Commissioner by superannuation providers under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*; and
 - (ii) statements given to the Commissioner by superannuation providers under the *Superannuation Contributions Tax (Members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*; and
 - (iii) statements given to the Commissioner under Division 390 in Schedule 1 to the *Taxation Administration Act 1953*; and

- (c) information provided to the Commissioner in relation to the income year in response to requests by the Commissioner under sections 30 and 31 of this Act, or requirements by the Commissioner under paragraph 353-10(1)(a) in Schedule 1 to the *Taxation Administration Act 1953* for the purpose of the administration or operation of this Act; and
 - (d) any other information that:
 - (i) is held or was obtained by the Commissioner under or for the purposes of a taxation law (within the meaning of the *Income Tax Assessment Act 1997*); and
 - (ii) the Commissioner considers is reasonably necessary to make the determination.
- (2) Paragraph (1)(b) does not apply if:
- (a) the person dies during the income year; and
 - (b) the trustee of the person's estate requests the Commissioner to make a determination before the statements referred to in that paragraph are given to the Commissioner.

Part 4—Payment of the Government co-contribution

15 Commissioner to determine where the Government co-contribution payment is to be directed

- (1) If the Commissioner makes a determination under section 13 that a Government co-contribution is payable in respect of a person for an income year, the Commissioner must determine whether the co-contribution is to be paid:
 - (a) to the trustee of a complying superannuation fund for crediting to an account of the person within that fund; or
 - (b) to the provider of an RSA that the person holds for crediting to the RSA; or
 - (c) to the person; or
 - (d) to the person's legal personal representative; or
 - (e) into an account of the person in the Superannuation Holding Accounts Special Account.
- (2) If the Commissioner makes a determination under paragraph (1)(a) or (b), the Commissioner must also determine which particular account the Government co-contribution is to be paid into.
- (3) The Commissioner must make determinations under subsections (1) and (2) in accordance with the regulations made for the purposes of this section.
- (4) The Commissioner may revoke a determination made under this section if the Commissioner is satisfied that:
 - (a) payment of the Government co-contribution cannot be effected in accordance with the determination; or
 - (b) it is otherwise appropriate in the circumstances to revoke the determination.

- (5) The regulations may prescribe the time within which determinations under this section are to be made.

16 Superannuation provider to return Government co-contribution that cannot be credited to account

- (1) If:
- (a) a Government co-contribution in respect of a person is paid:
 - (i) to the trustee of a complying superannuation fund for crediting to an account of the person within that fund; or
 - (ii) to the provider of an RSA that the person holds for crediting to the RSA; and
 - (b) the trustee or the provider has not credited the co-contribution to an account of that kind by the end of the 28th day after the day on which the co-contribution was paid to the trustee or the provider;
- the trustee or the provider:
- (c) is liable to repay the co-contribution to the Commonwealth; and
 - (d) must give the Commissioner a statement, in the approved form, in relation to the co-contribution at the time when the co-contribution is repaid.

Note: Section 25 provides for the imposition of general interest charge if the co-contribution is not repaid within a certain period.

- (2) The Commissioner may recover from the trustee or provider the amount the trustee or provider is liable to repay under subsection (1) as a debt due to the Commonwealth.
- (3) The trustee or provider commits an offence if the trustee or provider fails to give the Commissioner a statement, in the approved form, in relation to the co-contribution at the time when the co-contribution is repaid.

Penalty: 50 penalty units.

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

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17 Payment of Government co-contribution

- (1) The Commissioner must, in accordance with determinations made under sections 13 and 15, pay the Government co-contribution payable in respect of a person for an income year on or before the payment date for the Government co-contribution.
- (2) The payment date for a Government co-contribution is to be worked out in accordance with the regulations.
- (3) The regulations may provide that, in the circumstances specified in the regulations, the payment date for a Government co-contribution is to be a day that occurs before the determinations under sections 13 and 15 are made in relation to the Government co-contribution.

18 Commissioner to give information if co-contribution paid

- (1) If the Commissioner pays a Government co-contribution in respect of a person to:
 - (a) the person; or
 - (b) the person's legal personal representative;the Commissioner must give the person or the representative the prescribed information in relation to the co-contribution at the time the co-contribution is paid.

Note: The person will be given the details of the contribution:

 - (a) by the superannuation provider under the *Corporations Regulations 2001* if the Government co-contribution is paid into a complying superannuation fund or an RSA account; and
 - (b) by the Commissioner under the *Small Superannuation Accounts Act 1995* if the Government co-contribution is paid into an account in the Superannuation Holding Accounts Special Account.
- (2) If the Commissioner pays a Government co-contribution in respect of a person to:
 - (a) the trustee of a complying superannuation fund for crediting to an account of the person within that fund; or

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(b) the provider of an RSA that the person holds for crediting to the RSA;
the Commissioner must give the trustee or provider the prescribed information in relation to the co-contribution at the time the co-contribution is paid.

Part 5—Underpayments and overpayments

Division 1—Underpayments

19 Underpayment determinations

- (1) This section applies if the Commissioner:
 - (a) pays an amount by way of Government co-contribution in respect of a person for an income year; and
 - (b) is satisfied that the amount paid is less than the correct amount of the co-contribution.
- (2) The amount by which the correct amount exceeds the amount paid is the ***underpaid amount***.
- (3) The Commissioner must determine that the underpaid amount is to be paid in respect of the person for the income year.
- (4) If the Commissioner makes a determination under subsection (3), the Commissioner must determine whether the underpaid amount is to be paid:
 - (a) to the trustee of a complying superannuation fund for crediting to an account of the person within that fund; or
 - (b) to the provider of an RSA that the person holds for crediting to the RSA; or
 - (c) to the person; or
 - (d) to the person's legal personal representative; or
 - (e) into an account of the person in the Superannuation Holding Accounts Special Account.
- (5) If the Commissioner makes a determination under paragraph (4)(a) or (b), the Commissioner must also determine which particular account the underpaid amount is to be paid into.

- (6) The Commissioner must make determinations under subsections (4) and (5) in accordance with the regulations made for the purposes of this section.
- (7) The Commissioner may revoke a determination made under this section if the Commissioner is satisfied that:
 - (a) payment of the underpaid amount cannot be effected in accordance with the determination; or
 - (b) it is otherwise appropriate in the circumstances to revoke the determination.
- (8) The regulations may prescribe the time within which determinations under this section are to be made.
- (9) The Commissioner must, in accordance with the determinations made under this section, pay the underpaid amount on or before the payment date for the underpaid amount.

20 Superannuation provider to return underpaid amount that cannot be credited to account

- (1) If:
 - (a) the underpaid amount in respect of a person is paid:
 - (i) to the trustee of a complying superannuation fund for crediting to an account of the person within that fund; or
 - (ii) to the provider of an RSA that the person holds for crediting to the RSA; and
 - (b) the trustee or the provider has not credited the underpaid amount to an account of that kind by the end of the 28th day after the day on which the co-contribution was paid to the trustee or the provider;the trustee or the provider:
 - (c) is liable to repay the underpaid amount to the Commonwealth; and

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- (d) must give the Commissioner a statement, in the approved form, in relation to the underpaid amount at the time when the underpaid amount is repaid.

Note: Section 25 provides for the imposition of general interest charge if the underpaid amount is not repaid within a certain period.

- (2) The Commissioner may recover from the trustee or provider the amount the trustee or provider is liable to repay under subsection (1) as a debt due to the Commonwealth.
- (3) The trustee or provider commits an offence if the trustee or provider fails to give the Commissioner a statement, in the approved form, in relation to the underpaid amount at the time when the underpaid amount is repaid.

Penalty: 50 penalty units.

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

21 Government co-contribution increased by interest amount if underpaid amount paid late in certain circumstances

- (1) The amount of the Government co-contribution in respect of a person for an income year is increased by the amount of interest worked out under subsection (3) if the Commissioner does not pay the underpaid amount in full on or before the payment date for the underpaid amount.
- (2) The payment date for the underpaid amount is to be worked out in accordance with the regulations.
- (3) The interest is to be calculated:
- (a) on the underpaid amount that remains unpaid on the payment date for the underpaid amount; and
 - (b) for the period from the payment date for the underpaid amount (see subsection (2)) until the day on which the underpaid amount is paid in full; and
 - (c) on a daily basis; and

- (d) at the base interest rate for the day on which the interest is calculated.

22 Government co-contribution increased by interest amount if underpaid amount due to administrative error

- (1) This section applies if:
 - (a) the Commissioner makes a determination under section 19 that an underpaid amount is to be paid in respect of a person for an income year; and
 - (b) the determination is made on the basis that a particular amount is the correct amount of the Government co-contribution payable in respect of the person for the income year; and
 - (c) the determination is necessary to correct an administrative error.
- (2) The **payment shortfall** is the difference between:
 - (a) the amount referred to in paragraph (1)(b); and
 - (b) the sum of the amounts that have already been paid by way of Government co-contribution in respect of the person for the income year before the determination under section 19 is made.
- (3) The amount of the Government co-contribution in respect of the person for the income year is increased by the amount of interest worked out under subsection (4).
- (4) The interest is to be calculated:
 - (a) on the amount of the payment shortfall; and
 - (b) for the period from the payment date for the Government co-contribution (see subsection 17(2)) until the payment date for the underpaid amount (see subsection 21(2)); and
 - (c) on a daily basis; and
 - (d) at the base interest rate for the day on which the interest is calculated.

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- (5) The regulations:
- (a) may provide that an error of a kind specified in the regulations is an administrative error for the purposes of this section; and
 - (b) may provide that an error of a kind specified in the regulations is not an administrative error for the purposes of this section.

23 Small underpayments

If:

- (a) the Commissioner makes a determination under section 19 in relation to a Government co-contribution in respect of a person for an income year; and
 - (b) the underpaid amount is less than \$5; and
 - (c) the underpaid amount is to be paid by cheque to:
 - (i) the person; or
 - (ii) the person's legal personal representative;
- the amount of the co-contribution is increased by the difference between \$5 and the underpaid amount.

Division 2—Recovery of overpayments

24 Recovery of overpayment of Government co-contribution in respect of a person

- (1) This section applies if:
 - (a) the Commissioner pays an amount by way of Government co-contribution in respect of a person for an income year; and
 - (b) either:
 - (i) the co-contribution was not payable in respect of the person for the income year; or
 - (ii) the amount paid is more than the correct amount of the co-contribution.
- (2) The **amount overpaid** is:
 - (a) the whole of the amount referred to in paragraph (1)(a) if the co-contribution was not payable in respect of the person for the income year; or
 - (b) the amount by which the amount paid exceeds the correct amount if the amount paid is more than the correct amount of the co-contribution.
- (3) The Commissioner may take action to recover the amount overpaid under one or more of the items in the following table but may only take action under an item if the conditions (if any) specified for that item are satisfied:

Methods for recovering amount overpaid

Item	Action the Commissioner may take to recover amount overpaid	Conditions to be satisfied
1	The Commissioner may deduct the whole or a part of the amount overpaid from any Government co-contribution payable in respect of the person.	

Part 5 Underpayments and overpayments

Division 2 Recovery of overpayments

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Methods for recovering amount overpaid

Item	Action the Commissioner may take to recover amount overpaid	Conditions to be satisfied
2	The Commissioner may debit an account of the person in the Superannuation Holding Accounts Special Account with the whole or a part of the amount overpaid.	<p>The account must include one or more Government co-contributions in respect of the person.</p> <p>The amount debited must not exceed the amount of those Government co-contributions.</p>
3	The Commissioner may recover the whole or a part of the amount overpaid from the person (or the person's legal personal representative) as a debt due by the person (or the representative) to the Commonwealth.	<p>The Government co-contribution must have been paid by the Commissioner to the person (or the representative).</p> <p>The Commissioner must give the person (or the representative) written notice, as prescribed, of the proposed recovery (including the amount to be recovered).</p> <p>At least 28 days must have elapsed since the notice was given.</p> <p>The amount recovered must not exceed the amount specified in the notice.</p>

Methods for recovering amount overpaid

Item	Action the Commissioner may take to recover amount overpaid	Conditions to be satisfied
4	The Commissioner may recover the whole or a part of the amount overpaid from a superannuation provider to whom: (a) the Commissioner paid the Government co-contribution; or (b) another superannuation provider transferred the Government co-contribution; as a debt due by the superannuation provider to the Commonwealth.	The superannuation provider must hold one or more Government co-contributions in respect of the person. The amount recovered must not exceed the amount of those Government co-contributions. The Commissioner must give the superannuation provider written notice, as prescribed, of the proposed recovery (including the amount to be recovered). At least 28 days must have elapsed since the notice was given. The amount recovered must not exceed the amount specified in the notice.

Note: Section 25 provides for the imposition of general interest charge if an amount that the person must pay under a notice given to the person under item 3 or 4 of the above table is not repaid within a certain period.

(4) If:

- (a) the Commissioner gives a superannuation provider a notice under item 4 of the table in subsection (3) in relation to an amount overpaid in respect of a person; and
- (b) the provider holds one or more Government co-contributions in respect of the person at the time when the Commissioner gives the provider the notice;

the Commissioner may recover from the provider under that item whether or not the provider continues to hold the contribution or contributions after that time.

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- (5) The Commissioner may revoke a notice given under item 3 or 4 of the table in subsection (3) if the Commissioner is satisfied that it is appropriate in the circumstances to do so.
- (6) The total of the amounts deducted, debited or recovered under subsection (3) in relation to an overpayment must not exceed the amount overpaid.
- (7) If the Commissioner makes:
 - (a) a deduction under item 1 of the table in subsection (3); or
 - (b) a debit under item 2 of the table;in relation to a Government co-contribution in respect of a person, the Commissioner must give the person the prescribed information in relation to the deduction or debit within 28 days after the deduction or debit is made.

Part 5A—General interest charge

25 When general interest charge payable

(1A) If:

- (a) a person is liable under subsection 16(1) or 20(1) to repay an amount; and
- (b) the whole or a part of the amount remains unpaid after the time by which the amount is due to be paid;

the person is liable to pay general interest charge on the unpaid amount.

(1) If:

- (a) the Commissioner gives a person notice under item 3 or 4 of the table in subsection 24(3); and
- (b) an amount that the person must pay under the notice remains unpaid after the time by which it is due to be paid;

the person is liable to pay general interest charge on the unpaid amount.

(2) A person who is liable under this section to pay general interest charge on an unpaid amount is liable to pay the charge for each day in the period that:

- (a) started at the beginning of the day by which the unpaid amount was due to be paid; and
- (b) finishes at the end of the last day at the end of which any of the following remains unpaid:
 - (i) the unpaid amount;
 - (ii) general interest charge on any of the unpaid amount.

(3) For the purposes of this section:

- (a) an amount that a person becomes liable under subsection 16(1) or 20(1) to repay is due to be paid 7 days

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after the day on which the person first becomes liable to repay the amount; and

- (b) an amount payable under a notice given under item 3 or 4 of the table in subsection 24(3) is due to be paid 28 days after the day on which the notice is given.

- (4) In this section:

general interest charge means the charge worked out under Part IIA of the *Taxation Administration Act 1953*.

Part 6—Information gathering

Division 1—General

30 Commissioner may require member or legal representative to give information

- (1) The Commissioner may give a member, or the legal personal representative of a member, a written notice requiring the member or representative to give the Commissioner a statement setting out:
 - (a) information to enable the Commissioner to determine:
 - (i) whether a Government co-contribution is payable in respect of the member; or
 - (ii) the amount of any Government co-contribution payable in respect of the member; or
 - (b) information to enable the Commissioner to determine the superannuation provider to which the Commissioner should pay a Government co-contribution, or an underpaid amount, payable in respect of the member; or
 - (c) information to enable the Commissioner to determine:
 - (i) whether an amount is recoverable under section 24 (which deals with overpayments) in relation to a Government co-contribution paid in respect of the member; or
 - (ii) the amount overpaid in relation to a Government co-contribution paid in respect of the member; or
 - (d) any other matters specified in the regulations.

The notice must specify the period within which the statement must be given to the Commissioner. The period specified must end not less than 21 days after the day the notice is given.
- (2) The member or representative commits an offence if:

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- (a) the notice requires the member or representative to give the Commissioner a statement setting out information to enable the Commissioner to determine:
 - (i) whether an amount is recoverable under section 24 (which deals with overpayments) in relation to a Government co-contribution paid in respect of the member; or
 - (ii) the amount overpaid in relation to a Government co-contribution paid in respect of the member; and
- (b) the member or representative fails to comply with the notice.

Penalty: 60 penalty units.

- (3) The Commissioner may give a notice under subsection (1) at any time and from time to time.

31 Commissioner may require superannuation provider to give information

- (1) The Commissioner may give a superannuation provider a written notice requiring the provider to give the Commissioner a statement setting out:
 - (a) information to enable the Commissioner to determine:
 - (i) whether a Government co-contribution is payable in respect of a person; or
 - (ii) the amount of any Government co-contribution payable in respect of a person; or
 - (b) information to enable the Commissioner to determine the superannuation provider to which the Commissioner should pay a Government co-contribution, or an underpaid amount, in respect of a person; or
 - (c) information to enable the Commissioner to determine:
 - (i) whether an amount is recoverable under section 24 (which deals with overpayments) in relation to a Government co-contribution paid in respect of a person; or

- (ii) the amount overpaid in relation to a Government co-contribution paid in respect of a person; or

- (d) any other matters required by the regulations.

The notice must specify the period within which the statement must be given to the Commissioner. The period specified must end not less than 21 days after the day the notice is given.

- (2) The superannuation provider commits an offence if the provider fails to comply with the notice.

Penalty: 60 penalty units.

- (3) The Commissioner may give a notice under subsection (1) at any time and from time to time.

32 Records to be kept and retained by superannuation provider

Superannuation provider to keep records

- (1) A superannuation provider commits an offence if the provider fails to keep records that record and explain all transactions and other acts the provider engages in, or is required to engage in, under this Act or the regulations.

Penalty: 30 penalty units.

How records to be kept

- (2) The superannuation provider commits an offence if the records are not either:
 - (a) kept in writing in the English language; or
 - (b) kept so as to enable the records to be readily accessible and convertible into writing in the English language.

Penalty: 30 penalty units.

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Period for retention of records

- (3) A superannuation provider commits an offence if the provider fails to retain any records kept or obtained under or for the purposes of this Act until the later of:
- (a) the end of 5 years after they were prepared or obtained; and
 - (b) the completion of the transactions or acts to which those records relate.

Penalty: 30 penalty units.

When records need not be kept

- (4) Subsections (2) and (3) do not apply if:
- (a) the Commissioner has notified the superannuation provider that the retention of the records is not required; or
 - (b) the superannuation provider is a company that has gone into liquidation and been finally dissolved.

Note: In a prosecution for an offence against subsection (2) or (3), the defendant bears an evidential burden in relation to the matters in this subsection (see subsection 13.3(3) of the *Criminal Code*).

Division 2—Infringement notices

33 When an infringement notice can be served

- (1) Subject to subsection (2), the Commissioner may cause an infringement notice to be served on a superannuation provider in accordance with this Division if the Commissioner has reasonable grounds to believe that the superannuation provider has committed an offence against:
 - (a) subsection 16(3); or
 - (b) subsection 20(3).
- (2) An infringement notice must not relate to more than one offence unless:
 - (a) the offences are:
 - (i) an offence constituted by refusing or failing to comply with a requirement before a specified time or within a specified period; and
 - (ii) one or more daily offences constituted by refusing or failing to comply with the requirement after that time or period; or
 - (b) the offences are 2 or more daily offences constituted by refusing or failing to comply with the same requirement after the time before which, or the end of the period within which, the requirement was to be complied with.

Note: For daily offences, see section 4K of the *Crimes Act 1914*.

- (3) An infringement notice does not have any effect unless it is served within one year after the day on which the offence or the earlier or earliest of the offences is alleged to have been committed.

34 Matters to be included in an infringement notice

- (1) An infringement notice must:
 - (a) state the name of the person on whom it is to be served; and

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- (b) state that it is being served on behalf of the Commissioner;
and
- (c) state:
 - (i) the nature of the alleged offence or offences; and
 - (ii) the time (if known) and date on which, and the place at which, the offence or the earlier or earliest of the offences is alleged to have been committed; and
 - (iii) the maximum penalty that a court could impose for the alleged offence or offences; and
- (d) specify a penalty that is payable under the notice in respect of the alleged offence or offences; and
- (e) state that, if the person does not wish the matter to be dealt with by a court, the person may pay to the Commissioner the amount of the penalty specified in the notice within 28 days after the date of service of the notice; and
- (f) state that the person may make written representations to the Commissioner seeking the withdrawal of the notice.

Note: The Commissioner has power to extend periods stated in notices under paragraph (1)(e) (see section 39).

- (2) An infringement notice may contain any other matters that the Commissioner considers necessary.
- (3) The penalty to be specified in an infringement notice under paragraph (1)(d) is 20% of the maximum amount of the fine or fines that a court could impose for the offence or offences.

35 Withdrawal of infringement notice

- (1) A person on whom an infringement notice has been served may make written representations to the Commissioner seeking the withdrawal of the notice.
- (2) The Commissioner may withdraw an infringement notice served on a person (whether or not the person has made representations seeking the withdrawal) by causing written notice of the withdrawal to be served on the person within the period within

which the penalty specified in the infringement notice is required to be paid.

- (3) The matters to which the Commissioner may have regard in deciding whether or not to withdraw an infringement notice include, but are not limited to, the following:
- (a) whether the person has previously been convicted of an offence for a contravention of this Act;
 - (b) the circumstances in which the offence or offences specified in the notice are alleged to have been committed;
 - (c) whether the person has previously been served with an infringement notice in respect of which the person paid the penalty specified in the notice;
 - (d) any written representations made by the person.
- (4) If:
- (a) the person pays the penalty specified in the infringement notice within the period within which the penalty is required to be paid; and
 - (b) the notice is withdrawn after the person pays the penalty;
- the Commissioner must refund to the person, out of money appropriated by the Parliament, an amount equal to the amount paid.

36 What happens if penalty is paid

- (1) This section applies if:
- (a) an infringement notice is served on a person; and
 - (b) the person pays the penalty specified in the notice before the end of the period referred to in paragraph 34(1)(e); and
 - (c) the infringement notice is not withdrawn.
- (2) Any liability of the person for the offence or offences specified in the notice, and for any other offence or offences constituted by the same omission, is taken to be discharged.

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- (3) Further proceedings cannot be taken against the person for the offence or offences specified in the notice and proceedings cannot be taken against the person for any other offence or offences constituted by the same omission.
- (4) The person is not regarded as having been convicted of the offence or offences specified in the notice.

37 More than one infringement notice may not be served for the same offence

This Division does not permit the service of more than one infringement notice on a person for the same offence or offences.

38 Infringement notice not required to be served

This Division does not:

- (a) require an infringement notice to be served on a person in relation to an offence; or
- (b) affect the liability of a person to be prosecuted for an offence if:
 - (i) an infringement notice is not served on the person in relation to the offence or in relation to any other offence constituted by the same omission; or
 - (ii) an infringement notice served on the person in relation to the offence or in relation to any other offence constituted by the same omission has been withdrawn; or
- (c) affect the liability of a person to be prosecuted for an offence if the person does not comply with an infringement notice served on the person in relation to the offence or in relation to any other offence constituted by the same omission; or
- (d) limit the amount of the penalty that may be imposed by a court on a person convicted of an offence.

39 Commissioner may extend period for payment of penalty

- (1) The Commissioner may, by writing, extend, in relation to a particular person, the period referred to in paragraph 34(1)(e).
- (2) The power of the Commissioner under subsection (1) to extend the period may be exercised before or after the end of the period.
- (3) If the Commissioner extends a period under subsection (1), a reference in this Division, or in a notice or other instrument under this Division, to the period is taken, in relation to the person, to be a reference to the period as so extended.

Division 3—Access to premises

40 Appointment of authorised persons

The Commissioner may, by writing signed by the Commissioner, appoint a person, or a person included in a class of persons, to be an authorised person for the purposes of this Division or of a specified provision of this Division.

41 Powers of authorised person in relation to premises

- (1) An authorised person may:
 - (a) with the consent of the occupier or person in charge of premises; or
 - (b) in accordance with a warrant issued under section 44 in relation to premises;enter the premises for the purpose of:
 - (c) obtaining information to determine:
 - (i) whether a Government co-contribution is payable in respect of a person; or
 - (ii) the amount of a Government co-contribution that is payable in respect of a person; or
 - (iii) whether an amount is recoverable under section 24 (which deals with overpayments) in relation to a Government co-contribution paid in respect of a person; or
 - (iv) the amount overpaid in relation to a Government co-contribution in respect of a person; or
 - (d) ascertaining whether a person has contravened or is contravening a provision of this Act.
- (2) If an authorised person enters any premises under subsection (1), the authorised person may search the premises for, inspect, examine, take extracts from, and make copies of, any examinable documents.

42 Obstruction of authorised person acting under a warrant

A person commits an offence if:

- (a) the person obstructs or hinders an authorised person in the exercise of the authorised person's power under section 41; and
- (b) the authorised person exercises that power in accordance with a warrant issued under section 44.

Penalty: 30 penalty units.

43 Persons to assist authorised persons acting under a warrant

- (1) If an authorised person enters any premises under section 41 in accordance with a warrant issued under section 44, the occupier or the person in charge must, if requested to do so by the authorised person, provide reasonable assistance to the authorised person in the exercise of his or her power under that section in relation to those premises.
- (2) The occupier or the person in charge commits an offence if he or she fails to provide that reasonable assistance to the authorised person.

Penalty: 30 penalty units.

44 Warrant to enter premises

- (1) If a magistrate, on application by an authorised person, is satisfied, by information on oath or affirmation:
 - (a) that there are reasonable grounds for believing that there are examinable documents on particular premises; and
 - (b) that the issue of the warrant is reasonably required for the purpose of ascertaining:
 - (i) whether a Government co-contribution is payable in respect of a person; or

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- (ii) the amount of a Government co-contribution that is payable in respect of a person; or
- (iii) whether an amount is recoverable under section 24 (which deals with overpayments) in relation to a Government co-contribution paid in respect of a person; or
- (iv) the amount overpaid in relation to a Government co-contribution in respect of a person; or
- (v) whether a person has contravened or is contravening a provision of this Act;

the magistrate may issue a warrant authorising the authorised person to enter the premises:

- (c) with such assistance, and by such force, as is necessary and reasonable; and
 - (d) during such hours as the warrant specifies, or, if the warrant so specifies, at any time.
- (2) A warrant must specify:
- (a) the powers exercisable under subsection 41(2) by the authorised person to whom the warrant is issued; and
 - (b) the day (not more than 14 days after the issue of the warrant) on which the warrant ceases to have effect.

45 Identity cards

- (1) The Commissioner may cause an identity card to be issued to an authorised person.
- (2) An identity card must:
 - (a) contain a recent photograph of the authorised person to whom it is issued; and
 - (b) be in a form approved, in writing, by the Commissioner.
- (3) A person commits an offence if:
 - (a) the person has been issued with an identity card under subsection (1); and

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- (b) the person ceases to be an authorised person for the purposes of this Division; and
- (c) the person does not immediately return the identity card to the Commissioner.

Penalty: 1 penalty unit.

- (4) An offence against subsection (3) is an offence of strict liability.
- (5) If an authorised person proposes to enter premises otherwise than in accordance with a warrant issued under section 44:
 - (a) the authorised person must produce his or her identity card to the occupier or the person in charge of the premises for inspection; and
 - (b) if the authorised person fails to do so, the authorised person is not entitled to enter the premises under section 41.

Part 7—Administration

Division 1—General administration

46 Commissioner to have general administration of the Act

The Commissioner has the general administration of this Act.

Note: An effect of this provision is that people who acquire information under this Act are subject to the confidentiality obligations and exceptions in Division 355 in Schedule 1 to the *Taxation Administration Act 1953*.

47 Decisions to be in writing

- (1) A decision of the Commissioner under this Act or the regulations must be in writing.
- (2) Such a decision is taken to be in writing if it is made, or recorded, by means of a computer.

48 Commissioner may arrange for use of computer programs to make decisions

- (1) The Commissioner may arrange for the use, under the Commissioner's control, of computer programs for any purposes for which the Commissioner may make decisions under this Act or the regulations.
- (2) A decision made by the operation of a computer program under an arrangement made under subsection (1) is taken to be a decision made by the Commissioner.

Division 2—Review of decisions

49 Review of decisions

- (1) A person affected by a decision (the ***original decision***) made by the Commissioner under Part 2, Part 2A, 3, 4 or 5 may apply to the Commissioner for review of the decision.
- (2) If the person does so, the Commissioner must either:
 - (a) review the original decision and decide to:
 - (i) affirm it; or
 - (ii) vary it; or
 - (iii) set it aside and substitute a new decision; or
 - (b) arrange for an authorised review officer (see section 50) to do so.
- (3) In making arrangements for a review under subsection (2), the Commissioner must have regard to the need for the review to be an independent one.

50 Authorised review officers

The Commissioner must authorise taxation officers to be authorised review officers for the purposes of this Division.

51 Withdrawal of review applications

- (1) An applicant for review under section 49 may, in writing or in any other manner approved by the Commissioner, withdraw the application at any time before the decision reviewer does any of the things in subsection 49(2).
- (2) If an application is so withdrawn, it is taken never to have been made.

Section 52

Division 3—Other administrative matters

52 Tax file numbers

The Commissioner may use for the purposes of this Act, or the regulations, a tax file number that has been provided for any other purpose under a law relating to taxation or superannuation.

54 Reports

- (1) After the end of each quarter the Commissioner must give the Minister a report, for presentation to the Parliament, on the working of this Act during the quarter. The report must include, for the quarter to which the report relates, the prescribed details about beneficiaries of, and amounts of, Government co-contributions.
- (2) After the end of each financial year the Commissioner must give the Minister a report, for presentation to the Parliament, that:
 - (a) is on the working of this Act during the financial year; and
 - (b) includes, for the financial year to which the report relates, the prescribed details about beneficiaries of, and amounts of, Government co-contributions; and
 - (c) specifies, for each prescribed range of total income, the number of beneficiaries of a Government co-contribution for the financial year whose total income that was used to determine the amount of their Government co-contribution fell within that range; and
 - (d) specifies, for each prescribed range of taxable income, the number of people who the Commissioner is satisfied:
 - (i) were, at the end of the financial year, the spouse of a beneficiary of a Government co-contribution for the financial year; and
 - (ii) had a taxable income for that financial year that fell within that range; and

- (e) specifies the number of beneficiaries of Government co-contributions for the financial year who the Commissioner was not satisfied had a spouse at the end of the financial year; and
 - (f) specifies the number of people:
 - (i) who the Commissioner is satisfied were, at the end of the financial year, the spouse of a beneficiary of a Government co-contribution for the financial year; and
 - (ii) whose taxable income for the financial year was not able to be determined by the Commissioner.
- (3) In this section:

spouse of a beneficiary of a Government co-contribution includes:

- (a) a person (whether of the same sex or a different sex) with whom the beneficiary is in a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 2E of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; and
- (b) a person who, although not legally married to the beneficiary, lives with the beneficiary on a genuine domestic basis in a relationship as a couple.

taxable income has the meaning given by section 4-15 of the *Income Tax Assessment Act 1997*.

Part 8—Miscellaneous

55 Regulations

The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act;

and, in particular, prescribing penalties, not exceeding a fine of 5 penalty units, for offences against the regulations.

Note: The regulations may relate to the Government co-contribution and the low income superannuation contribution (see section 12B).

Part 9—Dictionary

56 Dictionary

In this Act, unless the contrary intention appears:

approved deposit fund has the same meaning as in section 10 of the *Superannuation Industry (Supervision) Act 1993*.

approved form has the meaning given by section 388-50 in Schedule 1 to the *Taxation Administration Act 1953*.

assessable income has the same meaning as in the *Income Tax Assessment Act 1997*.

authorised person means a person appointed as an authorised person under section 40.

base interest rate for a day has the same meaning as in section 8AAD of the *Taxation Administration Act 1953*.

Commissioner means the Commissioner of Taxation.

complying superannuation fund has the same meaning as in the *Income Tax Assessment Act 1997*.

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

constitutionally protected fund has the same meaning as in the *Income Tax Assessment Act 1997*.

contributed amounts has the same meaning as in the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.

court includes any tribunal, authority or person having power to require the production of documents or the answering of questions.

Section 56

credit to an RSA that is a policy (within the meaning of the *Life Insurance Act 1995*) means pay as a premium in relation to the policy.

decision includes a decision not to make a determination under section 13, 15 or 19.

dependant has the same meaning as in the *Superannuation Industry (Supervision) Act 1993*.

eligible personal superannuation contribution has the meaning given by section 7.

examinable documents means any documents relevant to the operation of this Act or the regulations.

Government co-contribution means a Government co-contribution payable under this Act.

higher income threshold has the meaning given by section 10A.

hold: a person **holds** an RSA account if the person is the holder of the account within the meaning of the *Retirement Savings Accounts Act 1997*.

income tax return means:

- (a) a return under section 161, 162 or 163 of the *Income Tax Assessment Act 1936*; or
- (b) a return by the trustee of a deceased person's estate under Subdivision 260-E of Schedule 1 to the *Taxation Administration Act 1953*.

income year has the same meaning as in the *Income Tax Assessment Act 1997*.

indexation factor has the meaning given by section 10A.

infringement notice means a notice given under section 33.

lower income threshold has the meaning given by section 10A.

Section 56

low income superannuation contribution means a low income superannuation contribution payable under this Act.

member means a member, or former member, of a superannuation fund or of an approved deposit fund and includes the holder, or former holder, of an RSA.

payment date means:

- (a) for a Government co-contribution—the date worked out in accordance with the regulations made for the purposes of section 17; or
- (b) for an underpaid amount of a Government co-contribution—the date worked out in accordance with the regulations made for the purposes of section 21.

prescribed penalty for a contravention means 5 penalty units for each week or part of a week during which the contravention continues.

Note: See section 4AA of the *Crimes Act 1914* for the current value of a penalty unit.

produce a document includes permit access to the document.

provider of an RSA has the same meaning as in the *Retirement Savings Accounts Act 1997*.

reportable fringe benefits total has the same meaning as in the *Income Tax Assessment Act 1936*.

RSA has the same meaning as in the *Retirement Savings Accounts Act 1997*.

Superannuation Holding Accounts Special Account means the Superannuation Holding Accounts Special Account continued in existence by section 8 of the *Small Superannuation Accounts Act 1995*.

Section 56

superannuation provider means:

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

taxation officer means a person employed or engaged under the *Public Service Act 1999* who is:

- (a) exercising powers; or
- (b) performing functions;

under, pursuant to or in relation to a taxation law (as defined in section 2 of the *Taxation Administration Act 1953*).

total income of a person for an income year has the meaning given by section 8.

trustee of a superannuation fund, or constitutionally protected fund, means:

- (a) if there is a trustee (within the ordinary meaning of that expression) of the fund—the trustee; or
- (b) otherwise—the person who manages the fund.

trustee, when used in relation to a deceased person's estate, has the same meaning as in the *Income Tax Assessment Act 1936*.

underpaid amount of a Government co-contribution has the meaning given by subsection 19(2).

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

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

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.

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 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 amendment is set out in the endnotes.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

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

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Superannuation (Government Co-contribution for Low Income Earners) Act 2003	110, 2003	12 Nov 2003	12 Nov 2003	
Superannuation Laws Amendment (2004 Measures No. 1) Act 2004	92, 2004	29 June 2004	29 June 2004	Sch. 1 (item 6) and Sch. 2 (item 17)
Superannuation Budget Measures Act 2004	106, 2004	30 June 2004	30 June 2004	Sch. 1 (item 6)
Financial Framework Legislation Amendment Act 2005	8, 2005	22 Feb 2005	s. 4 and Schedule 1 (items 411–416, 496): Royal Assent	s. 4 and Sch. 1 (item 496)
Tax Laws Amendment (2006 Measures No. 2) Act 2006	58, 2006	22 June 2006	Schedule 7 (items 268, 269): Royal Assent	—
Tax Laws Amendment (Repeal of Inoperative Provisions) Act 2006	101, 2006	14 Sept 2006	Schedule 2 (items 1017, 1054) and Schedule 6 (items 1, 6–11): Royal Assent	Sch. 6 (items 1, 6–11)
Tax Laws Amendment (Simplified Superannuation) Act 2007	9, 2007	15 Mar 2007	Schedule 4 (items 1–5, 16) and Schedule 6: Royal Assent	Sch. 4 (item 16) and Sch. 6 (item 9)
Superannuation Legislation Amendment (Simplification) Act 2007	15, 2007	15 Mar 2007	Schedule 1 (items 340–345): 15 Mar 2007 (s 2(1) item 2)	—
Superannuation Laws Amendment (2007 Budget Co-contribution Measure) Act 2007	67, 2007	15 May 2007	15 May 2007	—

Superannuation (Government Co-contribution for Low Income Earners) Act 61
2003

Compilation No. 23

Compilation date: 25/6/15

Registered: 2/7/15

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
First Home Saver Accounts (Consequential Amendments) Act 2008	45, 2008	25 June 2008	Schedule 3 (item 37): 26 June 2008	—
First Home Saver Accounts (Further Provisions) Amendment Act 2008	92, 2008	30 Sept 2008	Schedule 1 (items 23, 26): 1 Oct 2008	Sch. 1 (item 26)
Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008	134, 2008	4 Dec 2008	Schedule 4 (items 6, 7): 1 July 2008	Sch. 4 (item 7)
Tax Laws Amendment (2009 Measures No. 1) Act 2009	27, 2009	26 Mar 2009	Schedule 2 (items 58, 59, 71) and Schedule 3 (items 88, 102(1)): 27 Mar 2009	Sch. 2 (item 71) and Sch. 3 (item 102(1))
Tax Laws Amendment (2009 Budget Measures No. 1) Act 2009	62, 2009	29 June 2009	Schedule 2: Royal Assent	Sch. 2 (item 7)
Tax Laws Amendment (2010 Measures No. 3) Act 2010	90, 2010	29 June 2010	Schedule 1: 1 July 2010	Sch. 1 (item 7)
Tax Laws Amendment (Confidentiality of Taxpayer Information) Act 2010	145, 2010	16 Dec 2010	Schedule 2 (items 74–79): 17 Dec 2010	—
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Schedule 2 (item 1087) and Schedule 3 (items 10, 11): 27 Dec 2011	Sch. 3 (items 10, 11)

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Tax Laws Amendment (Stronger, Fairer, Simpler and Other Measures) Act 2012	23, 2012	29 Mar 2012	Schedule 4: 29 Mar 2012	Sch. 4 (item 7)
Tax and Superannuation Laws Amendment (2012 Measures No. 1) Act 2012	75, 2012	27 June 2012	Schedule 4 (items 11, 12, 20): Royal Assent	Sch. 4 (item 20)
Superannuation Legislation Amendment (New Zealand Arrangement) Act 2012	181, 2012	10 Dec 2012	Schedule 1 (items 9, 12): 1 July 2013 (<i>see Gazette</i> 2013, No GN25)	Sch. 1 (item 12)
Tax and Superannuation Laws Amendment (Increased Concessional Contributions Cap and Other Measures) Act 2013	82, 2013	28 June 2013	Schedule 2: Royal Assent	Sch. 2 (item 15)
Tax and Superannuation Laws Amendment (2013 Measures No. 2) Act 2013	85, 2013	28 June 2013	Schedule 6: Royal Assent	Sch. 6 (item 10)
Tax Laws Amendment (Fairer Taxation of Excess Concessional Contributions) Act 2013	118, 2013	29 June 2013	Sch 1 (items 27, 28, 110): Royal Assent	Sch 1 (item 110)
Tax Laws Amendment (2013 Measures No. 2) Act 2013	124, 2013	29 June 2013	Sch 1 (items 29, 32(2)): 30 June 2013	Sch 1 (item 32(2))
Minerals Resource Rent Tax Repeal and Other Measures Act 2014	96, 2014	5 Sept 2014	Sch 7: 1 July 2017 (s 2(1) item 4)	Sch 7 (item 7–9)

Superannuation (Government Co-contribution for Low Income Earners) Act
2003

63

Compilation No. 23

Compilation date: 25/6/15

Registered: 2/7/15

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Treasury Legislation Amendment (Repeal Day) Act 2015	2, 2015	25 Feb 2015	Sch 2 (items 7, 73, 112, 113): 25 Feb 2015 (s 2(1) items 3, 5) Sch 2 (items 55–61): <u>1 July 2015 (s 2(1) item 4)</u>	Sch 2 (item 73)
Tax and Superannuation Laws Amendment (2015 Measures No. 1) Act 2015	70, 2015	25 June 2015	Sch 1 (items 145, 146, 195–205): <u>1 July 2015</u> <u>(s 2(1) items 3, 6)</u> Sch 6 (items 43–46): 25 June 2015 (s 2(1) item 15)	Sch 1 (items 195– 205)

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s. 5	am. No. 92, 2004; No. 15, 2007; No. 23, 2012; No. 82, 2013; <u>No 96, 2014</u> ; <u>No 2, 2015</u>
Part 2	
Division 1	
s. 6	am. No. 92, 2004; No. 9, 2007; No. 27, 2009; No. 75, 2012; No 118, 2013
s. 7	am. Nos. 9 and 15, 2007; Nos. 45 and 92, 2008; No 181, 2012; <u>No 70, 2015</u>
s. 8	am. No. 9, 2007; No. 27, 2009; No. 75, 2012; No 118, 2013
Division 2	
s. 9	am. No. 106, 2004; No. 62, 2009; No. 90, 2010; No. 85, 2013
s. 10	am. No. 106, 2004; No. 62, 2009; No. 90, 2010; No. 85, 2013
s. 10A	am. No. 106, 2004; No. 90, 2010; Nos 85 and 124, 2013
s. 12	am. No. 92, 2004
s. 12A	ad. No. 67, 2007
Part 2A	
Part 2A	ad. No. 23, 2012 rep <u>No 96, 2014</u>
s. 12B	ad. No. 23, 2012 am. No. 82, 2013 rep <u>No 96, 2014</u>
s. 12C	ad. No. 23, 2012 am. No. 82, 2013 rep <u>No 96, 2014</u>
s. 12D	ad. No. 23, 2012 rep. No. 82, 2013
s. 12E.....	ad. No. 23, 2012

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
	am. No. 82, 2013
	rep <u>No 96, 2014</u>
s. 12F	ad. No. 82, 2013
	rep <u>No 96, 2014</u>
s. 12G	ad. No. 82, 2013
	rep <u>No 96, 2014</u>
Part 3	
s. 14	am. No. 9, 2007; No. 23, 2012; No 2, 2015 (<u>Sch 2 item 56</u>)
Part 4	
s. 15	am. No. 92, 2004; No. 8, 2005
s. 16	am. No. 92, 2004; No 2, 2015; No 70, 2015
s. 18	am. No. 92, 2004; No. 8, 2005
Part 5	
Division 1	
s. 19	am. No. 92, 2004; No. 8, 2005
s. 20	am. No. 92, 2004; No 2, 2015; No 70, 2015
s. 21	am. No. 92, 2004
s. 22	am. No. 92, 2004
Division 2	
s. 24	am. No. 92, 2004; No. 8, 2005
Part 5A	
Heading to Part 5A	ad. No. 92, 2004
s. 25	am. No. 92, 2004; No. 101, 2006
Part 6	
Part 6 heading	rs <u>No 2, 2015</u>
Division 1	
Division 1 heading	rs <u>No 2, 2015</u>
ss. 26–28	rep. No. 9, 2007
s. 29	am. No. 58, 2006
	rep. No. 9, 2007

Endnote 4—Amendment history

Provision affected	How affected
s 30	rep No 2, 2015
s 31	rep No 2, 2015
Division 2	
s. 33	am. No. 9, 2007
Division 3	
Division 3	rep No 2, 2015
s 40	rep No 2, 2015
s 41	rep No 2, 2015
s 42	rep No 2, 2015
s 43	rep No 2, 2015
s 44	rep No 2, 2015
s 45	rep No 2, 2015
Part 7	
Division 1	
s. 46	ad. No. 145, 2010
Division 2	
s. 49	am. No. 9, 2007; No. 23, 2012; No 96, 2014
Division 3	
s. 53	rep. No. 145, 2010
s. 54	rs. No. 92, 2004
	am. No. 134, 2008; No. 46, 2011
Part 8	
s 55	am No. 23, 2012; No 96, 2014
Part 9	
s. 56	am. No. 92, 2004; No. 8, 2005; No. 15, 2007; No. 27, 2009; No. 145, 2010; No. 23, 2012; No. 82, 2013; No 96, 2014 ; No 2, 2015 (Sch 2 item 61)