Superannuation Industry (Supervision) Act 1993

No. 78, 1993

Compilation No. 130

Compilation date: 1 July 2026

Includes amendments: Act No. 57, 2025, Act No. 57, 2026 and Act No. 58, 2026

This compilation is in 2 volumes

Volume 1:	**Parts 1 to 15** **sections 1 to 127**
Volume 2:	Parts 16 to 32 sections 128 to 383 Endnotes

Each volume has its own contents

Prepared by the Office of Parliamentary Counsel, Canberra

Authorised Version C2026C00335 registered 27/07/2026

About this compilation

This compilation

This is a compilation of the *Superannuation Industry (Supervision) Act 1993* that shows the text of the law as amended and in force on 1 July 2026 (the ***compilation date***).

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

Uncommenced amendments

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

Application, saving and transitional provisions

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

Editorial changes

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

Presentational changes

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

Modifications

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

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary 1

Division 1—Preliminary 1

1 Short title....1
2 Commencement....1
3 Object of Act....1
4 Simplified outline of supervision responsibilities....2
5 General administration of Act....2
6 General administration table....5
7 Application of Act not to be excluded or modified....17
8 Act extends to external Territories....17
9 Crown to be bound....17
9A Application of the *Criminal Code*....17

Division 2—Interpretation 18

10 Definitions....18
10A Interdependency relationship....48
11 Approvals, determinations etc. by Regulator....48
11A Approved forms....49
11AA Manner and format requirements for lodging with, or giving or providing to, the Regulator if the Regulator is ASIC....50
11B Electronic lodgment of approved forms....50
11C Declaration required if approved form lodged electronically on trustee's behalf....51
11D Electronic lodgment—documents other than approved forms....52
11E Approved guarantees....53
11F Lead auditor....53
12 Associates....53
13 Single trustees....54
13A RSE licensees that are groups of individual trustees....54
14 Indefinitely continuing fund—application of rules against perpetuities....56
15 Approved deposit funds—payments by trustees....56
15A Definitions of *employee* and *employer*....57
15B Modified meaning of *member*....58
16 Definitions associated with employer-sponsorship....59
17 Persons involved in a contravention....60
17A Definition of *self managed superannuation fund*....60

Authorised Version C2026C00335 registered 27/07/2026

17B Definition of *self managed superannuation fund*—remuneration of trustees etc. 66
18 Public offer superannuation fund 67
19 Regulated superannuation fund 70
20 Related bodies corporate 71
20A Resident approved deposit funds 71
20B *Accrued default amounts* 72

Part 2A—Licensing of trustees and groups of individual trustees 75

Division 1—Object of this Part 75
29A Object of this Part and the relationship of this Part to other provisions 75

Division 2—Classes of RSE licences 77
29B Classes of RSE licences 77

Division 3—Applying for RSE licences 79
29C Applications for RSE licences 79
29CA APRA may request further information 80
29CC Period for deciding applications 81

Division 4—Grant of RSE licences 82
29D Grant of RSE licences 82
29DB Notice of class of licence 83
29DC Documents required to bear ABNs 84
29DD Licence period 84
29DE APRA to give notice of refusal of applications 85

Division 5—Conditions on RSE licences 86
29E Conditions imposed on all licences and on groups of licences 86
29EA Additional conditions imposed on individual licences by APRA 90

Division 6—Varying RSE licences 93
29F Applications for variation of RSE licences 93
29FA APRA may request further information 93
29FB Period for deciding applications 94
29FC APRA may vary RSE licences in accordance with applications 94
29FD APRA may vary or revoke licence conditions on its own initiative 96
29FE Notification of APRA's decisions under this Division 96

Authorised Version C2026C00335 registered 27/07/2026

29FF When variations or revocations come into force etc....97
Division 7—Cancelling RSE licences 99
29G Cancellation of RSE licences....99
29GA Cancellation of RSE licences of financial services licensees....99
29GB APRA may allow RSE licence to continue in effect....100
Division 8—Approval to hold a controlling stake in an RSE licensee 101
Subdivision A—Application of this Division 101
29H Application....101
Subdivision B—Applying for approval 101
29HA Application for approval to hold a controlling stake....101
29HB APRA may request further information....102
29HC Period for deciding applications for approval....102
Subdivision C—Approval 103
29HD Approval to hold a controlling stake in an RSE licensee....103
29HE Notice of approval....103
29HF APRA to give notice of refusal of approval....103
Division 9—Offences and self-incrimination 104
29J Being trustee of a registrable superannuation entity while unlicensed etc....104
29JA Failing to notify breach of licence condition....105
29JCA False representation about status as RSE licensee....106
29JCB Holding a controlling stake in an RSE licensee without approval....106
29JD Breach does not affect validity of issue of superannuation interests etc....107
Part 2B—Registrable superannuation entities 108
Division 1—Object of this Part 108
29K Object etc. of this Part....108
Division 2—Applying for registration 109
29L Applications for registration....109
29LA APRA may request further information....110
29LB Period for deciding applications for registration....111
Division 3—Registration 112
29M Registration of registrable superannuation entity....112
29MA Notice of registration....112

Authorised Version C2026C00335 registered 27/07/2026

29MB Documents required to bear ABNs 112
29MC APRA to give notice of refusal of applications 113
Division 4—Cancelling registration 114
29N Cancelling registration 114
Division 5—RSE licensees must provide information about registrable superannuation entities 115
Subdivision A—Annual members' meetings 115
29P Annual members' meeting 115
29PA Obligation to attend an annual members' meeting 119
29PB Obligation on responsible officers of RSE licensees to answer questions 122
29PC Obligation on individual trustees to answer questions 123
29PD Obligation on auditor to answer questions 123
29PE Obligation on actuary to answer questions 124
Subdivision B—Other obligations in relation to information 125
29QC Obligation to give consistent information 125
Part 2C—MySuper 127
Division 1—Object of this Part 127
29R Object of this Part 127
Division 2—Applying for authority 128
29S Application for authority to offer a MySuper product 128
29SAA Election to transfer accrued default amounts 130
29SAB Election to transfer assets attributed to a MySuper product if authorisation cancelled 131
29SAC Election not to charge MySuper members for payment of conflicted remuneration 132
29SA APRA may request further information 133
29SB Period for deciding applications for authority 133
Division 3—Authority 135
29T Authority to offer a MySuper product 135
29TA Product in another fund in which there is already material goodwill 136
29TB MySuper products for large employers 137
29TC Characteristics of a MySuper product 139
29TD Notice of authority 141
29TE APRA to give notice of refusal of authority 141

Authorised Version C2026C00335 registered 27/07/2026

Division 4—Cancelling authority 142
29U Cancelling authority to offer MySuper product....142
29UA Cancellation of authority of an RSE licensee that is also a financial services licensee....144
29UB APRA may allow authority to continue in effect....145
Division 5—Fees rules for MySuper products 146
29V Fees that may be charged in relation to a MySuper product....146
29VA Charging rules....148
29VB Administration fee exemption for employees of an employer-sponsor....153
29VC Activity fees and insurance fees to be charged on a cost recovery basis....155
29VD Performance-based fees....155
29VE Percentage-based administration fees may be capped....157
Division 7—Offences 158
29W Offering a product as a MySuper product when not authorised to do so....158
29WA Contributions in relation to which no election is made are to be paid into MySuper product....158
29WB Contributions by large employer in relation to which no election is made to be paid into large employer MySuper product....160
Division 8—Other matters 163
29X Prudential standards dealing with accrued default amounts....163
29XA Prudential standards dealing with assets attributed to former MySuper products....163
29XB No liability for certain transfers....164
29XC Public sector superannuation scheme ceases to be exempt....164
Part 3—Operating standards 165
Division 1—Object of Part 165
30 Object of Part....165
Division 2—Operating standards 166
31 Operating standards for regulated superannuation funds....166
32 Operating standards for approved deposit funds....168
33 Operating standards for pooled superannuation trusts....169
33A Relationship between operating standards, this Act and the regulations....170
34 Prescribed operating standards must be complied with....170

Authorised Version C2026C00335 registered 27/07/2026

Division 3—Portability forms 172
34A Portability forms 172
Part 3A—Prudential standards 173
34B Object of this Part 173
34C APRA may determine *prudential standards* 173
34D Relationship between prudential standards, this Act and the regulations....177
34E Notice of determination, variation or revocation of certain prudential standards 177
34F APRA to monitor prudential matters 177
Part 3B—Superannuation data and payment regulations and standards 179
Division 1—Superannuation data and payment regulations and standards 179
34H Object of Part 179
34J Alternative constitutional basis....179
34K Superannuation data and payment regulations and standards 179
34L Relationship between standards and other law 181
Division 2—Compliance with superannuation data and payment regulations and standards 182
34M Compliance requirement—trustees of eligible superannuation entities 182
34N Compliance requirement—employers 182
34P Regulator's power to give directions in certain circumstances—trustees of eligible superannuation entities 183
34Q Regulator's power to give directions in certain circumstances—employers 185
Division 3—Infringement notices 187
34R When an infringement notice may be given 187
34S Matters to be included in notice....187
34T Extension of time to pay amount 188
34U Withdrawal of an infringement notice 189
34V Effect of payment of amount 190
34W Effect of this Division....191
Division 4—Information 192
Subdivision A—Correction and rectification of information 192
34X Correction and rectification of information 192

Authorised Version C2026C00335 registered 27/07/2026

Subdivision B—Register of information about certain funds and schemes 192
34Y Register of information about certain funds and schemes 192
34Z Trustees to provide information for inclusion in register 193

Part 4—Accounts, audit and reporting obligations for superannuation entities 194

Division 1—Objects 194
35 Objects of Part 194

Division 2—Obligations for registrable superannuation entities 195
35A Accounting records 195
35AB Auditor requests for documents 197
35AC Appointed auditor's functions and duties 197
35AD Appointed actuary's functions and duties 200

Division 3—Obligations for self managed superannuation funds 202
35AE Accounting records 202
35B Accounts and statements 203
35C Audit of accounts and statements 204
35D Trustee to lodge annual returns 205

Part 5—Notices about complying fund status 207

Division 1—Objects and interpretation 207
37 Objects of Part 207
38 Meaning of *entity* 207

Division 2—The Regulator may give notices about complying fund status 208
38A Meaning of *regulatory provision* 208
39 Meaning of *contravention* 209
40 Notices by the Regulator to trustee 210
41 When the Regulator obliged to give notice of compliance 211
42 Complying superannuation fund 212
42A Complying superannuation fund—fund that has been a self managed superannuation fund at any time during a year 218
43 Complying approved deposit fund 223
44 Pooled superannuation trust 224

Division 3—Complying fund status for tax purposes 226
45 Complying superannuation fund 226

Authorised Version C2026C00335 registered 27/07/2026

46 Complying superannuation scheme—superannuation guarantee charge 227
47 Complying approved deposit fund....227
48 Pooled superannuation trust....228
49 Transitional—notices under the repealed provisions of the *Occupational Superannuation Standards Act 1987*....229

Part 6—Provisions relating to governing rules of superannuation entities 233

51 Object of Part....233
51A Covenants are cumulative....233
52 Covenants to be included in governing rules—registrable superannuation entities 233
52AA Retirement income strategy requirements—registrable superannuation entities 242
52A Covenants relating to directors to be included in governing rules—registrable superannuation entities....244
52B Covenants to be included in governing rules—self managed superannuation funds 246
52C Covenant relating to directors to be included in governing rules—self managed superannuation funds 249
53 Covenants to repay amounts to beneficiaries in approved deposit funds....249
54 Prerequisites to variation of repayment period....251
54A Regulations may prescribe other covenants....251
54B Civil and criminal consequences for contravening sections 52 and 52A covenants....252
54C Other covenants must not be contravened....253
55 Recovering loss or damage for contravention of covenant....253
55A Rules about cashing benefits after death of members....255
55B Governing rules do not prevent giving effect to certain elections 255
55C Governing rules do not prevent transfer from pre-MySuper default option to MySuper product....256
55D Governing rules void to the extent that they are inconsistent with obligations in relation to annual outcomes assessments and MySuper products....256
56 Indemnification of trustee from assets of entity 257
57 Indemnification of directors of trustee from assets of entity....258
58 Trustee not to be subject to direction....259
58A Service providers and investments cannot be limited to particular persons or associates....260

Authorised Version C2026C00335 registered 27/07/2026

58B Service providers and investments 261
59 Exercise of discretion by person other than trustee 262
60 Amendment of governing rules 263
60A Dismissal of trustee of public offer entity 264

Part 6A—Annual performance assessments etc. 265
60B Meaning of *Part 6A product* 265
60C Regulator to make annual performance assessments 265
60D Requirements for assessment 266
60E Trustee to notify beneficiaries of fail assessment 268
60F Consequences of 2 consecutive fail assessments 270
60G Multiple Part 6A products treated as one Part 6A product in certain circumstances 272
60H Requirements for contributions to blocked fund not enforceable 274
60J Formulas for ranking products 274

Part 7—Provisions applying only to regulated superannuation funds 276
61 Object of Part 276
62 Sole purpose test 276
62A Self managed superannuation funds—investment in collectables and personal use assets 278
63 Certain regulated superannuation funds not to accept employer contributions in certain circumstances 279
64 Superannuation contributions—deductions from qualifying earnings etc. to be remitted promptly 283
65 Lending to members of regulated superannuation fund prohibited 285
66 Acquisitions of certain assets from members of regulated superannuation funds prohibited 286
67 Borrowing 291
67A Limited recourse borrowing arrangements 294
67B Limited recourse borrowing arrangements—replacement assets 296
68 Victimisation of trustees etc. 298
68AAA Benefits provided by taking out insurance—inactive accounts 301
68AAB Benefits provided by taking out insurance—low-balance accounts 303
68AAC Benefits provided by taking out insurance—members under 25 years old 306

Authorised Version C2026C00335 registered 27/07/2026

68AAD Sections 68AAA, 68AAB and 68AAC do not apply to funds with no more than 6 members....309
68AAE Employer-sponsor contribution exception....309
68AAF Dangerous occupation exception....310
68AA Benefits for permanent incapacity and death—MySuper members....312
68A Trustees must not use goods or services to influence employers....315
68B Promotion of illegal early release schemes....317
68C Voting by a director of a corporate trustee—governing rules....318
68D Voting by an individual trustee—governing rules....318

Part 8—In-house asset rules applying to regulated superannuation funds 320

Division 1—Object and interpretation 320

Subdivision A—General 320
69 Object of Part....320
69A Sub-funds to be treated as funds....320
70A The Regulator may determine a person to be a standard employer-sponsor....320

Subdivision B—Part 8 associates 321
70B Part 8 associates of individuals....321
70C Part 8 associates of companies....322
70D Part 8 associates of partnerships....323
70E Meanings of terms used in sections 70B, 70C and 70D....323

Subdivision C—In-house assets 324
71 Meaning of *in-house asset*....324

Subdivision D—Transitional arrangements in relation to in-house assets 329
71A Exceptions—pre-11 August 1999 investments and loans....329
71B Exceptions—pre-11 August 1999 leases and lease arrangements....331
71C Exceptions—transition period....331
71D Exception—reinvestments....332
71E Exception—certain geared investments....333
71EA Relationship breakdowns....336
71F Meaning of certain terms used in Subdivision D....338

Authorised Version C2026C00335 registered 27/07/2026

Subdivision E—Other provisions in relation to in-house assets 339
72 How this Part applies if there are 2 or more employer-sponsors of whom at least one is an unrelated employer-sponsor....339
73 Cost of in-house asset....340
74 Historical cost ratio of fund's in-house assets....341
75 Market value ratio of fund's in-house assets....341
Division 2—Historical cost ratio of fund's in-house assets 342
76 Private sector funds established on or after 12 March 1985—historical cost ratio for the 1994-95 year of income....342
77 Private sector funds established before 12 March 1985—historical cost ratio for the 1994-95 year of income....342
78 Public sector funds established on or after 1 July 1990—historical cost ratio for the 1994-95 year of income....342
79 Public sector funds established before 1 July 1990—historical cost ratio for the 1994-95 year of income....343
80 All funds—historical cost ratio for the 1995-96 year of income, the 1996-97 year of income and the 1997-98 year of income....343
Division 3—Market value ratio of fund's in-house assets 344
80A Division not applicable to certain funds....344
81 All funds—market value ratio for the 1998-99 year of income and the 1999-2000 year of income....344
82 All funds—market value ratio for the 2000-2001 year of income and later years of income....344
83 Certain new in-house asset investments prohibited....345
Division 3A—Limit on in-house assets of certain defined benefit funds 346
83A Definitions....346
83B Application of Division....348
83C Maximum permitted market value of in-house assets....348
83D Limit on in-house assets....348
83E Acquisition of in-house assets prohibited in certain circumstances....349
Division 4—Enforcement 350
84 In-house asset rules must be complied with....350
Division 5—Anti-avoidance 351
85 Prohibition of avoidance schemes....351

Authorised Version C2026C00335 registered 27/07/2026

Part 9—Equal representation of employers and members—employer-sponsored funds 353
86 Object of Part 353
87 Consequences of non-compliance with this Part 353
88 This Part does not apply if acting trustee appointed under Part 17 353
89 Basic equal representation rules 353
90 Pre-1 July 1995 rules—funds with fewer than 200 members 355
91 Pre-1 July 1995 rules—funds with 200 or more members 356
92 Post-30 June 1995 rules—funds with more than 6, but fewer than 50, members 357
93 Post-30 June 1995 rules—funds with more than 49 members 360
93A A trustee who is an employer-sponsor of a fund may still be an independent trustee 361

Part 10—Provisions applying only to approved deposit funds 363
94 Object of Part 363
95 Borrowing 363

Part 11—Provisions applying only to pooled superannuation trusts 365
96 Object of Part 365
97 Borrowing 365
98 Lending to unit-holders prohibited 366
99 Civil penalty provisions 366

Part 11A—General fees rules 367
99A Application 367
99B No entry fees 367
99BA No exit fees 367
99C Buy-sell spreads and switching fees to be charged on a cost recovery basis 367
99D Cost of advice to employers not to be borne by members 368
99E Fair and reasonable attribution of costs between classes of beneficial interest in a regulated superannuation fund 368
99F Cost of financial product advice—collectively charged fees 368
99FA Cost of financial product advice—fees charged to member concerned 370
99G Fee cap on low balances 372

Authorised Version C2026C00335 registered 27/07/2026

Part 12—Duties of trustees and investment managers of superannuation entities 375
100 Object of Part 375
101 Dispute resolution systems 375
102 Duty to seek information from investment manager 376
103 Duty to keep minutes and records....377
104 Duty to keep records of changes of trustees 378
104A Trustees etc. of self managed superannuation fund—recognition of obligations and responsibilities 379
105 Duty to keep reports....380
106 Duty to notify the Regulator of significant adverse events 381
106A Duty to notify Commissioner of Taxation of change in status of entity 382
107 Duty of trustee of employer-sponsored fund to establish procedure for appointing member representatives....383
108 Duty of trustee of employer-sponsored fund to establish procedure for appointing independent trustee or independent member of board of directors of corporate trustee 384
108A Trustee's duty to identify etc. multiple superannuation accounts of members 385
109 Investments of superannuation entity to be made and maintained on arm's length basis....387

Part 14—Other provisions applying to superannuation entities 389
114 Object of Part 389
115 Trustee of superannuation entity may maintain reserves....389
116 Agreement between trustee and investment manager....389
117 Circumstances in which amounts may be paid out of an employer-sponsored fund to an employer-sponsor....390
118 Consents to appointments 393

Part 15—Standards for trustees, custodians and investment managers of superannuation entities 394
Division 1—Object of Part and definition of disqualified person 394
119 Object of Part 394
120 Disqualified persons 394
Division 2—Requirements for custodians and investment managers 397
122 Investment manager must not appoint or engage custodian without the trustee's consent....397

Authorised Version C2026C00335 registered 27/07/2026

123 Persons who may be appointed to be custodians of superannuation entities 397
124 Investment managers must be appointed in writing 399
125 Individuals not to be investment managers of superannuation entities 400

Division 3—Disqualified persons 401

Subdivision A—Disqualification by the Commissioner of Taxation 401
126 Application of this Subdivision 401
126A The Regulator may disqualify individuals 401
126B Application for waiver of disqualified status 402
126C Application must be decided within a period of time 404
126D Notifying of the outcome of an application 404
126E The effect of seeking a waiver of disqualified person status 406
126F The Regulator's powers to seek further material 407

Subdivision B—Disqualification by the Federal Court of Australia 408
126G Application of this Subdivision 408
126H Court power of disqualification 408
126J Court power to revoke or vary a disqualification etc 410

Subdivision C—Other matters relating to disqualification 411
126K Disqualified persons not to be trustees, investment managers or custodians of superannuation entities 411
126L Privilege against exposure to penalty—disqualification under section 126A, 126H, 130D or 130EA 413

Division 4—Non-compliance not to invalidate appointment or transaction 415
127 Non-compliance not to invalidate appointment or transaction 415

Authorised Version C2026C00335 registered 27/07/2026

An Act to make provision for the supervision of certain entities engaged in the superannuation industry, and for related purposes

Part 1—Preliminary

Division 1—Preliminary

1 Short title

This Act may be cited as the *Superannuation Industry (Supervision) Act 1993*.

2 Commencement

(1) Subject to this section, Parts 1, 2, 21, 27, 28, 29, 30, 31 and 32 commence on the day on which this Act receives the Royal Assent.

(2) Part 1 (in so far as it relates to section 117) and section 117 are taken to have commenced on 21 October 1992.

(3) Parts 18, 19, 20, 23 and 24 and section 342 commence on 1 July 1994.

(4) The remaining provisions commence on 1 December 1993, but do not apply to a fund, scheme or trust in relation to a year of income of the fund, scheme or trust earlier than the 1994-95 year of income.

3 Object of Act

Supervision of certain superannuation entities

(1) The main object of this Act is to make provision for the prudent management of certain superannuation funds, approved deposit funds and pooled superannuation trusts and for their supervision by APRA, ASIC and the Commissioner of Taxation.

Authorised Version C2026C00335 registered 27/07/2026

Basis for supervision

(2) The basis for supervision is that those funds and trusts are subject to regulation under the Commonwealth's powers with respect to corporations or pensions (for example, because the trustee is a corporation). In return, the supervised funds and trusts may become eligible for concessional taxation treatment.

Whole industry not covered

(3) The Act does not regulate other entities engaged in the superannuation industry.

4 Simplified outline of supervision responsibilities

Sections 5 and 6 set out the functions, powers and duties of APRA, ASIC and the Commissioner of Taxation in administering this Act.

APRA is generally responsible for prudential regulation and member outcomes. It is also generally responsible for licensing and supervision of RSE licensees.

ASIC is generally responsible for protecting consumers from harm, market integrity, disclosure and record keeping.

The Commissioner of Taxation is generally responsible for self managed superannuation funds, data and payment standards, tax file numbers and the compassionate release of superannuation amounts.

5 General administration of Act

(1) Subject to this section, the general administration of a provision is determined under the general administration table in section 6. If a provision is covered by column 1 of the table, the general administration of the provision is conferred on a person, body or bodies in accordance with column 3 of the table.

Authorised Version C2026C00335 registered 27/07/2026

(2) Powers and duties are also conferred by the provisions referred to in subsection (3) of this section on:

(a) APRA for the purposes of APRA's administration of the provisions it administers (including provisions both APRA and ASIC administer); and

(b) ASIC for the purposes of ASIC's administration of the provisions it administers (including provisions both APRA and ASIC administer); and

(c) the Commissioner of Taxation for the purposes of the administration of the provisions the Commissioner of Taxation administers.

(3) The provisions are Parts 1, 25, 26, 27, 28, 29, 29A and 30, but not including any of the following provisions:

(a) Division 3 of Part 25 (see instead item 58 of the general administration table);

(b) sections 328 and 332 (see instead subsection (8) of this section).

Note: Generally APRA, ASIC and the Commissioner of Taxation are not referred to in these provisions, Regulator is used instead. See the definition of ***Regulator*** in section 10.

Special rules about ASIC

(4) Despite paragraph (2)(b):

(a) powers and duties conferred on ASIC by section 255 are conferred only in relation to persons who are relevant persons in relation to superannuation entities; and

(b) powers and duties conferred on ASIC by section 256 are conferred only in relation to the affairs of superannuation entities.

Special rules about the Commissioner of Taxation

(5) Despite paragraph (2)(c):

(a) powers and duties conferred on the Commissioner of Taxation by Divisions 4 to 8 of Part 25 (other than section 285) are conferred only in relation to:

Authorised Version C2026C00335 registered 27/07/2026

(i) persons who are relevant persons in relation to superannuation entities; and

(ii) the affairs of superannuation entities; and

(b) powers and duties are not conferred on the Commissioner of Taxation by section 342 (about pre-1 July 88 funding credits and debits).

(6) Nothing in subsection (5) limits the powers and duties conferred on the Commissioner of Taxation by Part 25 (as mentioned in paragraph (2)(c)) in relation to contributing employers.

Note: The Commissioner of Taxation's powers and duties under Part 25 in relation to contributing employers are found in sections 255 and 256, with related provisions in Divisions 7, 8 and 9 of that Part.

(7) To avoid doubt, for the purposes of the definition of ***taxation law*** in subsection 995-1(1) of the *Income Tax Assessment Act 1997*, the Commissioner of Taxation is taken to have the general administration of a provision of this Act or the regulations that confers powers and duties on the Commissioner of Taxation.

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

Modification and exemption powers

(8) Powers and duties are also conferred by sections 328 and 332 on:

(a) APRA for the purposes of the administration of provisions administered by APRA (including provisions both APRA and ASIC administer) or by the Commissioner of Taxation; and

(b) ASIC for the purposes of the administration of provisions administered solely by ASIC.

Directions

(9) The Minister may, by legislative instrument, give APRA or ASIC directions about the performance or exercise of its functions or powers under this Act.

Authorised Version C2026C00335 registered 27/07/2026

6 General administration table

(1) The following table has effect for the purposes of subsection 5(1).

Note: Under that subsection, the general administration of a provision referred to in column 1 of the table is conferred as set out in column 3.

General administration table

Item	Column 1 Provisions	Column 2 Topic	Column 3 Regulator
1	Part 2A, to the extent it is not covered by item 2 of this table	licensing of RSE licensees	APRA
2	Section 29JCA	false representation about RSE status	both APRA and ASIC
3	Part 2B, to the extent it is not covered by item 4 of this table	registrable superannuation entities	APRA
4	Sections 29P to 29QC	obligations of RSE licensees	ASIC
5	Part 2C, to the extent it is not covered by item 6 of this table	MySuper	APRA
6	Subsection 29SAA(3)	MySuper notice requirements	ASIC
7	Part 3, to the extent it is not covered by item 7A, 8 or 9 of this table	operating standards	(a) ASIC, to the extent the provisions relate to disclosure or record-keeping (see subsection (2)); and (b) subject to paragraph (a), the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and

Authorised Version C2026C00335 registered 27/07/2026

General administration table

Item	Column 1 Provisions	Column 2 Topic	Column 3 Regulator
			(c) APRA, to the remaining extent
7A	Subsection 34(2A)	offence for breaching standards relating to record keeping obligations	both APRA and ASIC
8	Division 3 of Part 3	portability forms	the Commissioner of Taxation
9	Regulations made under Part 3	release on compassionate grounds	the Commissioner of Taxation, to the extent that the regulations relate to the making and notification of determinations that an amount of benefits in a superannuation entity may be released on compassionate grounds
10	Part 3A	prudential standards	APRA
11	Part 3B, to the extent it is not covered by item 12 or 13 of this table	superannuation data and payment	APRA
12	Divisions 1 and 4 of Part 3B	superannuation data and payment	the Commissioner of Taxation
13	Division 2 of Part 3B	compliance with superannuation data and payment regulations and standards	(a) the Commissioner of Taxation, to the extent the provisions relate to any of the following: (i) employers; (ii) payments and information given to the Commissioner of Taxation;

Authorised Version C2026C00335 registered 27/07/2026

General administration table

Item	Column 1 Provisions	Column 2 Topic	Column 3 Regulator
			(iii) self managed superannuation funds; and (b) APRA, to the remaining extent
14	Part 4	accounts, audit and reporting obligations for superannuation entities	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) APRA, to the remaining extent
15	Part 5, to the extent it is not covered by item 16 of this table	notices about complying fund status	(a) the Commissioner of Taxation, to the extent the provisions do any of the following: (i) relate to self managed superannuation funds; (ii) require or permit the Commissioner of Taxation to do something; and (b) APRA, to the remaining extent
16	Sections 40 and 41	notices about complying superannuation fund status	(a) in relation to an entity that is a self managed superannuation fund on the last day of the most recently ended year of income—the Commissioner of

Authorised Version C2026C00335 registered 27/07/2026

General administration table

Item	Column 1 Provisions	Column 2 Topic	Column 3 Regulator
			Taxation; and (b) in relation to an entity that is not a self managed superannuation fund on the last day of the most recently ended year of income—APRA; and (c) subject to paragraphs (a) and (b), the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (d) APRA, to the remaining extent
17	Part 6, to the extent it is not covered by items 18 to 21 of this table	governing rules of superannuation entities	(a) ASIC, to the extent the provisions relate to disclosure or record-keeping (see subsection (2)); and (b) subject to paragraph (a), the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (c) APRA, to the remaining extent
18	Sections 52, 52A and 54B	covenants and consequences of breaching covenants	both APRA and ASIC

Authorised Version C2026C00335 registered 27/07/2026

General administration table

Item	Column 1 Provisions	Column 2 Topic	Column 3 Regulator
19	Sections 52B and 52C	covenants of SMSFs	the Commissioner of Taxation
20	Section 54A	prescribed covenants	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) both APRA and ASIC, to the remaining extent
21	Section 60A	dismissal of trustee of public offer entity	APRA
21A	Part 6A, to the extent it is not covered by item 21B, 21C or 21D of this table	annual performance assessments	(a) ASIC, to the extent the provisions relate to disclosure or record-keeping (see subsection (2)); and (b) APRA, to the remaining extent
21B	Section 60E	annual performance assessments—trustee to notify beneficiaries of fail assessment	both APRA and ASIC
21C	Subsection 60F(2)	annual performance assessments—consequence of 2 consecutive fail assessments	both APRA and ASIC
21D	Subsections 60J(4), (5) and (6)	formulas for ranking products—making information available on website	the Commissioner of Taxation

Authorised Version C2026C00335 registered 27/07/2026

General administration table

Item	Column 1 Provisions	Column 2 Topic	Column 3 Regulator
22	Part 7, to the extent it is not covered by items 23 to 26 of this table	regulated superannuation funds	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) APRA, to the remaining extent
23	Sections 62 and 68	sole purpose test; victimisation of trustees	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) both APRA and ASIC, to the remaining extent
25	Section 68A	use of goods or services to influence employers	ASIC
26	Section 68B	promotion of illegal early release schemes	(a) the Commissioner of Taxation, to the extent the provision relates to self managed superannuation funds; and (b) ASIC, to the remaining extent
27	Part 8	in-house asset rules	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) APRA, to the remaining extent

Authorised Version C2026C00335 registered 27/07/2026

General administration table

Item	Column 1 Provisions	Column 2 Topic	Column 3 Regulator
28	Part 9	equal representation of employers and members—employer-sponsored funds	APRA
29	Part 10	approved deposit funds	APRA
30	Part 11	pooled superannuation trusts	APRA
31	Part 11A, to the extent it is not covered by item 32 of this table	general fees rules	APRA
32	Sections 99F and 99FA	cost of financial product advice	ASIC
33	Part 12, to the extent it is not covered by items 34 to 36 of this table	duties of trustees and investment managers	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) APRA, to the remaining extent
34	Sections 101 and 103	dispute resolution systems; duty to keep minutes and records	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) ASIC, to the remaining extent
35	Section 105	duty to keep reports	(a) ASIC, to the extent the provision relates to disclosure or record-keeping (see subsection (2)); and

Authorised Version C2026C00335 registered 27/07/2026

General administration table

Item	Column 1 Provisions	Column 2 Topic	Column 3 Regulator
			(b) subject to paragraph (a), the Commissioner of Taxation, to the extent the provision relates to self managed superannuation funds; and (c) APRA, to the remaining extent
36	Section 108A	duty to identify multiple accounts	both APRA and ASIC
37	Part 14	other provisions applying to superannuation entities	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) APRA, to the remaining extent
38	Part 15, to the extent it is not covered by item 39 of this table	standards for trustees, custodians and investment managers	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) APRA, to the remaining extent
39	Section 126K	disqualified persons	(a) the Commissioner of Taxation, to the extent the provision relates to self managed superannuation funds; and (b) both APRA and ASIC,

Authorised Version C2026C00335 registered 27/07/2026

General administration table

Item	Column 1 Provisions	Column 2 Topic	Column 3 Regulator
			to the remaining extent
40	Part 16, to the extent it is not covered by items 41 to 43A of this table	actuaries and auditors	(a) ASIC, to the extent the provisions relate to auditors of self managed superannuation funds; and (b) subject to paragraph (a), the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (c) APRA, to the remaining extent
41	Section 128N	actuaries and auditors—ASIC may disclose information	ASIC
42	Section 128P	actuaries and auditors—Commissioner of Taxation may refer matter to ASIC	the Commissioner of Taxation
43	Division 2 of Part 16	actuaries and auditors—obligations	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) APRA, to the remaining extent

Authorised Version C2026C00335 registered 27/07/2026

General administration table

Item	Column 1 Provisions	Column 2 Topic	Column 3 Regulator
43A	Sections 130D and 130E	disqualifying and removing actuaries and auditors	(a) both APRA and ASIC, to the extent the provisions relate to auditors; and (b) APRA, to the extent the provisions relate to actuaries
44	Part 16A	APRA's powers to issue directions	APRA
45	Part 17, to the extent it is not covered by item 46 of this table	suspension or removal of trustee	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) APRA, to the remaining extent
46	Section 140	notice by acting trustee	APRA
47	Part 18	amalgamation of funds	APRA
48	Part 19	public offer entities	ASIC
49	Part 20	contraventions relating to SMSFs	the Commissioner of Taxation
50	Part 21	civil and criminal consequences of contravening civil penalty provisions	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) both APRA and ASIC, to the extent the provisions relate to, or are being applied for

Authorised Version C2026C00335 registered 27/07/2026

General administration table

Item	Column 1 Provisions	Column 2 Topic	Column 3 Regulator
			the purposes of, a provision administered by both those bodies; and (c) ASIC, to the extent the provisions relate to, or are being applied for the purposes of, a provision administered by ASIC; and (d) APRA, to the remaining extent
51	Part 22	infringement notices	APRA
52	Part 23	financial assistance	APRA
53	Part 24, to the extent it is not covered by item 54 of this table	eligible rollover funds	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) APRA, to the remaining extent
54	sections 242K, 242L and 242M	obligations relating to eligible rollover funds	both APRA and ASIC
55	Part 24A	pre-1 July 1995 transitional provisions	APRA
56	Part 24B	small funds	as provided by the provisions of Part 24B
57	Part 25, to the extent it is not covered by item 58 of this table	monitoring and investigation	see section 5

Authorised Version C2026C00335 registered 27/07/2026

General administration table

Item	Column 1 Provisions	Column 2 Topic	Column 3 Regulator
58	Division 3 of Part 25	monitoring and investigation—APRA requirements	APRA
59	Part 25A, to the extent it is not covered by item 60 of this table	tax file numbers	(a) the Commissioner of Taxation, to the extent the provisions relate to self managed superannuation funds; and (b) APRA, to the remaining extent
60	Divisions 1 and 3A of Part 25A, section 299NA and subsection 299U(2A)	tax file numbers	the Commissioner of Taxation
61	Part 32	transitional provisions for tax file numbers	APRA

Note: Subsection 10(4) extends the meaning of ***self managed superannuation fund*** for the purposes of this section, sections 5, 42 and 42A, and Part 20.

Disclosure and record-keeping provisions

(2) For the purposes of the general administration table, a provision relates to disclosure or record-keeping to the extent to which the provision relates to:

(a) keeping of reports to members of, or beneficiaries in, funds; or

(b) disclosure of information to members of, or beneficiaries in, funds; or

(c) disclosure of information about funds (including disclosure of information to ASIC but not including disclosure of information to APRA); or

Authorised Version C2026C00335 registered 27/07/2026

(d) any other matter prescribed by regulations for the purposes of this paragraph.

7 Application of Act not to be excluded or modified

This Act applies to a superannuation entity despite any provision in the governing rules of the entity, including any provision that purports to substitute, or has the effect of substituting, the provisions of the law of a State or Territory or of a foreign country for all or any of the provisions of this Act.

8 Act extends to external Territories

This Act extends to all the external Territories.

9 Crown to be bound

(1) This Act binds the Crown in all its capacities.

(2) The Crown is not liable to be prosecuted for an offence against, or arising out of, this Act.

9A Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* (except Part 2.5) applies to all offences against this Act.

Authorised Version C2026C00335 registered 27/07/2026

Division 2—Interpretation

10 Definitions

(1) In this Act, unless the contrary intention appears:

ABN has the meaning given by section 41 of the *A New Tax System (Australian Business Number) Act 1999*.

accrued default amount, for a member of a regulated superannuation fund, has the meaning given by section 20B.

acquirable asset has the meaning given by section 67A.

activity fee has the meaning given by subsection 29V(7).

ADI (authorised deposit-taking institution) means:

(a) a body corporate that is an ADI for the purposes of the *Banking Act 1959*; or

(b) a State bank.

administration fee has the meaning given by subsection 29V(2).

adopted child, in relation to a person, means a person adopted by the first-mentioned person:

(a) under the law of a State or Territory relating to the adoption of children; or

(b) under the law of any other place relating to the adoption of children, if the validity of the adoption would be recognised under the law of any State or Territory.

advice fee has the meaning given by subsection 29V(8).

AFCA scheme has the same meaning as in the *Corporations Act 2001*.

amend, in relation to the governing rules of a superannuation entity, includes the insertion of a provision in, or the omission of a provision from, those rules.

Authorised Version C2026C00335 registered 27/07/2026

annual members' meeting, for a registrable superannuation entity, means a meeting of members of the entity held under subsection 29P(1) for a year of income of the entity.

annuity includes a benefit provided by a life insurance company or a registered organisation, if the benefit is taken, under the regulations, to be an annuity for the purposes of this Act.

approved deposit fund means a fund that:

(a) is an indefinitely continuing fund; and

(b) is maintained by an RSE licensee that is a constitutional corporation; and

(c) is maintained solely for approved purposes.

approved form has the meaning given by section 11A.

approved guarantee has the meaning given by section 11E.

approved purposes, in relation to a fund, means:

(a) the purpose of receiving on deposit:

(i) amounts of roll-over superannuation benefits (within the meaning of the *Income Tax Assessment Act 1997*); and

(ia) amounts of directed termination payments (within the meaning of section 82-10F of the *Income Tax (Transitional Provisions) Act 1997*); and

(ii) amounts paid under Part 24 of this Act; and

(iii) amounts paid under section 65 of the *Superannuation Guarantee (Administration) Act 1992*; and

(b) the purpose of dealing with such amounts, in accordance with the rules of the fund, in any way calculated directly or indirectly to enhance the value of, or render profitable, property of the fund; and

(c) subject to any inconsistent requirement in the standards from time to time applicable to the fund under section 32, the purpose of paying to beneficiaries, or to the legal personal representatives of beneficiaries, upon request, amounts equal to the beneficiary's interest in the fund; and

(d) such other purposes (if any) as APRA approves in writing.

Authorised Version C2026C00335 registered 27/07/2026

approved SMSF auditor means a person who is registered under section 128B, but does not include:

(a) a person for whom an order disqualifying a person from being an approved SMSF auditor, or suspending a person's registration as an approved SMSF auditor, is in force under section 130F; or

(b) a person who is disqualified from being or acting as an auditor of all superannuation entities under section 130D.

APRA means the Australian Prudential Regulation Authority.

APRA staff member has the same meaning as in the *Australian Prudential Regulation Authority Act 1998*.

ASIC means the Australian Securities and Investments Commission.

asset means any form of property and, to avoid doubt, includes money (whether Australian currency or currency of another country).

associate has the meaning given by section 12.

Australian court means:

(a) the High Court; or

(b) a court created by the Parliament; or

(c) a court of a State or Territory.

Australian resident means a person who is a resident of Australia for the purposes of the *Income Tax Assessment Act 1936*.

authorised person means a person authorised by the Regulator under section 298A for the purposes of the provision in which the expression occurs.

benchmark means a benchmark mentioned in, or specified in regulations made for the purposes of, subparagraphs 52(9)(a)(i) and (ii) and paragraph 52(9)(aa).

Authorised Version C2026C00335 registered 27/07/2026

beneficiary, in relation to a fund, scheme or trust, means a person (whether described in the governing rules as a member, a depositor or otherwise) who has a beneficial interest in the fund, scheme or trust and includes, in relation to a superannuation fund, a member of the fund despite the express references in this Act to members of such funds.

books includes:

(a) any record; or

(b) any accounts or accounting records, however compiled, recorded or stored; or

(c) a document.

buy-sell spread has the meaning given by subsection 29V(4).

child, in relation to a person, includes:

(a) an adopted child, a stepchild or an ex-nuptial child of the person; and

(b) a child of the person's spouse; and

(c) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

choice product: A class of beneficial interest in a regulated superannuation fund is a ***choice product*** unless:

(a) all the members of the fund who hold that class of beneficial interest in the fund are defined benefit members; or

(b) that class of beneficial interest in the fund is a MySuper product.

civil penalty order means a declaration or order made under section 196.

civil penalty provision has the meaning given by section 193.

class, in relation to an RSE licensee, means (except in subsections 29E(7) and (8)) a class of RSE licence provided for under subsection 29B(2) or (3), or under regulations made for the purposes of subsection 29B(4).

Authorised Version C2026C00335 registered 27/07/2026

Commissioner means the Insurance and Superannuation Commissioner appointed under the *Insurance and Superannuation Commissioner Act 1987*, or a person for the time being acting as Insurance and Superannuation Commissioner under that Act.

comparable choice products, in relation to a choice product, means a class of choice product specified in regulations made for the purposes of this definition that the choice product is to be compared with.

connected entity, in relation to an RSE licensee of a registrable superannuation entity, means:

(a) an associated entity (within the meaning of the *Corporations Act 2001*) of the RSE licensee; and

(b) if the RSE licensee is a group of individual trustees—an entity that has the capacity to determine or influence decisions made by one or more members of the group in relation to the registrable superannuation entity; and

(c) any other entity of a kind prescribed by the regulations.

constitutional corporation means a body corporate that is:

(a) a trading corporation formed within the limits of the Commonwealth (within the meaning of paragraph 51(xx) of the Constitution); or

(b) a financial corporation formed within the limits of the Commonwealth (within the meaning of paragraph 51(xx) of the Constitution).

contributing employer means an employer having obligations under Part 3B (about the superannuation data and payment regulations and standards).

controlling stake: a person holds a ***controlling stake*** in an RSE licensee that is a body corporate if the person holds a stake of more than 15% in the RSE licensee.

corporate trustee, in relation to a fund, scheme or trust, means a body corporate that is a trustee of the fund, scheme or trust.

Authorised Version C2026C00335 registered 27/07/2026

court means any court, when exercising jurisdiction under this Act.

Court means the Federal Court of Australia or the Supreme Court of a State or a Territory.

custodian, in relation to a superannuation entity, means a person (other than a trustee of the entity) who, under a contract with a trustee or an investment manager of the entity, performs custodial functions in relation to any of the assets of the entity.

data and payment regulations and standards relating to RSAs has the same meaning as in the *Retirement Savings Accounts Act 1997*.

data processing device means any article or material (for example, a disc) from which information is capable of being reproduced with or without the aid of any other article or device.

death benefit: see section 68AA.

deed includes an instrument having the effect of a deed.

defined benefit fund has (except in Division 3A of Part 8 and in Part 23) the meaning given by the regulations.

defined benefit member:

(a) in the definition of ***choice product*** in this subsection, section 20B and Part 2C—has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*; and

(b) in Division 3A of Part 8 and in Part 23—has the meaning given by section 83A; and

(c) in any other provision of this Act—has the meaning given by the regulations;

subject to subsection (1A).

dependant, in relation to a person, includes the spouse of the person, any child of the person and any person with whom the person has an interdependency relationship.

director, in relation to a body corporate, has the same meaning as in the *Corporations Act 2001*.

Authorised Version C2026C00335 registered 27/07/2026

disclose, in relation to information, means give, reveal or communicate in any way.

education direction: see subsection 160(2).

eligible rollover fund: a regulated superannuation fund is an ***eligible rollover fund*** if an RSE licensee is authorised under section 242F to operate the fund as an eligible rollover fund.

eligible superannuation entity means a regulated superannuation fund or an approved deposit fund.

employee has the meaning given by section 15A.

employer has the meaning given by section 15A.

employer representative, in relation to a group of trustees of a fund, a policy committee of a fund or the board of directors of a corporate trustee of a fund, means a member of the group, committee or board, as the case may be, nominated by:

(a) the employer or employers of the members of the fund; or

(b) an organisation representing the interests of that employer or those employers.

employer-sponsor has the meaning given by subsection 16(1).

employer-sponsored fund has the meaning given by subsection 16(3).

enhanced director obligations means:

(a) for MySuper products—the obligations imposed by:

(i) a covenant referred to in paragraph 52A(2)(f), as it relates to covenants referred to in subsection 52(9), (12) or (13); and

(ii) covenants prescribed under section 54A that are specified in the regulations as forming part of the enhanced director obligations for MySuper products; and

(b) for eligible rollover funds—the obligations imposed by:

(i) section 242L; and

Authorised Version C2026C00335 registered 27/07/2026

(ii) covenants prescribed under section 54A that are specified in the regulations as forming part of the enhanced director obligations for eligible rollover funds.

enhanced trustee obligations means:

(a) for MySuper products—the obligations imposed by:
  (i) covenants referred to in section 52; and
  (ii) covenants prescribed under section 54A that are specified in the regulations as forming part of the enhanced trustee obligations for MySuper products; and

(b) for eligible rollover funds—the obligations imposed by:
  (i) covenants referred to in section 52, as enhanced by the obligations imposed under section 242K; and
  (ii) covenants prescribed under section 54A that are specified in the regulations as forming part of the enhanced trustee obligations for eligible rollover funds.

entity means any of the following:

(a) an individual;
(b) a body corporate;
(c) a partnership;
(d) a trust.

entry fee has the meaning given by subsection 99B(2).

evidential burden, in relation to a matter, means the burden of adducing or pointing to evidence that suggests a reasonable possibility that the matter exists or does not exist.

excluded approved deposit fund means an approved deposit fund:

(a) in which there is only one beneficiary; and
(b) that satisfies such other conditions (if any) as are specified in the regulations.

excluded instalment trust, of a superannuation fund, means a trust:

(a) that arises because a trustee or investment manager of the superannuation fund makes an investment under which a listed security (the ***underlying security***) is held in trust until

Authorised Version C2026C00335 registered 27/07/2026

the purchase price of the underlying security is fully paid; and

(b) where the underlying security, and property derived from the underlying security, is the only trust property; and

(c) where an investment in the underlying security held in trust would not be an in-house asset of the superannuation fund.

executive officer, in relation to a body corporate, means a person, by whatever name called and whether or not a director of the body, who is concerned, or takes part, in the management of the body.

exempt public sector superannuation scheme means a public sector superannuation scheme that is specified in regulations made for the purposes of this definition.

exit fee has the meaning given by subsection 99BA(2).

expert, in relation to a matter, means a person whose profession or reputation gives authority to a statement made by him or her in relation to that matter.

fees rules, in relation to MySuper products, means the rules in Division 5 of Part 2C.

financial product has the same meaning as in Division 3 of Part 7.1 of the *Corporations Act 2001*.

financial product advice has the same meaning as in the *Corporations Act 2001*.

financial services licensee has the meaning given by the *Corporations Act 2001*.

function includes duty.

general administration table means the table in section 6.

general fees rules means the rules in Part 11A.

give, to the Regulator (if the Regulator is ASIC), has a meaning affected by section 11AA.

Authorised Version C2026C00335 registered 27/07/2026

governing rules, in relation to a fund, scheme or trust, means:

(a) any rules contained in a trust instrument, other document or legislation, or combination of them; or

(b) any unwritten rules;

governing the establishment or operation of the fund, scheme or trust.

group of individual trustees means a group of trustees each of whom is an individual trustee.

group of trustees, in relation to a fund, scheme or trust, means a board, committee or other group of trustees of the fund, scheme or trust.

half-year means a period of 6 months ending on 30 June or 31 December.

Income Tax Assessment Act means the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*.

independent director, in relation to a corporate trustee of a fund, means a director of the corporate trustee who:

(a) is not a member of the fund; and

(b) is neither an employer-sponsor of the fund nor an associate of such an employer-sponsor; and

(c) is neither an employee of an employer-sponsor of the fund nor an employee of an associate of such an employer-sponsor; and

(d) is not, in any capacity, a representative of a trade union, or other organisation, representing the interests of one or more members of the fund; and

(e) is not, in any capacity, a representative of an organisation representing the interests of one or more employer-sponsors of the fund.

Note: Subsection (2) sets out the circumstances in which a director of a corporate trustee of a fund is not taken to be an associate of an employer-sponsor of the fund.

Authorised Version C2026C00335 registered 27/07/2026

independent trustee, in relation to a fund, means a trustee of the fund who:

(a) is not a member of the fund; and

(b) is neither an employer-sponsor of the fund nor an associate of such an employer-sponsor; and

(c) is neither an employee of an employer-sponsor of the fund nor an employee of an associate of such an employer-sponsor; and

(d) is not, in any capacity, a representative of a trade union, or other organisation, representing the interests of one or more members of the fund; and

(e) is not, in any capacity, a representative of an organisation representing the interests of one or more employer-sponsors of the fund.

individual RSE auditor means an individual who is appointed as auditor of a registrable superannuation entity.

individual trustee, in relation to a fund, scheme or trust, means an individual who is a trustee of the fund, scheme or trust.

insolvent under administration means a person who:

(a) under the *Bankruptcy Act 1966* or the law of an external Territory, is a bankrupt in respect of a bankruptcy from which the person has not been discharged; or

(b) under the law of a country other than Australia or the law of an external Territory, has the status of an undischarged bankrupt;

and includes:

(c) a person any of whose property is subject to control under:

(i) section 50 or 188 of the *Bankruptcy Act 1966*; or

(ii) a corresponding provision of the law of an external Territory or the law of a foreign country; or

(d) a person who has executed a personal insolvency agreement under:

(i) Part X of the *Bankruptcy Act 1966*; or

Authorised Version C2026C00335 registered 27/07/2026

(ii) the corresponding provisions of the law of an external Territory or the law of a foreign country;

if a certificate has not been given under section 232 of that Act or the corresponding provision of the law of the external Territory or foreign country, as the case may be, in respect of the agreement.

inspector has the meaning given by section 265.

instalment receipt means an investment under which:

(a) a listed security is held in a trust until the purchase price of the security is fully paid; and

(b) the security, and property derived from the security, is the only trust property.

insurance fee has the meaning given by subsection 29V(9).

interdependency relationship has the meaning given by section 10A.

invest means:

(a) apply assets in any way; or

(b) make a contract;

for the purpose of gaining interest, income, profit or gain.

investment fee has the meaning given by subsection 29V(3).

investment manager means a person appointed by a trustee of a fund or trust to invest on behalf of the trustee, or the trustees, of the fund or trust.

involved, in relation to a contravention, has the meaning given by section 17.

lawyer means a duly qualified legal practitioner and, in relation to a person, means such a practitioner acting for the person.

lead auditor has the meaning given by section 11F.

Authorised Version C2026C00335 registered 27/07/2026

lease arrangement means any agreement, arrangement or understanding in the nature of a lease (other than a lease) between a trustee of a superannuation fund and another person, under which the other person is to use, or control the use of, property owned by the fund, whether or not the agreement, arrangement or understanding is enforceable, or intended to be enforceable, by legal proceedings.

legal personal representative means the executor of the will or administrator of the estate of a deceased person, the trustee of the estate of a person under a legal disability or a person who holds an enduring power of attorney granted by a person.

lifecycle exception has the meaning given by subsection 29TC(2).

life insurance company means:

(a) a body corporate registered under section 21 of the *Life Insurance Act 1995*; or

(b) a public authority:

(i) that is constituted by a law of a State or Territory; and

(ii) that carries on life insurance business within the meaning of section 11 of that Act.

listed security has the meaning given by subsection 66(5).

loan includes the provision of credit or any other form of financial accommodation, whether or not enforceable, or intended to be enforceable, by legal proceedings.

lodge with the Regulator means lodge with the Regulator in accordance with any applicable requirements under sections 11A to 11D.

market value, in relation to an asset, means the amount that a willing buyer of the asset could reasonably be expected to pay to acquire the asset from a willing seller if the following assumptions were made:

(a) that the buyer and the seller dealt with each other at arm's length in relation to the sale;

Authorised Version C2026C00335 registered 27/07/2026

(b) that the sale occurred after proper marketing of the asset;
(c) that the buyer and the seller acted knowledgeably and prudentially in relation to the sale.

member has a meaning affected by section 15B.

member of staff means:
(a) in relation to APRA—a person who is an APRA staff member within the meaning of the *Australian Prudential Regulation Authority Act 1998*; and
(b) in relation to ASIC—a person who is a staff member within the meaning of the *Australian Securities and Investments Commission Act 2001*; and
(c) in relation to the Commissioner of Taxation—a taxation officer.

member representative, in relation to a group of trustees of a fund, a policy committee of a fund or the board of directors of a corporate trustee of a fund, means a member of the group, committee or board, as the case may be, nominated by:
(a) the members of the fund; or
(b) a trade union, or other organisation, representing the interests of those members.

modifications includes additions, omissions and substitutions.

MySuper member: A member of a regulated superannuation fund is a ***MySuper member*** of the fund if the member holds a beneficial interest in the fund of a class that the RSE licensee of the fund is authorised to offer as a MySuper product.

MySuper product: A class of beneficial interest in a regulated superannuation fund is a ***MySuper product*** if an RSE licensee is authorised under section 29T to offer that class of beneficial interest in the fund as a MySuper product.

occurrence of an event includes the coming into existence of a state of affairs.

Authorised Version C2026C00335 registered 27/07/2026

old-age pensions has the same meaning as in paragraph 51(xxiii) of the Constitution.

ongoing fee arrangement has the same meaning as in the *Corporations Act 2001*.

Part 6A product has the meaning given by section 60B.

Part 8 associate has the meaning given by Subdivision B of Division 1 of Part 8.

pension, except in the expression ***old-age pension***, includes a benefit provided by a fund, if the benefit is taken, under the regulations, to be a pension for the purposes of this Act.

permanent incapacity: a member of a superannuation fund or an approved deposit fund is suffering ***permanent incapacity*** if the member is taken, under the regulations, to be suffering permanent incapacity for the purposes of this Act.

permanent incapacity benefit: see section 68AA.

personal advice has the same meaning as in the *Corporations Act 2001*.

policy committee, in relation to a regulated superannuation fund, means a board, committee or other body that:

(a) advises a trustee of the fund about such matters as are specified in the regulations; and
(b) is established by or under the governing rules of the fund.

pooled superannuation trust means a unit trust:

(a) the trustee of which is a constitutional corporation; and
(b) that, under the regulations, is a unit trust to which this definition applies.

practical control of an RSE licensee that is a body corporate has the meaning given by section 131EC.

premises includes:

Authorised Version C2026C00335 registered 27/07/2026

(a) a structure, building, aircraft, vehicle or vessel; and
(b) any land or place (whether enclosed or built on or not); and
(c) a part of a structure, building, aircraft, vehicle or vessel or of such a place.

private sector fund means a superannuation fund covered by paragraph (a) of the definition of ***superannuation fund***, other than a public sector fund.

procure includes cause.

produce includes permit access to.

prudential matter has the meaning given by subsection 34C(4).

prudential standard means a standard determined by APRA under subsection 34C(1).

public offer entity means:
(a) a public offer superannuation fund; or
(b) an approved deposit fund that is not an excluded approved deposit fund; or
(c) a pooled superannuation trust.

public offer entity licence means an RSE licence of a class provided for under subsection 29B(2).

public offer superannuation fund has the meaning given by section 18.

public sector fund means a superannuation fund that is:
(a) covered by paragraph (a) of the definition of ***superannuation fund***; and
(b) part of a public sector superannuation scheme.

public sector superannuation scheme means a scheme for the payment of superannuation, retirement or death benefits, where the scheme is established:
(a) by or under a law of the Commonwealth or of a State or Territory; or

Authorised Version C2026C00335 registered 27/07/2026

(b) under the authority of:

(i) the Commonwealth or the government of a State or Territory; or

(ii) a municipal corporation, another local governing body or a public authority constituted by or under a law of the Commonwealth or of a State or Territory.

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

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July and 1 October.

rectification direction: see subsection 159(2).

rectify, in relation to a contravention of this Act or the regulations that has occurred in relation to a superannuation entity, includes put in operation managerial or administrative arrangements that could reasonably be expected to ensure that there are no further contraventions of a similar kind.

redeem, in relation to an interest in an approved deposit fund, includes pay an amount equal to the interest pursuant to a covenant of a kind referred to in section 53 that is contained, or taken to be contained, in the governing rules of the fund.

registered company auditor has the same meaning as in the *Corporations Act 2001*.

registered organisation means:

(a) an association registered under a law of a State or Territory as a trade union; or

(b) a society registered under a law of a State or Territory providing for the registration of friendly or benefit societies; or

(c) an association of employees that is registered as an organisation, or recognised, under the *Fair Work (Registered Organisations) Act 2009*.

registrable superannuation entity means:

Authorised Version C2026C00335 registered 27/07/2026

(a) a regulated superannuation fund; or
(b) an approved deposit fund; or
(c) a pooled superannuation trust;

but does not include a self managed superannuation fund.

regulated document, in relation to a public offer entity, means a document:

(a) issued, or authorised to be issued, by the trustee of the entity; and
(b) that the trustee knows, or ought reasonably to know (having regard to the trustee's abilities, experience, qualifications and other attributes), may influence a person's decision:
  (i) whether to apply to have a superannuation interest in the entity issued to a person; or
  (ii) whether to apply to become a standard employer-sponsor of the entity.

regulated superannuation fund has the meaning given by section 19.

Regulator means:

(a) if the provision in which it occurs is, or is being applied for the purposes of, a provision that is administered by APRA (other than a provision that is administered by both APRA and ASIC)—APRA; or
(b) if the provision in which it occurs is, or is being applied for the purposes of, a provision that is administered by ASIC (other than a provision that is administered by both APRA and ASIC)—ASIC; or
(c) if the provision in which it occurs is, or is being applied for the purposes of, a provision that is administered by both APRA and ASIC—either APRA or ASIC, but, if the context requires the reference to be particularly to one of those bodies, then ***Regulator*** means that body; or
(d) if the provision in which it occurs is, or is being applied for the purposes of, a provision that is administered by the Commissioner of Taxation—the Commissioner of Taxation.

Authorised Version C2026C00335 registered 27/07/2026

Note: In relation to paragraph (c), the context may require ***Regulator*** to mean the same body as has been referred to elsewhere. For example, in subsection 344(1), the Regulator who may be requested to reconsider a decision is required by the context to be a reference to the body who made the reviewable decision.

related, in relation to bodies corporate, has the meaning given by section 20.

related party, of a superannuation fund, means any of the following:

(a) a member of the fund;

(b) a standard employer-sponsor of the fund;

(c) a Part 8 associate of an entity referred to in paragraph (a) or (b).

related trust, of a superannuation fund, means a trust that a member or a standard employer-sponsor of the fund controls (within the meaning of section 70E), other than an excluded instalment trust of the fund.

relative of an individual means the following:

(a) a parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the individual or of his or her spouse;

(b) a spouse of the individual or of any other individual referred to in paragraph (a).

Note: Subsection (5) may be relevant to determining relationships for the purposes of paragraph (a) of the definition of ***relative***.

relevant person means:

(a) in relation to a fund or trust:

(i) if the trustee or an investment manager of the fund or trust is or includes an individual—that individual; or

(ii) if the trustee or an investment manager of the fund or trust is or includes a body corporate—a responsible officer of that body corporate; or

(iii) an auditor of the fund or trust; or

(iv) an actuary of the fund or trust; or

Authorised Version C2026C00335 registered 27/07/2026

(v) a person who is a custodian in relation to the fund or trust; or

(b) in relation to an approved SMSF auditor:

(i) the approved SMSF auditor; or

(ii) a person who is a relevant person under paragraph (a) in relation to a self managed superannuation fund of which the approved SMSF auditor is or was an auditor; or

(c) in relation to an audit of a self managed superannuation fund:

(i) the person who is conducting, or conducted, the audit; or

(ii) a person who is a relevant person under paragraph (a) in relation to the self managed superannuation fund.

resident approved deposit fund has the meaning given by section 20A.

resident regulated superannuation fund means a regulated superannuation fund that is an Australian superannuation fund within the meaning of the *Income Tax Assessment Act 1997*.

resolution, of an entity, means the process by which APRA or other relevant persons manage or respond to the entity:

(a) being unable to meet its obligations; or

(b) being considered likely to be unable, or being considered likely to become unable, to meet its obligations; or

(c) suspending payment, or being considered likely to suspend payment;

including through the exercise of powers and functions under this Act or another law.

responsible officer, in relation to a body corporate, means:

(a) a director of the body; or

(b) a secretary of the body; or

(c) an executive officer of the body.

reviewable decision means:

Authorised Version C2026C00335 registered 27/07/2026

(a) a decision of APRA under subsection 18(6) or (7) to make a declaration; or

(aa) a decision of APRA under subsection 18(7A) to make a declaration under subsection 18(7) subject to conditions; or

(ab) a decision of APRA under subsection 18(7C) to revoke a declaration that a superannuation fund is not a public offer superannuation fund or;

(b) a decision of APRA under subsection 18(10) to revoke a declaration; or

(dd) a decision of APRA under subsection 29CA(2) to treat an application for an RSE licence as having been withdrawn; or

(de) a decision of APRA under subsection 29D(2) refusing an application for an RSE licence; or

(df) a decision of APRA under subsection 29EA(1) to impose additional conditions on an RSE licence; or

(dg) a decision of APRA under subsection 29FA(2) to treat an application for variation of an RSE licence so that it is an RSE licence of a different class as having been withdrawn; or

(dh) a decision of APRA under subsection 29FA(2) to treat an application for variation or revocation of a condition imposed on an RSE licence as having been withdrawn; or

(di) a decision of APRA to refuse to vary an RSE licence under subsection 29FC(1) so that it is an RSE licence of a different class; or

(dj) a decision of APRA to refuse to vary or revoke under subsection 29FC(1) any conditions imposed on an RSE licence; or

(dk) a decision of APRA under subsection 29FD(1) to vary or revoke any conditions imposed on an RSE licence; or

(dl) a decision of APRA under subsection 29G(1) to cancel an RSE licence; or

(dla) a decision of APRA under section 29HD to refuse to give a person approval to hold a controlling stake in an RSE licensee; or

Authorised Version C2026C00335 registered 27/07/2026

(dm) a decision of APRA under subsection 29M(2) refusing an application for registration of a registrable superannuation entity; or

(dn) a decision of APRA under subsection 29N(2) to cancel the registration of a registrable superannuation entity; or

(doa) a decision of APRA under subsection 29T(2) to refuse to authorise an RSE licensee to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product; or

(dob) a decision of APRA under subsection 29U(1) to cancel an authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product; or

(doc) a decision to determine, vary or revoke a prudential standard referred to in paragraph 34C(1)(e) or (f); or

(dod) a decision of the Regulator to give or vary a direction under section 34P or 34Q; or

(dp) a decision of the Regulator refusing to give an approval under paragraph 35A(2)(b); or

(dq) a decision of the Regulator to give such an approval subject to conditions under subsection 35A(3); or

(e) a decision of the Regulator to give a notice under section 40; or

(f) a decision of the Regulator refusing to give a notice under section 40; or

(fa) a decision of the Regulator under subsection 42(1AA) or (1AC); or

(fb) a refusal of the Regulator to give an approval under subparagraph 62(1)(b)(v); or

(g) a decision of the Regulator to give a direction under section 63; or

(h) a decision of the Regulator refusing to revoke a direction under section 63; or

(ha) a decision of the Regulator to make a determination under subsection 70A(1); or

(hb) a decision of the Regulator refusing to revoke a determination under subsection 70A(1); or

Authorised Version C2026C00335 registered 27/07/2026

(i) a decision of the Regulator refusing to make a determination under paragraph 71(1)(e); or

(j) a decision of the Regulator to revoke a determination under paragraph 71(1)(e); or

(k) a decision of the Regulator to make a determination under subsection 71(4); or

(l) a decision of the Regulator refusing to revoke a determination under subsection 71(4); or

(m) a decision of APRA under section 92 refusing to grant an arrangement approval; or

(n) a decision of APRA under section 92 revoking an arrangement approval; or

(na) a decision of APRA under subsection 93A(2) or (3) to approve or not approve a higher percentage; or

(nb) a decision of APRA under subsection 93A(4) to specify conditions to which an approval is subject; or

(nc) a decision of APRA under subsection 93A(5) to vary an approval; or

(o) a decision of APRA under subsection 95(2) refusing to approve a borrowing; or

(p) a decision of APRA under subsection 117(6) refusing to waive a requirement; or

(q) a decision of APRA under subparagraph 123(2)(b)(ii) or (3)(c)(ii); or

(qa) a decision of the Regulator under subsection 126A(1), (2) or (3) to disqualify an individual; or

(qb) a decision of the Regulator under subsection 126A(5) refusing to revoke the disqualification of an individual; or

(r) a decision of the Regulator under subsection 126B(4) refusing to allow a longer period than 14 days to make an application for waiver; or

(ra) a decision of the Regulator under subsection 126D(3) refusing to make a declaration waiving an applicant's status as a disqualified person; or

Authorised Version C2026C00335 registered 27/07/2026

(rb) a decision of the Regulator under subsection 126F(3) refusing to waive, in whole or in part, the requirement to pay an amount under subsection 126F(2); or

(rc) a decision of the Regulator under section 128B refusing an application made under section 128A; or

(rd) a decision of the Regulator under section 128D imposing or varying conditions, or additional conditions, on a person's registration as an approved SMSF auditor; or

(re) a decision of the Regulator refusing an application to vary or revoke conditions, or additional conditions, imposed under section 128D on a person's registration as an approved SMSF auditor; or

(rf) a decision of the Regulator under subsection 128E(2) cancelling a person's registration as an approved SMSF auditor; or

(rg) a decision of the Regulator refusing an application to waive the payment of the whole or a part of a fee under subsection 128L(4); or

(rh) a decision of the Regulator to make an order under subsection 130F(2); or

(ri) a decision of the Regulator refusing an application to revoke an order under subsection 130F(8); or

(s) a decision of the Regulator to make a disqualification order under section 131; or

(t) a decision of the Regulator refusing to revoke a disqualification order under section 131; or

(ta) a decision of APRA to give a direction under section 131AA, other than a direction on the ground mentioned in paragraph 133AA(2)(a); or

(taaa) a decision of APRA to give a direction under subsection 131D(1), 131DA(1) or 131DA(3); or

(taab) a decision of APRA to vary a direction under subsection 131DC(1); or

(taac) a decision of the Regulator under subsection 131EB(1) to give a person a direction to relinquish control of an RSE licensee; or

Authorised Version C2026C00335 registered 27/07/2026

(taa) a decision of the Regulator to suspend or remove a trustee of a superannuation entity under section 133; or

(u) a decision of the Regulator under section 141; or

(ua) a decision of APRA under subsection 242F(2) to refuse to authorise an RSE licensee to operate a regulated superannuation fund as an eligible rollover fund; or

(ub) a decision of APRA under subsection 242J(1) to cancel an authority to operate a regulated superannuation fund as an eligible rollover fund; or

(z) a decision of the Regulator under section 328 to make an exemption that applies to a particular person or a particular group of individual trustees; or

(zb) a decision of the Regulator under section 332 to make a declaration that applies to a particular person or a particular group of individual trustees; or

(zd) a decision of the Regulator under section 335 to vary or revoke an exemption or declaration that applies to a particular person or a particular group of individual trustees; or

(ze) a decision of APRA refusing to give a notice under subsection 342(2) in relation to a fund; or

(zf) a decision of APRA to give a notice under subsection 342(6) in relation to a fund; or

(zg) a decision of the Regulator under subsection 347A(9).

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

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

RSE actuary means a person who is appointed as an actuary of a registrable superannuation entity.

RSE audit company means a company that is appointed as auditor of a registrable superannuation entity.

Authorised Version C2026C00335 registered 27/07/2026

RSE audit firm means a firm that is appointed as auditor of a registrable superannuation entity.

RSE auditor means:

(a) an individual RSE auditor; or

(b) an RSE audit firm; or

(c) an RSE audit company.

RSE licence means a licence granted under section 29D.

RSE licensee means a constitutional corporation, body corporate, or group of individual trustees, that holds an RSE licence granted under section 29D.

RSE licensee law means:

(a) this Act or the regulations; and

(aa) prudential standards; and

(b) the *Financial Sector (Collection of Data) Act 2001*; and

(c) the *Financial Institutions Supervisory Levies Collection Act 1998*; and

(ca) the *Financial Accountability Regime Act 2023*; and

(d) the provisions of the *Corporations Act 2001* listed in a subparagraph of paragraph (b) of the definition of ***regulatory provision*** in section 38A of this Act or specified in regulations made for the purposes of subparagraph (b)(xvi) of that definition, as applying in relation to superannuation interests; and

(e) any other provisions of any other law of the Commonwealth specified in regulations made for the purposes of this paragraph.

self managed superannuation fund has the meaning given by sections 17A and 17B.

Note: Subsection (4) of this section extends the meaning of ***self managed superannuation fund*** for the purposes of sections 5, 6, 42 and 42A and Part 20.

Authorised Version C2026C00335 registered 27/07/2026

signed, in relation to a body corporate, means executed by or on behalf of the body corporate in a way that is effective in law and that binds the body corporate.

SMSF actuary means a person who is a Fellow or an Accredited Member of the Institute of Actuaries of Australia.

SMSF auditor number, of an approved SMSF auditor, means the number stated under paragraph 128B(6)(b) in a certificate under subsection 128B(6) relating to the auditor's registration under section 128B.

spouse of a person includes:

(a) another person (whether of the same sex or a different sex) with whom the person 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) another person who, although not legally married to the person, lives with the person on a genuine domestic basis in a relationship as a couple.

stake in an RSE licensee that is a body corporate, has the same meaning as in the *Financial Sector (Shareholdings) Act 1998*.

standard employer-sponsor has the meaning given by subsection 16(2).

standard employer-sponsored fund has the meaning given by subsection 16(4).

standard employer-sponsored member has the meaning given by subsection 16(5).

subsidiary has the same meaning as in the *Corporations Act 2001*.

superannuation account has the meaning given by subsection 108A(3).

superannuation actuary means:

Authorised Version C2026C00335 registered 27/07/2026

(a) an RSE actuary; or
(b) an SMSF actuary.

superannuation auditor means:
(a) an RSE auditor; or
(b) an approved SMSF auditor.

superannuation data and payment matter has the meaning given by subsection 34K(5).

superannuation data and payment regulations and standards means:
(a) the regulations made under section 34K; and
(b) the standards issued by the Commissioner of Taxation under that section.

superannuation data and payment standard means a standard issued by the Commissioner of Taxation under section 34K.

superannuation entity means:
(a) a regulated superannuation fund; or
(b) an approved deposit fund; or
(c) a pooled superannuation trust.

superannuation entity affected by a reviewable decision, in relation to a reviewable decision, means the superannuation entity in relation to which the decision was made.

superannuation entity director has the meaning given by subsection 52A(7).

superannuation fund means:
(a) a fund that:
(i) is an indefinitely continuing fund; and
(ii) is a provident, benefit, superannuation or retirement fund; or
(b) a public sector superannuation scheme.

Authorised Version C2026C00335 registered 27/07/2026

superannuation interest means a beneficial interest in a superannuation entity.

suspended SMSF auditor means a person for whom an order suspending a person's registration as an approved SMSF auditor is in force under section 130F.

switching fee has the meaning given by subsection 29V(5).

taxation officer means:

(a) a Second Commissioner of Taxation; or

(b) a Deputy Commissioner of Taxation; or

(c) a person engaged under the *Public Service Act 1999*, or an officer or employee of an authority of the Commonwealth, performing duties in the Australian Taxation Office; or

(d) a person engaged to provide services relating to the Australian Taxation Office.

trustee, in relation to a fund, scheme or trust, means:

(a) if there is a trustee (within the ordinary meaning of that expression) of the fund, scheme or trust—the trustee; or

(b) in any other case—the person who manages the fund, scheme or trust.

unit trust means:

(a) a unit trust within the meaning of Division 6C of Part III of the *Income Tax Assessment Act 1936* (whether established by a law of the Commonwealth or of a State or Territory, by a government agency or otherwise); or

(b) the trustee of such a trust;

as appropriate.

value means market value, and includes amount.

virtual meeting technology has the same meaning as in the *Corporations Act 2001*.

year of income has the same meaning as in the *Income Tax Assessment Act 1936*.

Authorised Version C2026C00335 registered 27/07/2026

(1A) The regulations may prescribe:

(a) circumstances in which a member of a superannuation fund is not a ***defined benefit member*** for the purposes of this Act, or a provision of this Act; and

(b) circumstances in which a member of a superannuation fund who is not otherwise a ***defined benefit member*** for the purposes of this Act, or a provision of this Act, is to be taken to be a ***defined benefit member*** for the purposes of this Act, or that provision.

(2) For the purposes of paragraph (b) of the definition of ***independent director*** in subsection (1), a director of a corporate trustee of a fund that is also an employer-sponsor of the fund is not taken to be an associate of that employer-sponsor by reason only of being such a director.

(3) Without limiting the meaning of the expression ***member*** in this Act, that expression, in relation to a self managed superannuation fund, includes a person:

(a) who receives a pension from the fund; or

(b) who has deferred his or her entitlement to receive a benefit from the fund.

(4) Treat an entity that is a superannuation fund as a self managed superannuation fund for the purposes of sections 5, 6, 42 and 42A, and Part 20, if:

(a) it has ceased being a self managed superannuation fund for the purposes of the rest of this Act; and

(b) the trustee of the fund is not an RSE licensee.

(5) For the purposes of paragraph (a) of the definition of ***relative*** in subsection (1), if one individual is the child of another individual because of the definition of ***child*** in subsection (1), relationships traced to, from or through the individual are to be determined in the same way as if the individual were the natural child of the other individual.

Authorised Version C2026C00335 registered 27/07/2026

10A Interdependency relationship

(1) Subject to subsection (3), for the purposes of this Act, 2 persons (whether or not related by family) have an ***interdependency relationship*** if:

(a) they have a close personal relationship; and

(b) they live together; and

(c) one or each of them provides the other with financial support; and

(d) one or each of them provides the other with domestic support and personal care.

(2) Subject to subsection (3), for the purposes of this Act, if:

(a) 2 persons (whether or not related by family) satisfy the requirement of paragraph (1)(a); and

(b) they do not satisfy the other requirements of an interdependency relationship under subsection (1); and

(c) the reason they do not satisfy the other requirements is that either or both of them suffer from a physical, intellectual or psychiatric disability;

they have an ***interdependency relationship***.

(3) The regulations may specify:

(a) matters that are, or are not, to be taken into account in determining under subsection (1) or (2) whether 2 persons have an ***interdependency relationship***; and

(b) circumstances in which 2 persons have, or do not have, an ***interdependency relationship***.

11 Approvals, determinations etc. by Regulator

If:

(a) a provision of this Act refers to an approval given, determination made or other act or thing done by the Regulator; and

Authorised Version C2026C00335 registered 27/07/2026

(b) there is no other provision of this Act expressly authorising the Regulator to give the approval, make the determination or do the act or thing;

the Regulator is authorised to give the approval, make the determination or do the act or thing.

11A Approved forms

(1) In this Act, a reference to an ***approved form*** is a reference to a form approved by the Regulator, in writing, for the purposes of the provision in which the expression appears.

(2) An approved form may require particular information to be included in the completed form.

(3) An approved form may do either or both of the following:

(a) require or permit the form to be attached to, or to form part of, another document;

(b) if the Regulator is not ASIC—require or permit the form to be given on a specified kind of data processing device or by specified electronic transmission, in accordance with specified software or other requirements.

(4) An approved form may require the form to be signed by a particular person or persons. This applies whether or not a provision of this Act also requires the form to be signed.

(5) An approved form may make different requirements to be complied with according to whether or not the form is given in a way that is required or permitted as mentioned in paragraph (3)(b).

(6) If an approved form makes a requirement as mentioned in subsection (2), (3) or (4), a purported use of the form is not effective for the purposes of this Act unless the requirement has been complied with.

Authorised Version C2026C00335 registered 27/07/2026

11AA Manner and format requirements for lodging with, or giving or providing to, the Regulator if the Regulator is ASIC

(1) This section applies if a provision of this Act requires or permits a person to:

(a) lodge with the Regulator a document or information; or

(b) give or otherwise provide to the Regulator a document or information;

and the Regulator is ASIC.

(2) In order for a document or information to be so lodged, given or provided, the person must meet any manner and format requirements for doing so.

(3) Such manner and format requirements may be approved under subsection (4) for documents or information of that kind.

(4) ASIC may in writing:

(a) approve a manner for lodging with, or giving or providing to, ASIC a document or information of a specified kind; or

(b) approve a format for lodging with, or giving or providing to, ASIC a document or information of a specified kind.

ASIC must publish each approval on its website.

Note 1: A manner or format could be electronic.

Note 2: ASIC may approve different manners or formats for different kinds of documents or information (see subsection 33(3A) of the *Acts Interpretation Act 1901*).

Note 3: Specifying a kind of document or information could include referring to the provision of this Act that requires it to be lodged with or given to ASIC.

11B Electronic lodgment of approved forms

(1) If a person gives the Regulator an approved form in a way that is required or permitted as mentioned in paragraph 11A(3)(b) or subsection 11AA(2):

(a) the form is taken to constitute a written notice; and

Authorised Version C2026C00335 registered 27/07/2026

(b) if the form includes the electronic signature of a person—the form is taken to be signed by that person.

(2) The person's ***electronic signature*** is a unique identification, in an electronic form, that is approved by the Regulator for use by the person.

(3) A person commits an offence if:

(a) the person gives the Regulator an approved form in a way that is required or permitted as mentioned in paragraph 11A(3)(b) or subsection 11AA(2); and

(b) either:

(i) the form purports to be given by another person; or

(ii) the form purports to be given on behalf of another person, and that other person has not consented to the giving of the form.

Penalty: 50 penalty units.

(4) A person commits an offence if:

(a) the person gives the Regulator an approved form in a way that is required or permitted as mentioned in paragraph 11A(3)(b) or subsection 11AA(2); and

(b) the form includes the electronic signature of another person who has not consented to the inclusion of the signature.

Penalty: 50 penalty units.

(5) Subsections (3) and (4) are offences of strict liability within the meaning of section 6.1 of the *Criminal Code*.

11C Declaration required if approved form lodged electronically on trustee's behalf

(1) This section applies if:

(a) the Regulator is given an approved form in a way that is required or permitted as mentioned in paragraph 11A(3)(b) or subsection 11AA(2); and

Authorised Version C2026C00335 registered 27/07/2026

(b) the form is given to the Regulator by a person on behalf of the trustee, or one or more of the trustees, of a superannuation entity.

In this section, the trustee, or each of the trustees, on whose behalf the form is given is referred to as the ***responsible trustee***.

(2) The responsible trustee commits an offence if the responsible trustee does not, before the form is given to the Regulator, make a signed declaration that states that:

(a) the person is authorised to give the form to the Regulator on the responsible trustee's behalf; and

(b) the information in the form is correct.

Penalty: 50 penalty units.

(3) The responsible trustee commits an offence if the responsible trustee does not retain the declaration for 5 years after it is made.

Penalty: 50 penalty units.

(4) The responsible trustee commits an offence if:

(a) within the 5 year period, the Regulator requests the responsible trustee to produce the declaration to the Regulator; and

(b) the responsible trustee does not comply with the request.

Penalty: 50 penalty units.

(5) Subsections (2), (3) and (4) are offences of strict liability within the meaning of section 6.1 of the *Criminal Code*.

11D Electronic lodgment—documents other than approved forms

(1) A document that is not required to be lodged in an approved form may be lodged with the Regulator electronically only if:

(a) the Regulator and the person seeking to lodge it (either on the person's own behalf or on another person's behalf) have agreed, in writing, that it may be lodged electronically; or

Authorised Version C2026C00335 registered 27/07/2026

(b) the Regulator has approved, in writing, the electronic lodgment of documents of that kind.

(2) The document is taken to be lodged with the Regulator if it is lodged in accordance with the agreement or approval (including any requirements of the agreement or approval as to authentication).

(3) This section does not apply if the Regulator is ASIC.

11E Approved guarantees

In this Act, an ***approved guarantee*** is:

(a) a guarantee given by an ADI; or

(b) a guarantee given by or on behalf of the Commonwealth, a State or a Territory;

that meets the requirements that APRA, by legislative instrument, determines.

11F Lead auditor

If an RSE audit firm or RSE audit company conducts an audit of a registrable superannuation entity, the ***lead auditor*** for the audit is the registered company auditor who is primarily responsible to the RSE audit firm or the RSE audit company for the conduct of the audit.

12 Associates

(1) The question whether a person is an associate of another person for the purposes of this Act is to be determined in the same way as that question would be determined under the *Corporations Act 2001* if the assumptions set out in subsection (2) were made.

(2) The assumptions are as follows:

(a) that sections 12 and 14 and paragraphs 15(1)(b) and 16(1)(b) and (c) of that Act had not been enacted;

Authorised Version C2026C00335 registered 27/07/2026

(b) that section 13 of that Act were not limited to Chapter 7, but extended to all provisions of that Act.

13 Single trustees

For the purposes of this Act:

(a) a fund, scheme or trust has a single corporate trustee if, and only if, there is only one trustee of the fund, scheme or trust and that trustee is a corporate trustee; and

(b) a fund, scheme or trust has a single individual trustee if, and only if, there is only one trustee of the fund, scheme or trust and that trustee is an individual trustee.

13A RSE licensees that are groups of individual trustees

(1) Subject to this section, for the purposes of this Act, the regulations and the prudential standards, a change in the composition of a group of individual trustees that is an RSE licensee does not affect the continuity of the group of individual trustees for the duration of the period during which the RSE licence continues in force.

Note: So, for example, an RSE licence granted to a group of individual trustees will not cease to continue in force, merely because of a change in the membership of the group.

(2) An obligation that would be imposed on an RSE licensee that is a group of individual trustees of a registrable superannuation entity by a provision of this Act, the regulations or the prudential standards is imposed instead on each of the trustees but, subject to the entity's governing rules, may be discharged by any of them.

(3) A person who is a member of a group of individual trustees that is an RSE licensee is not liable under any offence of strict liability or civil penalty provision of this Act or the regulations in respect of any breach of a provision of this Act or the regulations, or failure, by the RSE licensee if the person proves that he or she:

(a) made all inquiries (if any) that were reasonable in the circumstances; and

Authorised Version C2026C00335 registered 27/07/2026

(b) after doing so, believed on reasonable grounds that the obligations of the RSE licensee were being complied with.

Note: In a prosecution for an offence of strict liability against a provision of this Act or the regulations, a defendant bears a legal burden in relation to the matters in subsection (3) (see section 13.4 of the *Criminal Code*).

(4) If a group of individual trustees is an RSE licensee, a direction, notice or other document is taken, for the purposes of a provision of this Act, the regulations or the prudential standards, to be given to the RSE licensee if it is given it to any member of the group.

(5) If a group of individual trustees of a registrable superannuation entity is an RSE licensee, a request is taken, for the purposes of a provision of this Act, the regulations or the prudential standards, to have been made to the RSE licensee if it is made to any member of the group and, subject to the entity's governing rules, may be dealt with by any member of the group.

(6) Any requirement under this Act, the regulations or the prudential standards that a document be signed by an RSE licensee is taken, if the RSE licensee is a group of individual trustees, to be a requirement that the document be signed by each of the members of the group.

(7) An RSE licensee that is a group of individual trustees is taken, for the purposes of a provision of this Act, the regulations or the prudential standards, to have provided something to a person if one of the members of the group has provided that thing to the person.

(8) For the purposes of this Act and the regulations, if an RSE licensee that is a group of individual trustees is affected by a reviewable decision, each member of the group is taken to be affected by that decision.

(9) The regulations may exclude or modify the effect of the subsections of this section (other than subsections (2) and (3)) in relation to specified provisions.

Authorised Version C2026C00335 registered 27/07/2026

(10) This section has effect subject to a contrary intention in a provision of this Act or regulations made for the purposes of subsection (9).

14 Indefinitely continuing fund—application of rules against perpetuities

If the governing rules of a fund contain a provision the purpose of which is to avoid a breach of a rule of law relating to perpetuities, that provision does not prevent the fund from being treated as an indefinitely continuing fund for the purposes of the definition of ***approved deposit fund*** or ***superannuation fund*** in section 10.

15 Approved deposit funds—payments by trustees

(1) For the purposes of paragraph (c) of the definition of ***approved purposes*** in section 10 and for the purposes of section 53, if:

(a) a beneficiary has an interest in a fund; and

(b) on the request of the beneficiary, an amount equal to the beneficiary's interest is paid by the fund:

(i) to a life insurance company or registered organisation for the purchase of an annuity in the name of the beneficiary; or

(ii) into an RSA specified by the beneficiary;

the trustee of the fund is taken to have paid the amount to the beneficiary on request.

(1A) For the purposes of paragraph (c) of the definition of ***approved purposes*** in section 10 and for the purposes of section 53, if:

(a) a beneficiary has an interest in a fund; and

(b) on the request of the beneficiary, an amount equal to the beneficiary's interest is paid by the fund to:

(i) an approved deposit fund; or

(ii) a regulated superannuation fund;

the trustee of the first-mentioned fund is taken to have paid the amount to the beneficiary on request.

Authorised Version C2026C00335 registered 27/07/2026

(1B) For the purposes of paragraph (c) of the definition of ***approved purposes*** in section 10, if a payment is not made immediately on request but is deferred for a period determined by the trustee concerned, the payment is taken to have been made on request.

(2) A reference in subsection (1) or (1A) to a beneficiary includes a reference to the legal personal representative of a beneficiary.

15A Definitions of *employee* and *employer*

(1) Subject to this section, in this Act, ***employee*** and ***employer*** have their ordinary meaning. However, for the purposes of this Act, subsections (2) to (10):

(a) expand the meaning of those terms; and

(b) make particular provision to avoid doubt as to the status of certain persons.

(2) A person who is entitled to payment for the performance of duties as a member of the executive body (whether described as the board of directors or otherwise) of a body corporate is, in relation to those duties, an employee of the body corporate.

(3) If a person works under a contract that is wholly or principally for the labour of the person, the person is an employee of the other party to the contract.

(4) A member of the Parliament of the Commonwealth is an employee of the Commonwealth.

(5) A member of the Parliament of a State is an employee of the State.

(6) A member of the Legislative Assembly for the Australian Capital Territory is an employee of the Australian Capital Territory.

(7) A member of the Legislative Assembly of the Northern Territory is an employee of the Northern Territory.

(8) For the purposes of this Act:

(a) a person who is paid to perform or present, or to participate in the performance or presentation of, any music, play, dance,

Authorised Version C2026C00335 registered 27/07/2026

entertainment, sport, display or promotional activity or any similar activity involving the exercise of intellectual, artistic, musical, physical or other personal skills is an employee of the person liable to make the payment; and

(b) a person who is paid to provide services in connection with an activity referred to in paragraph (a) is an employee of the person liable to make the payment; and

(c) a person who is paid to perform services in, or in connection with, the making of any film, tape or disc or of any television or radio broadcast is an employee of the person liable to make the payment.

(9) Subject to subsection (10), a person who:

(a) holds, or performs the duties of, an appointment, office or position under the Constitution or under a law of the Commonwealth, of a State or of a Territory; or

(b) is otherwise in the service of the Commonwealth, of a State or of a Territory (including service as a member of the Defence Force or as a member of a police force);

is an employee of the Commonwealth, the State or the Territory, as the case requires.

(10) A person who holds office as a member of a local government council is an employee of the council.

15B Modified meaning of *member*

(1) The regulations may provide that a person is to be treated, or is not to be treated, as being a ***member*** of a superannuation fund for the purposes of this Act or specified provisions of this Act.

(2) This Act applies with such modifications (if any) as are prescribed in relation to a person who is a member of a superannuation fund because of regulations made for the purposes of this section.

Authorised Version C2026C00335 registered 27/07/2026

16 Definitions associated with employer-sponsorship

Employer-sponsor

(1) An ***employer-sponsor*** of a regulated superannuation fund is an employer who:

(a) contributes to the fund; or

(b) would, apart from a temporary cessation of contributions, contribute to the fund;

for the benefit of:

(c) a member of the fund who is an employee of:

(i) the employer; or

(ii) an associate of the employer; or

(d) the dependants of such a member in the event of the death of the member.

Standard employer-sponsor

(2) If an employer so contributes, or would contribute, wholly or partly pursuant to an arrangement between the employer and a trustee of the regulated superannuation fund concerned, the employer is a ***standard employer-sponsor*** of the fund (as well as being an employer-sponsor of the fund). If the employer only so contributes, or would contribute, pursuant to arrangements between the employer and a member or members of the fund, the employer is not a standard employer-sponsor.

Employer-sponsored fund

(3) An ***employer-sponsored fund*** is a regulated superannuation fund that has at least one employer-sponsor.

Standard employer-sponsored fund

(4) If a regulated superannuation fund has at least one standard employer-sponsor, the fund is a ***standard employer-sponsored fund*** (as well as being an employer-sponsored fund).

Authorised Version C2026C00335 registered 27/07/2026

Standard employer-sponsored member

(5) A ***standard employer-sponsored member*** is a member of a regulated superannuation fund in respect of whom an employer-sponsor contributes, or would contribute, as mentioned in subsection (1) wholly or partly pursuant to an arrangement between the employer-sponsor and a trustee of the fund.

17 Persons involved in a contravention

For a contravention that is not an offence, a person is ***involved*** in the contravention if, and only if, the person:

(a) has aided, abetted, counselled or procured the contravention; or

(b) has induced, whether by threats or promises or otherwise, the contravention; or

(c) has been in any way, by act or omission, directly or indirectly, knowingly concerned in, or party to, the contravention; or

(d) has conspired with others to effect the contravention.

17A Definition of *self managed superannuation fund*

Basic conditions—funds other than single member funds

(1) Subject to this section, a superannuation fund, other than a fund with only one member, is a ***self managed superannuation fund*** if and only if it satisfies the following conditions:

(a) it has no more than 6 members;

(b) if the trustees of the fund are individuals—each individual trustee of the fund is a member of the fund;

(c) if the trustee of the fund is a body corporate—each director of the body corporate is a member of the fund;

(d) each member of the fund:

(i) is a trustee of the fund; or

(ii) if the trustee of the fund is a body corporate—is a director of the body corporate;

Authorised Version C2026C00335 registered 27/07/2026

(e) no member of the fund is an employee of another member of the fund, unless the members concerned are relatives;

(f) no trustee of the fund receives any remuneration from the fund or from any person for any duties or services performed by the trustee in relation to the fund;

(g) if the trustee of the fund is a body corporate—no director of the body corporate receives any remuneration from the fund or from any person (including the body corporate) for any duties or services performed by the director in relation to the fund.

Note: Section 17B contains exceptions to paragraphs (1)(f) and (g).

Basic conditions—single member funds

(2) Subject to this section, a superannuation fund with only one member is a ***self managed superannuation fund*** if and only if:

(a) if the trustee of the fund is a body corporate:

(i) the member is the sole director of the body corporate; or

(ii) the member is one of only 2 directors of the body corporate, and the member and the other director are relatives; or

(iii) the member is one of only 2 directors of the body corporate, and the member is not an employee of the other director; and

(b) if the trustees of the fund are individuals:

(i) the member is one of only 2 trustees, of whom one is the member and the other is a relative of the member; or

(ii) the member is one of only 2 trustees, and the member is not an employee of the other trustee; and

(c) no trustee of the fund receives any remuneration from the fund or from any person for any duties or services performed by the trustee in relation to the fund;

(d) if the trustee of the fund is a body corporate—no director of the body corporate receives any remuneration from the fund or from any person (including the body corporate) for any

Authorised Version C2026C00335 registered 27/07/2026

duties or services performed by the director in relation to the fund.

Note: Section 17B contains exceptions to paragraphs (2)(c) and (d).

Certain other persons may be trustees

(3) A superannuation fund does not fail to satisfy the conditions specified in subsection (1) or (2) by reason only that:

(a) a member of the fund has died and the legal personal representative of the member is a trustee of the fund or a director of a body corporate that is the trustee of the fund, in place of the member, during the period:

(i) beginning when the member of the fund died; and

(ii) ending when death benefits commence to be payable in respect of the member of the fund; or

(aa) all of the following apply:

(i) a member of the fund has died;

(ii) the legal personal representative of the member is the Public Trustee of a State or Territory;

(iii) an individual is, in place of the member, a trustee of the fund, or a director of the body corporate that is the trustee of the fund, during the period described in subparagraphs (a)(i) and (ii);

(iv) the individual is approved, in writing, by the Public Trustee to be the trustee or director (as the case may be);

(v) the individual is appropriately qualified, and holds all necessary licences, to perform their duties or services as the trustee or director (as the case may be); or

(b) the legal personal representative of a member of the fund is a trustee of the fund or a director of a body corporate that is the trustee of the fund, in place of the member, during any period when:

(i) the member of the fund is under a legal disability; or

(ii) the legal personal representative has an enduring power of attorney in respect of the member of the fund; or

Authorised Version C2026C00335 registered 27/07/2026

(c) if a member of the fund is under a legal disability because of age and does not have a legal personal representative:
  (i) the parent or guardian of the member is a trustee of the fund in place of the member; or
  (ii) if the trustee of the fund is a body corporate—the parent or guardian of the member is a director of the body corporate in place of the member; or
(d) an appointment under section 134 of an acting trustee of the fund is in force; or
(e) the circumstances described in subsection (3A) are satisfied.

(3A) The circumstances described in this subsection are all of the following:
(a) either:
  (i) a member of the fund is under a legal disability and the Public Trustee of a State or Territory is appointed under a law of a State or Territory to manage, to any extent, the member's estate, property, or financial affairs; or
  (ii) the Public Trustee of a State or Territory holds an enduring power of attorney in respect of a member of the fund;
(b) an individual is, in place of the member, a trustee of the fund or a director of the body corporate that is the trustee of the fund;
(c) the individual is approved, in writing, by the Public Trustee to be the trustee or director (as the case may be);
(d) the individual is appropriately qualified, and holds all necessary licences, to perform their duties or services as the trustee or director (as the case may be).

Circumstances in which entity that does not satisfy basic conditions remains a self managed superannuation fund

(4) Subject to subsection (5), if a superannuation fund that is a self managed superannuation fund would, apart from this subsection, cease to be a self managed superannuation fund, it does not so cease until the earlier of the following times:

Authorised Version C2026C00335 registered 27/07/2026

(a) the time an RSE licensee of the fund is appointed;
(b) 6 months after it would so cease to be a self managed superannuation fund.

Subsection (4) does not apply if admission of new members

(5) Subsection (4) does not, except for the purposes of section 29J, apply if the reason, or one of the reasons, why the superannuation fund would cease to be a self managed superannuation fund was the admission of one or more new members to the fund.

*Extended meaning of **employee** in certain circumstances*

(6) For the purposes of this section, a member of a fund, who is an employee of an employer-sponsor of the fund, is also taken to be an employee of another person (the ***other person***), if the employer-sponsor is:
(a) a relative of the other person; or
(b) either of the following:
(i) a body corporate of which the other person, or a relative of the other person, is a director;
(ii) a body corporate related to that body corporate; or
(c) a trustee of a trust of which the other person, or a relative of the other person, is a beneficiary; or
(d) a partnership, where:
(i) the other person, or a relative of the other person, is a partner in the partnership; or
(ii) the other person, or a relative of the other person, is a director of a body corporate that is a partner in the partnership; or
(iii) the other person, or a relative of the other person, is a beneficiary of a trust, if a trustee of the trust is a partner in the partnership.

Note 1: An effect of this subsection is that a fund will not be a self managed superannuation fund if a member is employed by an employer-sponsor of the fund, and another member (who is not a relative) has a specified interest in that employer-sponsor: see paragraph (1)(e). An example of

Authorised Version C2026C00335 registered 27/07/2026

this would be where the employer-sponsor is a company of which another member is a director.

Note 2: Another effect is that a fund will not be a self managed superannuation fund if its single member is employed by an employer-sponsor of the fund in which the other trustee of the fund (who is not a relative) has a specified interest: see subsection (2).

(7) Subsection (6) does not limit the meaning of the term ***employee***.

Regulations

(8) For the purposes of this section:

(a) a member of a fund is taken to be an employee of a person belonging to a class specified in the regulations for the purposes of this paragraph; and

(b) despite subsections (6) and (7) and section 15A, a member of a fund is not taken to be an employee of a person belonging to a class specified in the regulations for the purposes of this paragraph.

Meaning of relative

(9) In this section:

relative, in relation to an individual, means:

(a) a parent, child, grandparent, grandchild, sibling, aunt, uncle, great-aunt, great-uncle, niece, nephew, first cousin or second cousin of the individual or of his or her spouse or former spouse; or

(b) a spouse or former spouse of the individual, or of an individual referred to in paragraph (a).

(9A) For the purposes of paragraph (a) of the definition of ***relative*** in subsection (9), if one individual is the child of another individual because of the definition of ***child*** in subsection 10(1), relationships traced to, from or through the individual are to be determined in the same way as if the individual were the natural child of the other individual.

Authorised Version C2026C00335 registered 27/07/2026

Disqualified persons

(10) For the avoidance of doubt, subsection (3) does not permit a person, in the capacity of legal personal representative of a disqualified person (within the meaning of section 120), to be a trustee of a self managed superannuation fund or a director of a body corporate that is a trustee of a self managed superannuation fund.

17B Definition of *self managed superannuation fund*—remuneration of trustees etc.

(1) Paragraphs 17A(1)(f) and (2)(c) do not apply to remuneration for any duties or services performed by a trustee of a fund if:

(a) all of the following apply:

(i) the trustee performs the duties or services other than in the capacity of trustee;

(ii) the trustee is appropriately qualified, and holds all necessary licences, to perform the duties or services;

(iii) the trustee performs the duties or services in the ordinary course of a business, carried on by the trustee, of performing similar duties or services for the public;

(iv) the remuneration is no more favourable to the trustee than that which it is reasonable to expect would apply if the trustee were dealing with the relevant other party at arm's length in the same circumstances; or

(b) the trustee is performing the duties or services only in the circumstances described in paragraph 17A(3)(aa) or subsection 17A(3A).

(2) Paragraphs 17A(1)(g) and (2)(d) do not apply to remuneration for any duties or services performed by a director of a body corporate that is a trustee of a fund if:

(a) all of the following apply:

(i) the director performs the duties or services other than in the capacity of director and in connection with the body corporate's capacity of trustee;

Authorised Version C2026C00335 registered 27/07/2026

(ii) the director is appropriately qualified, and holds all necessary licences, to perform the duties or services;

(iii) the director performs the duties or services in the ordinary course of a business, carried on by the director, of performing similar duties or services for the public;

(iv) the remuneration is no more favourable to the director than that which it is reasonable to expect would apply if the director were dealing with the relevant other party at arm's length in the same circumstances; or

(b) the director is performing the duties or services only in the circumstances described in paragraph 17A(3)(aa) or subsection 17A(3A).

18 Public offer superannuation fund

Definition

(1) A superannuation fund is a ***public offer superannuation fund*** if:

(a) one of the following subparagraphs applies to the fund:

(i) it is a regulated superannuation fund that is not a standard employer-sponsored fund;

(ii) it is a standard employer-sponsored fund that has at least one member:

(A) who is not a standard employer-sponsored member; and

(B) who is not a member of a prescribed class;

(iii) it is a standard employer-sponsored fund in relation to which an election under subsection (2) has been made;

(iv) a declaration under subsection (6) (which allows for funds to be declared to be public offer superannuation funds) is in force in relation to the fund; and

(aa) the fund is not a self managed superannuation fund; and

(b) no declaration under subsection (7) (which allows for funds to be declared not to be public offer superannuation funds) is in force in relation to the fund.

Authorised Version C2026C00335 registered 27/07/2026

Election to be a public offer superannuation fund

(2) The trustee of a standard employer-sponsored fund may elect that the fund is to be treated as a public offer superannuation fund.

How an election is made

(3) An election must be made by giving APRA a written notice that is:
(a) in the approved form; and
(b) signed by the trustee.

Trustee has power to make election despite anything in the governing rules

(4) The trustee has the power to make an election despite anything in the governing rules of the fund.

Election is irrevocable

(5) An election is irrevocable.

Declaration that fund is a public offer superannuation fund

(6) APRA may, in writing, declare a superannuation fund to be a public offer superannuation fund.

Declaration that fund is not a public offer superannuation fund

(7) APRA may, in writing, declare a superannuation fund not to be a public offer superannuation fund.

(7A) A declaration that a superannuation fund is not a public offer superannuation fund may be subject to conditions.

(7B) If a condition has been breached the trustee must immediately notify APRA, in writing, of the breach.

Penalty: 30 penalty units.

(7BA) Subsection (7B) is an offence of strict liability.

Authorised Version C2026C00335 registered 27/07/2026

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(7C) If APRA is satisfied, whether because of a notification under subsection (7B) or otherwise, that a condition to which the declaration is subject has been breached:

(a) APRA may revoke the declaration; and

(b) the superannuation fund is taken, with effect from the revocation, to have become a public offer superannuation fund.

Commencement of declaration

(8) A declaration comes into force when it is made, or, if a later time is specified in the declaration as the time when it comes into force, it comes into force at that later time.

Cessation of declaration

(9) A declaration remains in force:

(a) if a time is specified in the declaration as the time when it stops being in force—until that time, or until the declaration is revoked, whichever occurs first; or

(b) otherwise—until the declaration is revoked.

Revocation of declaration

(10) APRA may, in writing, revoke a declaration.

APRA must have regard to guidelines when making or revoking a declaration

(11) When making or revoking a declaration, APRA must have regard to any written guidelines determined by APRA under this subsection.

Authorised Version C2026C00335 registered 27/07/2026

Copy of declaration or revocation to be given to trustee

(12) As soon as practicable after making or revoking a declaration, APRA must give the trustee of the superannuation fund concerned a copy of the instrument making or revoking the declaration.

19 Regulated superannuation fund

Definition

(1) A regulated superannuation fund is a superannuation fund in respect of which subsections (2) to (4) have been complied with.

Fund must have a trustee

(2) The superannuation fund must have a trustee.

Trustee must be a constitutional corporation or fund must be a pension fund

(3) Either of the following must apply:
  (a) the trustee of the fund must be a constitutional corporation pursuant to a requirement contained in the governing rules;
  (b) the governing rules must provide that the sole or primary purpose of the fund is the provision of old-age pensions.

Election by trustee

(4) The trustee or trustees must have given to the Commissioner of Taxation a written notice that is:
  (a) in the approved form; and
  (b) signed by the trustee or each trustee;

electing that this Act is to apply in relation to the fund.

Note: The approved form of written notice may require the trustee or the trustees to set out the tax file number of the fund. See subsection 299U(1).

Authorised Version C2026C00335 registered 27/07/2026

Election is irrevocable

(5) An election made as mentioned in subsection (4) is irrevocable.

Trustee has power to make election despite anything in the governing rules etc.

(6) The trustee or trustees have the power to make an election as mentioned in subsection (4) despite anything in the governing rules of the fund.

References to repealed provisions of OSSA

(9) A reference in this section to a provision of the *Occupational Superannuation Standards Act 1987* includes a reference to the provision as it continues to apply, despite its repeal, because of the *Occupational Superannuation Standards Amendment Act 1993*.

20 Related bodies corporate

The question whether bodies corporate are related to each other for the purposes of this Act is to be determined in the same way as that question would be determined under the *Corporations Act 2001*.

20A Resident approved deposit funds

Resident approved deposit funds

(1) For the purposes of this Act, an approved deposit fund is a ***resident approved deposit fund*** at a particular time if, and only if:

(a) either:

(i) the fund was established in Australia; or

(ii) at that time, any asset of the fund is situated in Australia; and

(b) at that time, the central management and control of the fund is in Australia; and

(c) at that time, the percentage worked out using the following formula is not less than 50%:

Authorised Version C2026C00335 registered 27/07/2026

$$\frac{\text{Accumulated entitlements of resident members}}{\text{Total assets of fund}} \times 100$$

where:

Accumulated entitlements of resident members means the sum of so much of the value of the assets of the fund at that time as is attributable to:

(i) deposits made to the fund before that time by or in respect of members of the fund who are residents at that time; and

(ii) income or accretions arising from those deposits.

Total assets of fund means the value of the assets of the fund at that time.

Definitions

(2) In this section:

Australia has the same meaning as in the *Income Tax Assessment Act 1936*.

member includes depositor.

resident has the same meaning as in the *Income Tax Assessment Act 1936*.

20B *Accrued default amounts*

(1) Subject to this section, the total amount attributed by the trustee, or the trustees, of a regulated superannuation fund to a member of the fund is an ***accrued default amount*** for the member if subsection (1A) or (1B) is satisfied.

(1A) This subsection is satisfied if the member has given the trustee, or the trustees, of the fund no direction on the investment option under which the asset (or assets) of the fund attributed to the member in relation to the amount (the ***member's underlying asset(s)***) is to be invested.

Authorised Version C2026C00335 registered 27/07/2026

(1B) This subsection is satisfied if the investment option under which the asset (or assets) of the fund attributed to the member in relation to the amount (the ***member's underlying asset(s)***) is invested is one which, under the current governing rules of the fund, would be the investment option for a new member if no direction were given.

(2) Such an amount is not an ***accrued default amount*** to the extent that the amount is attributed to the member in relation to a MySuper product.

(3) Such an amount is not an ***accrued default amount***:

(a) if the member is a defined benefit member of the fund; or

(b) if the fund is an eligible rollover fund; or

(c) to the extent that the member's underlying asset(s) is invested in one or more of the following:

(i) a life policy under which contributions and accumulated earnings may not be reduced by negative investment returns or any reduction in the value of assets in which the policy is invested;

(ii) a life policy under which the benefit to the member (or a relative or dependant of the member) is based only on the realisation of a risk, not the performance of an investment;

(iii) an investment account contract the only beneficiaries of which are the member, and relatives and dependants of the member;

(iv) an investment option under which the investment is held as cash; or

(d) to the extent that a pension is payable out of the member's underlying asset(s), because the member has satisfied a condition of release of benefits specified in a standard made under paragraph 31(2)(h).

(3A) For the purposes of subsection (1A), if:

(a) benefits of a person in a regulated superannuation fund (the ***earlier fund***) are transferred to another regulated superannuation fund (the ***later fund***); and

Authorised Version C2026C00335 registered 27/07/2026

(b) the person gave or (because of a previous application of this subsection) is taken to have given the trustee, or the trustees, of the earlier fund a direction on the investment option under which an asset (or assets) of the earlier fund is to be invested; and

(c) an amount attributable to the person is invested under an equivalent investment option offered by the later fund (the ***equivalent investment option***);

the person is taken to have given the trustee, or the trustees, of the later fund a direction to invest in the equivalent investment option any asset (or assets) of the later fund that is attributed to the person in relation to an amount attributed to the person.

(4) In this section:

investment account contract has the same meaning as in the *Life Insurance Act 1995*.

life policy has the same meaning as in the *Life Insurance Act 1995*.

Authorised Version C2026C00335 registered 27/07/2026

Part 2A—Licensing of trustees and groups of individual trustees

Division 1—Object of this Part

29A Object of this Part and the relationship of this Part to other provisions

(1) The object of this Part is to set out provisions relating to the granting of RSE licences to:

(a) constitutional corporations; and

(b) other bodies corporate; and

(c) groups of individual trustees.

(2) The following is a simplified outline showing some key relationships between this Part and other provisions of the Act and the regulations that trustees should be aware of:

Certain provisions may be contravened if unlicensed trustees carry out particular activities (e.g.: sections 29J and 152). The trustee, or group of individual trustees, of a fund or trust may obtain an RSE licence under this Part.

Note 1: If the trustee is a constitutional corporation, the trustee obtaining an RSE licence may result in a fund or trust becoming an approved deposit fund or pooled superannuation trust, which are each registrable superannuation entities.

Note 2: If the trustee or group of individual trustees makes an election under section 19, the fund may become a regulated superannuation fund. Regulated superannuation funds other than self managed superannuation funds are registrable superannuation entities.

A trustee, or group of individual trustees, that has obtained an RSE licence may have a registrable superannuation entity registered under Part 2B. Certain provisions may be contravened if certain activities are carried out while a registrable superannuation entity

Authorised Version C2026C00335 registered 27/07/2026

is not registered (e.g.: accepting contributions while the entity is unregistered may lead to an offence under section 34.)

Note: A failure to register the fund or trust may also lead to a breach of an RSE licence condition and possible loss of the RSE licence.

Authorised Version C2026C00335 registered 27/07/2026

Division 2—Classes of RSE licences

29B Classes of RSE licences

(1) There are to be classes of RSE licences.

(2) One class of RSE licences is to be a class that enables a trustee that holds a licence of that class to be a trustee of:

(a) any public offer entity; and

(b) any other registrable superannuation entity included in a class of registrable superannuation entities specified in regulations made for the purposes of this subsection;

subject to any condition imposed on that licence under subsection 29EA(3).

Note 1: An RSE licence of this class is called a ***public offer entity licence***: see subsection 10(1).

Note 2: Only constitutional corporations may hold public offer entity licences: see paragraph 29D(1)(g).

(3) Another class of RSE licences is to be a class that enables a trustee that:

(a) holds a licence of that class; or

(b) is a member of a group of individual trustees that holds a licence of that class;

to be a trustee of any registrable superannuation entity included in a class of registrable superannuation entities (other than a class of public offer entities) specified in regulations made for the purposes of this subsection, subject to any condition imposed on that licence under subsection 29EA(3).

(4) The regulations may provide for other classes of RSE licences. For each such class, the regulations must specify the classes of registrable superannuation entities of which a trustee that:

(a) holds a licence of that class; or

(b) is a member of a group of individual trustees that holds a licence of that class;

Authorised Version C2026C00335 registered 27/07/2026

is enabled to be a trustee, subject to any condition imposed on that licence under subsection 29EA(3).

(5) The classes of registrable superannuation entity that the regulations may specify in relation to a particular class of RSE licence may include one or more classes of registrable superannuation entity that the regulations specify in relation to another class of RSE licence.

Authorised Version C2026C00335 registered 27/07/2026

Division 3—Applying for RSE licences

29C Applications for RSE licences

Who may apply for RSE licences

(1) A constitutional corporation may apply to APRA for an RSE licence of any class.

(2) A body corporate that is not a constitutional corporation may apply to APRA for an RSE licence of any class other than a class that would enable it to be a trustee of a public offer entity.

(3) A group of individual trustees may apply to APRA for an RSE licence of any class other than a class that would enable each of the members of the group to be a trustee of a public offer entity.

Requirements for applications

(4) An application for an RSE licence must:
  (a) be in the approved form; and
  (b) contain the information required by the approved form; and
  (c) be accompanied by the application fee (if any) prescribed by regulations made for the purposes of this paragraph.

(5) Regulations made for the purposes of paragraph (4)(c) may prescribe different application fees for applications for different classes of RSE licences.

Notifying certain changes while applications are pending

(6) If:
  (a) a body corporate applies for an RSE licence; and
  (b) after the application is made, but before APRA decides the application, another director is added to, or removed from the board;

Authorised Version C2026C00335 registered 27/07/2026

the body corporate must notify APRA, in the approved form, about the change to the membership of the board as soon as practicable after that change occurs.

Note: Part 9 has requirements about equal representation rules.

(7) If:

(a) a group of individual trustees applies for an RSE licence; and

(b) after the application is made, but before APRA decides the application, another trustee is added to, or removed from the group;

a member of the group must notify APRA, in the approved form, about the change to the membership of the group as soon as practicable after that change occurs.

Note: Part 9 has requirements about equal representation rules.

(9) An application is taken not to comply with this section if subsection (6) or (7) is contravened.

Note: APRA cannot grant an RSE licence while the application does not comply with this section: see paragraph 29D(1)(c).

29CA APRA may request further information

(1) If a body corporate or group of individual trustees has applied for an RSE licence, APRA may give the body corporate or a member of the group a notice requesting the body or group to give APRA, in writing, specified information relating to the application by a specified time that is reasonable in the circumstances.

(2) APRA may decide to treat an application by a body corporate or group of individual trustees for an RSE licence as having been withdrawn if the body or group:

(a) does not comply with a request to provide information under this section; and

(b) does not have a reasonable excuse for not complying.

(3) If APRA decides under subsection (2) to treat an application for an RSE licence as having been withdrawn, APRA must take all reasonable steps to ensure that the body that made the application,

Authorised Version C2026C00335 registered 27/07/2026

or a member of the group that made the application, is given a notice informing the body or group of:

(a) APRA's decision; and

(b) the reasons for that decision;

as soon as practicable after making the decision.

29CC Period for deciding applications

(1) APRA must decide an application for an RSE licence within 90 days after receiving it, unless APRA extends the period for deciding the application under subsection (2).

(2) APRA may extend the period for deciding the application by up to 30 days if APRA informs the body corporate, or a member of the group, that made the application of the extension:

(a) in writing; and

(b) within 90 days after receiving the application.

(3) If APRA extends the period for deciding the application, it must decide the application within the extended period.

(4) If APRA has not decided the application by the end of the period by which it is required to decide the application, APRA is taken to have decided, at the end of the last day of that period, to refuse the application.

Authorised Version C2026C00335 registered 27/07/2026

Division 4—Grant of RSE licences

29D Grant of RSE licences

(1) APRA must grant an RSE licence to a body corporate, or group of individual trustees, that has applied for an RSE licence if, and only if:

(a) APRA has no reason to believe that:

(i) if the application is made by a body corporate—the body corporate; or

(ii) if the application is made by a group of individual trustees—the group as a whole or any member of the group;

would fail to comply with the RSE licensee law or Chapter 2M of the *Corporations Act 2001* if the RSE licence were granted; and

(b) APRA has no reason to believe that:

(i) if the application is made by a body corporate—the body corporate; or

(ii) if the application is made by a group of individual trustees—the group as a whole or any member of the group;

would fail to comply with any condition imposed on the RSE licence if it were granted; and

(c) the application for the licence complies with section 29C and is for a class of licence that the body corporate or group of individual trustees may apply for under that section; and

(d) APRA is satisfied that:

(i) if the application is made by a body corporate—the body corporate meets the requirements of the prudential standards relating to fitness and propriety for RSE licensees; or

(ii) if the application is made by a group of individual trustees—the group as a whole meets the requirements of the prudential standards relating to fitness and

Authorised Version C2026C00335 registered 27/07/2026

propriety for RSE licensees and each of the members of the group meets the requirements of the prudential standards relating to fitness and propriety for members of groups of trustees that are RSE licensees; and

(f) in a case where the applicant is not a constitutional corporation—APRA is satisfied that:

(i) if the application is made by a body corporate—the body corporate; or

(ii) if the application is made by a group of individual trustees—each member of the group;

only intends to act as a trustee of one or more superannuation funds that have governing rules providing that the sole or primary purpose of the fund is the provision of old-age pensions; and

(g) in a case where the application is for a licence of a class that enables a trustee that holds a licence of the class to be a trustee of a public offer entity subject to any condition imposed under subsection 29EA(3)—APRA is satisfied that the applicant is a constitutional corporation; and

(h) the application has not been withdrawn, treated as withdrawn under subsection 29CA(2) or taken to have been refused under subsection 29CC(4).

Note 1: Conditions apply to all RSE licences. See Division 5.

Note 2: An RSE licence may only be granted to a body corporate or a group of individual trustees because only bodies corporate and groups of individual trustees may apply for RSE licences. See section 29C.

(2) Otherwise APRA must refuse the application.

29DB Notice of class of licence

If APRA decides to grant an RSE licence to a body corporate or group of individual trustees, APRA must give the body corporate or group an RSE licence that specifies the class of licence granted.

Authorised Version C2026C00335 registered 27/07/2026

29DC Documents required to bear ABNs

(1) An RSE licensee must ensure that its ABN is included in:
  (a) each document that it gives to APRA in the capacity of an RSE licensee; and
  (b) any other document in which it identifies itself as an RSE licensee of a registrable superannuation entity; and
  (c) if the RSE licensee is a body corporate—any document in which the body corporate identifies itself as a trustee of a registrable superannuation entity; or
  (d) if the RSE licensee is a group of individual trustees—any document in which a member of the group identifies itself as a trustee of a registrable superannuation entity or as a member of a group of individual trustees that are the RSE licensee of a registrable superannuation entity.

(2) However, an RSE licensee is not required to comply with subsection (1) in respect of a particular document if it has been given written approval by APRA not to be required to ensure that its ABN is included in that document or in a class of documents that includes that document.

29DD Licence period

(1) An RSE licence comes into force at the later of:
  (a) the time when it is granted; or
  (b) the time specified on the licence as the time when it comes into force.

(2) An RSE licence continues in force, subject to:
  (a) any imposition of licence conditions under Division 5; or
  (b) any variation or revocation of the licence conditions, or variation of the licence class, under Division 6;

until the RSE licence is cancelled under Division 7.

Authorised Version C2026C00335 registered 27/07/2026

29DE APRA to give notice of refusal of applications

If APRA refuses an application by a body corporate or a group of individual trustees for an RSE licence, APRA must take all reasonable steps to ensure that the body or a member of the group is given a notice informing the body or group of:

(a) APRA's refusal of the application; and

(b) the reasons for that refusal;

as soon as practicable after refusing the application.

Authorised Version C2026C00335 registered 27/07/2026

Division 5—Conditions on RSE licences

29E Conditions imposed on all licences and on groups of licences

Conditions imposed on all RSE licences

(1) The following conditions are imposed on all RSE licences:

(a) the RSE licensee and, if the RSE licensee is a group of individual trustees, each of the members of the group, must comply with the RSE licensee law and Chapter 2M of the *Corporations Act 2001*;

(b) the duties of a trustee in respect of each registrable superannuation entity of which it is an RSE licensee must be properly performed by:

(i) if the RSE licensee is a body corporate—the body corporate; or

(ii) if the RSE licensee is a group of individual trustees—each of the members of the group;

(ba) the RSE licensee must:

(i) have an ABN; or

(ii) have made an application for an ABN that has not been refused under the *A New Tax System (Australian Business Number) Act 1999*;

(d) the RSE licensee must ensure that each registrable superannuation entity of which it is the RSE licensee is:

(i) registered under Part 2B; or

(ii) the subject of an application for registration under Part 2B that has not been finally determined or otherwise disposed of;

(ea) the RSE licensee must ensure that each registrable superannuation entity of which it is an RSE licensee has an ABN;

(f) the RSE licensee must notify APRA of any change in the composition or control of the RSE licensee (see subsection (2)) within 14 days after the change takes place;

Authorised Version C2026C00335 registered 27/07/2026

(g) the RSE licensee must comply with any other conditions prescribed by regulations made for the purposes of this paragraph.

Note 1: Breach of a licence condition may lead to consequences such as a direction from APRA to comply with the condition (see Division 1 of Part 16A) or cancellation of the licence (see section 29G).

Note 2: An RSE licensee must notify APRA if the RSE licensee breaches a licence condition: see section 29JA.

Note 3: Additional conditions may be imposed on various types of RSE licences (see subsections (3) to (7)) or a particular RSE licence (see section 29EA).

Change in the composition of the RSE licensee

(2) For the purposes of paragraph (1)(f), a ***change in the composition or control of the RSE licensee*** is:

(a) if the RSE licensee is a body corporate:

(i) a person becoming, or ceasing to be, a director of the RSE licensee; or

(ii) a person's stake in the RSE licensee changing; or

(b) if the RSE licensee is a group of individual trustees—an individual becoming, or ceasing to be, a member of the group.

(3) An additional condition is imposed on each RSE licence that enables a trustee that holds a licence of that class to be a trustee of a public offer entity. The condition is that the RSE licensee that holds the licence must continue to be a constitutional corporation.

Licences held by RSE licensees that are not constitutional corporations

(4) The following additional condition is imposed on each RSE licence that is not held by a constitutional corporation:

(a) if the RSE licensee that holds the licence is a body corporate—that the body; or

(b) if the RSE licensee is a group of individual trustees—that the members of the group;

Authorised Version C2026C00335 registered 27/07/2026

only act as a trustee of superannuation funds that have governing rules providing that the sole or primary purpose of the fund is the provision of old-age pensions.

Licences held by groups of individual trustees

(5) The following additional conditions are imposed on each RSE licence held by a group of individual trustees:

(a) the members of the group must make all reasonable efforts to ensure that the group always has at least 2 members;

(b) any continuous period for which the group has less than 2 members must be 90 days or less.

Note: Paragraph 29E(1)(f) requires APRA to be notified of any change in the composition of the RSE licensee.

Licences held by bodies corporate

(5A) An additional condition is imposed on each RSE licence held by an RSE licensee that is a body corporate. The condition is that the RSE licensee must not have a duty to act in the interests of another person, other than a duty that arises in the course of:

(a) performing the RSE licensee's duties, or exercising the RSE licensee's powers, as a trustee of a registrable superannuation entity; or

(b) providing personal advice.

Licences held by RSE licensees of transferee funds

(6) An additional condition is imposed on each RSE licence held by an RSE licensee of a fund that has had benefits of members and beneficiaries transferred to it from a transferor fund under Part 18 (whether while the RSE licensee was the RSE licensee of the fund or earlier). The condition is that, while the RSE licensee is the RSE licensee of the fund, the RSE licensee assumes the obligation to pay benefits to those who were members or beneficiaries of the transferor fund immediately before the transfer.

Authorised Version C2026C00335 registered 27/07/2026

RSE licensees authorised to offer MySuper products

(6A) The following additional conditions are imposed on each RSE licensee that is authorised to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product:

(a) the RSE licensee must ensure that the governing rules of the fund are not varied so that section 29TC is no longer satisfied in relation to that class of interest;

(b) the RSE licensee must ensure that the governing rules of the fund relating to that class of interest are not contravened.

RSE licensees who apply for authority to offer MySuper product

(6B) An additional condition is imposed on each RSE licensee who makes an application under section 29S for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product. The condition is that the RSE licensee must give effect to elections made in accordance with sections 29SAA, 29SAB and 29SAC.

RSE licensees who apply for authority to operate eligible rollover funds

(6C) An additional condition is imposed on each RSE licensee who makes an application under section 242A for authority to operate a regulated superannuation fund as an eligible rollover fund. The condition is that the RSE licensee must give effect to an election made in accordance with section 242B.

RSE licensees authorised to operate eligible rollover funds

(6D) An additional condition is imposed on each RSE licensee that is authorised to operate a regulated superannuation fund as an eligible rollover fund. The condition is that the RSE licensee must ensure that the governing rules of the fund are not varied so that:

(a) the only purpose of the fund is no longer to be a temporary repository for amounts transferred to the fund from other regulated superannuation funds in circumstances allowed by the RSE licensee law; or

Authorised Version C2026C00335 registered 27/07/2026

(b) a single diversified investment strategy is no longer adopted in relation to assets of the fund.

Complying with rules relating to merging multiple accounts in a superannuation entity

(6E) The following additional condition is imposed on each RSE licence that relates to a superannuation entity for which the RSE licensee has obligations under section 108A. The condition is that the RSE licensee must ensure that the rules that that section requires in relation to the superannuation entity are complied with.

Prescribed conditions imposed on classes of licences

(7) An additional condition prescribed by a regulation made for the purposes of this subsection as a condition applying to all RSE licences of a specified class is imposed on each RSE licence of that class.

(8) A specified class mentioned in subsection (7) may be a class other than a class provided for under subsection 29B(2) or (3) or under regulations made for the purposes of subsection 29B(4).

29EA Additional conditions imposed on individual licences by APRA

(1) APRA may, at any time, impose an additional condition on an RSE licence by giving the RSE licensee a notice setting out the additional condition.

(2) A condition imposed under subsection (1) must not be inconsistent with any condition imposed by, or under, section 29E on an RSE licence.

Note 1: Breach of a licence condition may lead to consequences such as a direction from APRA to comply with the condition (see Division 1 of Part 16A) or cancellation of the licence (see section 29G).

Note 2: An RSE licensee must notify APRA if the RSE licensee breaches a licence condition: see section 29JA.

Authorised Version C2026C00335 registered 27/07/2026

Note 3: RSE licensees may apply to APRA to have conditions imposed under this section varied or revoked: see section 29F.

(2A) A condition may be expressed to have effect despite anything in the prudential standards.

(2B) If:

(a) a condition is expressed to have effect as mentioned in subsection (2A); and

(b) a provision of the prudential standards (the ***inconsistent provision***) is inconsistent with the condition to any extent;

the inconsistent provision is to be disregarded to the extent of the inconsistency in determining, for the purposes of any law of the Commonwealth, whether the RSE licensee has complied with its obligations under the prudential standards.

(3) Without limiting subsection (1), an additional condition imposed under that subsection on an RSE licence may provide that the body corporate that is the RSE licensee, or each of the members of a group of individual trustees that is the RSE licensee, must not act as a trustee under that RSE licence for a registrable superannuation entity other than:

(a) a registrable superannuation entity specified in the condition; or

(b) a registrable superannuation entity included in the class of registrable superannuation entities specified in the condition.

(4) Without limiting subsection (1), an additional condition imposed under that subsection on an RSE licence may provide that the RSE licensee must ensure that a fund specified in the condition, or in a class of funds specified in the condition, must comply with the alternative agreed representation rules whenever section 92 applies to the fund. However, before imposing such a condition, APRA must have regard to any written guidelines determined by APRA under this subsection.

(5) If the RSE licensee is also a financial services licensee:

(a) APRA must consult ASIC before imposing a condition that, in APRA's opinion, might reasonably be expected to affect

Authorised Version C2026C00335 registered 27/07/2026

the RSE licensee's ability to provide one or more of the financial services (within the meaning of the *Corporations Act 2001*) that the RSE licensee provides; and

(b) APRA must inform ASIC about the imposition of any condition not covered by paragraph (a) within one week after the condition is imposed.

(6) A failure to comply with a requirement of subsection (5) does not invalidate the imposition of any condition.

(7) An additional condition imposed under this section comes into force on the later of:

(a) the day on which APRA gives the RSE licensee the notice of the condition; or

(b) the day specified in the notice as the day on which the condition comes into force.

Authorised Version C2026C00335 registered 27/07/2026

Division 6—Varying RSE licences

29F Applications for variation of RSE licences

(1) An RSE licensee may apply to APRA for one or both of the following:
  (a) variation of its RSE licence so that the RSE licence is an RSE licence of a different class;
  (b) variation or revocation of a condition that APRA has imposed on its RSE licence under section 29EA.

(2) An application under this section must:
  (a) be in the approved form; and
  (b) contain the information required by the approved form; and
  (c) if the application is for a variation of an RSE licence so that it is an RSE licence of a different class—be accompanied by the application fee (if any) prescribed for the type of variation by regulations made for the purposes of this paragraph.

29FA APRA may request further information

(1) APRA may give an RSE licensee that makes an application under section 29F a notice requesting the RSE licensee to give APRA, in writing, specified information relating to the application by a specified time that is reasonable in the circumstances.

(2) APRA may decide to treat an application under section 29F as having been withdrawn if the RSE licensee:
  (a) does not comply with a request to provide information under this section; and
  (b) does not have a reasonable excuse for not complying.

(3) If APRA decides to treat an application under section 29F as having been withdrawn, APRA must take all reasonable steps to ensure that the RSE licensee is given a notice informing the RSE licensee of:

Authorised Version C2026C00335 registered 27/07/2026

(a) APRA's decision; and
(b) the reasons for that decision;

as soon as practicable after making the decision.

29FB Period for deciding applications

(1) APRA must decide an application under section 29F within 60 days of receiving the application, unless APRA extends the period for deciding the application under subsection (2).

(2) APRA may extend the period for deciding an application under section 29F by up to 60 days if APRA informs the RSE licensee of the extension:
(a) in writing; and
(b) within 60 days of receiving the application.

(3) If APRA extends the period for deciding an application under section 29F, it must decide the application within the extended period.

(4) If APRA has not decided an application under section 29F by the end of the period by which it is required to decide the application, APRA is taken to have decided, at the end of the last day of that period, to refuse the application.

29FC APRA may vary RSE licences in accordance with applications

(1) APRA may, by notice to an RSE licensee:
(a) vary the RSE licensee's RSE licence so that it is an RSE licence of a different class; or
(b) vary or revoke a condition that APRA has imposed on the RSE licence under section 29EA;

in accordance with an application under section 29F.

(2) However:
(a) an RSE licence must not be varied so that it becomes an RSE licence of a particular class unless APRA is satisfied that the

Authorised Version C2026C00335 registered 27/07/2026

RSE licensee will comply with any conditions imposed on that class of RSE licence; and

(b) a condition as varied under paragraph (1)(b) must not be inconsistent with any condition imposed by section 29E; and

(c) if the RSE licensee is also a financial services licensee:

(i) APRA must consult ASIC before varying the RSE licence so that it is an RSE licence of a different class, if, in APRA's opinion, the variation might reasonably be expected to affect the RSE licensee's ability to provide one or more of the financial services (within the meaning of the *Corporations Act 2001*) that the RSE licensee provides; and

(ii) APRA must consult ASIC before varying or revoking a condition that, in APRA's opinion, might reasonably be expected to affect the RSE licensee's ability to provide one or more of the financial services (within the meaning of the *Corporations Act 2001*) that the RSE licensee provides; and

(iii) APRA must consult ASIC before varying a condition so that it would, in APRA's opinion, become a condition that might reasonably be expected to have an effect as described in subparagraph (ii); and

(iv) APRA must inform ASIC about the variation or revocation of any condition not covered by subparagraph (i), (ii) or (iii) within one week after the condition is varied or revoked.

(3) A failure to comply with a requirement of paragraph (2)(c) does not invalidate:

(a) the variation of an RSE licence so that it is an RSE licence of a different class; or

(b) the variation or revocation of a licence condition.

(4) APRA is not required to vary the class of, or vary or revoke any condition of, an RSE licence in the terms requested by an RSE licensee in an application under section 29F.

Authorised Version C2026C00335 registered 27/07/2026

29FD APRA may vary or revoke licence conditions on its own initiative

(1) APRA may, on its own initiative, vary or revoke any condition that it imposed on an RSE licence under section 29EA.

(2) However:
  (a) a condition as varied under subsection (1) must not be inconsistent with any condition imposed by section 29E; and
  (b) if the RSE licensee that holds the licence is also a financial services licensee:
    (i) APRA must consult ASIC before varying or revoking a condition that, in APRA's opinion, might reasonably be expected to affect the RSE licensee's ability to provide one or more of the financial services (within the meaning of the *Corporations Act 2001*) that the RSE licensee provides; and
    (ii) APRA must consult ASIC before varying a condition so that it would, in APRA's opinion, become a condition that might reasonably be expected to have an effect as described in subparagraph (i); and
    (iii) APRA must inform ASIC about the variation or revocation of any condition not covered by subparagraph (i) or (ii) within one week after the condition is varied or revoked.

(3) A failure to comply with a requirement of paragraph (2)(b) does not invalidate the variation or revocation of a condition.

29FE Notification of APRA's decisions under this Division

(1) APRA must give a notice to an RSE licensee if APRA:
  (a) varies the RSE licensee's RSE licence under section 29FC so that it is an RSE licence of a different class; or
  (b) varies or revokes, under section 29FC or 29FD, a condition that APRA imposed on the RSE licence under section 29EA.

(2) The notice must:

Authorised Version C2026C00335 registered 27/07/2026

(a) if paragraph (1)(a) applies—specify the class of the RSE licence after the variation; and

(b) if paragraph (1)(b) applies:

(i) identify the licence condition being varied or revoked; and

(ii) specify any conditions imposed under section 29EA to which the licence is subject after the variation or revocation comes into force; and

(c) state the reasons for the variation or revocation; and

(d) specify the day, not earlier than the day on which APRA gives the notice, on which the variation or revocation comes into force.

(3) If APRA refuses an application for a variation or revocation under section 29FC, APRA must take all reasonable steps to ensure that the RSE licensee that made the application is given a notice informing it of:

(a) APRA's refusal of the application; and

(b) the reasons for the refusal;

as soon as practicable after refusing the application.

29FF When variations or revocations come into force etc.

(1) If, under section 29FC, APRA varies an RSE licence so that it is an RSE licence of a different class:

(a) the variation comes into force on the day specified in the notice under paragraph 29FE(2)(d); and

(b) the variation remains in force until:

(i) the licence is again varied so that it is an RSE licence of a different class; or

(ii) the licence is cancelled.

(2) If, under section 29FC or 29FD, APRA varies a condition imposed on an RSE licence:

(a) the variation comes into force on the day specified in the notice under paragraph 29FE(2)(d); and

Authorised Version C2026C00335 registered 27/07/2026

(b) the variation remains in force until:

(i) the condition is varied in an inconsistent manner; or

(ii) the condition is revoked; or

(iii) the licence is cancelled.

(3) If, under section 29FC or 29FD, APRA revokes a condition imposed on an RSE licence, the revocation comes into force on the day specified in the notice under paragraph 29FE(2)(d).

Authorised Version C2026C00335 registered 27/07/2026

Division 7—Cancelling RSE licences

29G Cancellation of RSE licences

(1) APRA may, in writing, cancel an RSE licence.

Note: In some circumstances, APRA must inform or consult ASIC (see section 29GA).

(2) Without limiting subsection (1), APRA may cancel an RSE licence under that subsection if:

(a) the RSE licensee has requested, in the approved form, that the licence be cancelled; or

(b) the RSE licensee is a body corporate and is a disqualified person for the purposes of Part 15; or

(c) the RSE licensee has breached a condition imposed on the licence; or

(d) APRA has reason to believe that the RSE licensee will breach a condition imposed on the licence; or

(e) the RSE licensee has failed to comply with a direction by APRA under subsection 131D(1) or 131DA(1); or

(f) APRA has reason to believe that the RSE licensee will fail to comply with a direction by APRA under subsection 131D(1) or 131DA(1).

(4) If APRA cancels an RSE licence it must take all reasonable steps to ensure that the body corporate or a member of the group that held the RSE licensee is given a notice informing the body corporate or group:

(a) that APRA has cancelled the licence; and

(b) of the reasons for the cancellation.

29GA Cancellation of RSE licences of financial services licensees

(1) Before cancelling the RSE licence of an RSE licensee that is also a financial services licensee, APRA must consult ASIC if, in APRA's opinion, the cancellation might reasonably be expected to

Authorised Version C2026C00335 registered 27/07/2026

affect the RSE licensee's ability to provide one or more of the financial services (within the meaning of the *Corporations Act 2001*) that the RSE licensee provides.

(2) If APRA cancels the RSE licence of an RSE licensee that is also a financial services licensee, APRA must inform ASIC of the cancellation within one week after the cancellation.

(3) A failure to comply with a requirement of this section does not invalidate the cancellation of an RSE licence.

29GB APRA may allow RSE licence to continue in effect

In a notice that APRA gives to an RSE licensee cancelling its RSE licence, APRA may specify that the RSE licence continues in effect as though the cancellation had not happened for the purposes of:

(a) a specified provision, administered by APRA, of this Act, the regulations or the prudential standards; or

(b) a specified provision, administered by APRA, of any other law of the Commonwealth;

in relation to specified matters, a specified period, or both.

Authorised Version C2026C00335 registered 27/07/2026

Division 8—Approval to hold a controlling stake in an RSE licensee

Subdivision A—Application of this Division

29H Application

This Division only applies in relation to an RSE licensee that is a body corporate.

Subdivision B—Applying for approval

29HA Application for approval to hold a controlling stake

(1) A person may apply to APRA for approval to hold a controlling stake in an RSE licensee.

(2) The application must:
  (a) be in the approved form; and
  (b) contain the information required by the approved form.

(3) If:
  (a) a person applies for approval to hold a controlling stake in an RSE licensee; and
  (b) after the application is made, but before APRA decides the application, information contained in the application ceases to be correct;

the person must give APRA the correct information, in writing, as soon as practicable after the information in the application ceases to be correct.

(4) An application is taken not to comply with this section if subsection (3) is contravened.

Authorised Version C2026C00335 registered 27/07/2026

29HB APRA may request further information

APRA may give a person who has applied for approval to hold a controlling stake in an RSE licensee a notice requesting the person to give APRA, in writing, specified information relating to the application.

29HC Period for deciding applications for approval

(1) APRA must decide an application by a person for approval to hold a controlling stake in an RSE licensee:

(a) within 90 days after receiving the application; or

(b) if the applicant was requested to provide information under section 29HB—within 90 days after:

(i) receiving from the person all of the information the person was requested to provide under that section; or

(ii) all notices relating to that information being disposed of;

unless APRA extends the period for deciding the application under subsection (2).

(2) APRA may extend the period for deciding an application by a person for approval to hold a controlling stake in an RSE licensee by up to 30 days if APRA informs the person of the extension:

(a) in writing; and

(b) within 90 days after receiving the application.

(3) If APRA extends the period for deciding the application, it must decide the application within the extended period.

(4) If APRA has not decided an application for approval to hold a controlling stake in an RSE licensee by the end of the period by which it is required to decide the application, APRA is taken to have decided, at the end of the last day of that period, to refuse the application.

Authorised Version C2026C00335 registered 27/07/2026

Subdivision C—Approval

29HD Approval to hold a controlling stake in an RSE licensee

APRA must give approval for a person to hold a controlling stake in an RSE licensee if, and only if:

(a) the application for approval complies with section 29HA; and

(b) the applicant has provided to APRA all information that the applicant was requested under section 29HB to provide, or the request has been disposed of; and

(c) APRA has no reason to believe that, because of the person's controlling stake in the RSE licensee, or the way in which that controlling stake is likely to be used, the RSE licensee may be unable to satisfy one or more of the trustee's obligations contained in a covenant set out in sections 52 to 53, or prescribed under section 54A.

29HE Notice of approval

If APRA gives a person approval to hold a controlling stake in an RSE licensee, APRA must notify the RSE licensee in writing of the approval.

29HF APRA to give notice of refusal of approval

If APRA refuses an application by a person for approval to hold a controlling stake in an RSE licensee, APRA must take all reasonable steps to ensure that the person is given a notice:

(a) informing it of APRA's refusal of the application; and

(b) setting out the reasons for the refusal;

as soon as practicable after refusing the application.

Authorised Version C2026C00335 registered 27/07/2026

Division 9—Offences and self-incrimination

29J Being trustee of a registrable superannuation entity while unlicensed etc.

(1) A person must not be a trustee, or act as a trustee, of a registrable superannuation entity unless at least one of the following paragraphs apply:

(a) the person holds an RSE licence that enables the person to be the trustee of the entity;

(b) the person is a member of a group of individual trustees that holds an RSE licence that enables the members of the group to each be a trustee of the entity.

(2) Despite subsection 13.3(3) of the *Criminal Code*, a defendant does not bear an evidential burden in relation to any matter in subsection (1) of this section.

(3) A person that contravenes subsection (1) commits an offence.

Penalty: Imprisonment for 2 years, or 120 penalty units, or both.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility and Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

(4) A person must not be a trustee of a registrable superannuation entity, or act as a trustee of a registrable superannuation entity, if the person:

(a) is a body corporate; and

(b) is not the only trustee of the registrable superannuation entity.

(5) A person that contravenes subsection (4) commits an offence.

Penalty: Imprisonment for 2 years, or 120 penalty units, or both.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility and Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

Authorised Version C2026C00335 registered 27/07/2026

(6) This section does not prevent an RSE licensee from engaging or authorising persons to act on its behalf.

29JA Failing to notify breach of licence condition

(1) If an RSE licensee becomes aware that:

(a) the RSE licensee has breached or will breach a condition imposed on its RSE licence; and

(b) the breach is or will be significant (see subsection (1A));

the RSE licensee must give APRA a written report about the breach as soon as practicable, and in any case within 30 days, after becoming aware of the breach.

(1A) For the purposes of subsection (1), a breach is or will be ***significant*** if the breach is or will be significant having regard to any one or more of the following factors:

(a) the number or frequency of similar previous breaches;

(b) the impact the breach has or will have on the RSE licensee's ability to fulfil its obligations as trustee of the superannuation entity;

(c) the extent to which the breach indicates that the RSE licensee's arrangements to ensure compliance with the RSE licensee law or Chapter 2M of the *Corporations Act 2001* might be inadequate;

(d) the actual or potential financial loss arising or that will arise from the breach to the beneficiaries of the entity or to the RSE licensee;

(e) any other matters prescribed by regulations made for the purposes of this paragraph.

(2) A person commits an offence if:

(a) the person is:

(i) a body corporate that is an RSE licensee; or

(ii) a member of a group of individual trustees that is an RSE licensee; and

(b) the RSE licensee is in breach of subsection (1).

Authorised Version C2026C00335 registered 27/07/2026

Penalty: 50 penalty units.

(3) Subsection (2) is an offence of strict liability.

Note 1: For ***strict liability***, see section 6.1 of the *Criminal Code*.

Note 2: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility and Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

29JCA False representation about status as RSE licensee

(1) A person commits an offence if:
(a) the person makes a representation; and
(b) the representation is that the person is, or is a member of a group that is, an RSE licensee; and
(c) the representation is false.

Penalty: 60 penalty units.

(2) Strict liability applies to subsection (1).

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

29JCB Holding a controlling stake in an RSE licensee without approval

(1) A person commits an offence if:
(a) the person holds a controlling stake in an RSE licensee; and
(b) the person does not have approval under section 29HD to hold a controlling stake in the RSE licensee.

Penalty: 400 penalty units for each day on which the person holds a controlling stake in the RSE licensee without approval.

(2) Strict liability applies to subsection (1).

Authorised Version C2026C00335 registered 27/07/2026

29JD Breach does not affect validity of issue of superannuation interests etc.

A breach of section 29J, 29JA or 131DD does not affect the validity of the issue of a superannuation interest or of any other act.

Authorised Version C2026C00335 registered 27/07/2026

Part 2B—Registrable superannuation entities

Division 1—Object of this Part

29K Object etc. of this Part

(1) The object of this Part is to provide for the registration of registrable superannuation entities.

(2) Registration is significant because an RSE licensee may breach the licence condition imposed by paragraph 29E(1)(d) if a registrable superannuation entity of which it is the RSE licensee is not registered.

Note: Breach of a licence condition may lead to consequences such as a direction from APRA to comply with the condition (see paragraph 131D(2)(b)) or cancellation of the licence (see section 29G).

Authorised Version C2026C00335 registered 27/07/2026

Division 2—Applying for registration

29L Applications for registration

Who may apply for registration

(1) An RSE licensee may apply to APRA for registration of a registrable superannuation entity.

Requirements for applications

(2) An application for registration of a registrable superannuation entity must:
  (a) be in the approved form; and
  (b) contain the information required by the approved form; and
  (ba) state the RSE licensee's and the entity's ABNs; and
  (c) be accompanied by an up-to-date copy of the trust deed by which the registrable superannuation entity is constituted (except to the extent that the trust deed is constituted by the governing rules of the entity); and
  (d) be accompanied by an up-to-date copy of the governing rules of the registrable superannuation entity (except to the extent that the governing rules are constituted by the law of the Commonwealth or by unwritten rules).

Note: If the RSE licensee is a group of individual trustees, the copy or statement must be signed by each of the members of the group: see subsection 13A(6).

Notifying certain changes while applications are pending

(3) If:
  (a) an RSE licensee applies for registration of a registrable superannuation entity; and
  (b) after the application is made but before APRA decides the application, the trust deed (other than the governing rules of the entity) by which the entity is constituted is varied or revoked and replaced;

Authorised Version C2026C00335 registered 27/07/2026

the RSE licensee must lodge an up-to-date copy of the trust deed with APRA as soon as practicable after the trust deed is varied or revoked and replaced.

(4) If:

(a) an RSE licensee applies for registration of a registrable superannuation entity; and

(b) after the application is made but before APRA decides the application, any governing rules of the entity (that are not constituted by the law of the Commonwealth or by unwritten rules) are varied or revoked and replaced;

the RSE licensee must lodge an up-to-date copy of the governing rules (that are not constituted by the law of the Commonwealth or by unwritten rules) with APRA as soon as practicable after the governing rules are varied or revoked and replaced.

(6) An application is taken not to comply with this section if subsection (3) or (4) is contravened.

Note: APRA cannot register an entity while the application does not comply with this section: see paragraph 29M(1)(a).

Lapsed applications

(7) An application for registration lapses if:

(a) it was made by an RSE licensee; and

(b) the RSE licensee ceases to be an RSE licensee before:

(i) APRA makes a decision on the application for registration; or

(ii) if APRA's decision with respect to the application is subject to review under this Act—before the review is finally determined or otherwise disposed of.

29LA APRA may request further information

APRA may give an RSE licensee that has applied for registration of a registrable superannuation entity a notice requesting the RSE licensee to give APRA, in writing, specified information relating to the application.

Authorised Version C2026C00335 registered 27/07/2026

Note: A failure to give the requested information delays the time within which APRA must decide the application: see paragraph 29LB(1)(b).

29LB Period for deciding applications for registration

(1) APRA must decide an application by an RSE licensee for registration of a registrable superannuation entity:

(a) within 21 days after receiving the application; or

(b) if the applicant was requested to provide information under section 29LA—within 21 days after:

(i) receiving from the RSE licensee all of the information the RSE licensee was requested to provide under that section; or

(ii) all notices relating to that information being disposed of;

unless APRA extends the period for deciding the application under subsection (2).

(2) APRA may extend the period for deciding an application by an RSE licensee for registration of a registrable superannuation entity by up to 7 days if APRA informs the RSE licensee of the extension:

(a) in writing; and

(b) within the period in which it would otherwise be required to decide the application under subsection (1).

(3) If APRA extends the period for deciding an application for registration of a registrable superannuation entity, it must decide the application within the extended period.

(4) If APRA has not decided an application for registration of a registrable superannuation entity by the end of the period by which it is required to decide the application, APRA is taken to have decided, at the end of the last day of that period, to refuse the application.

Authorised Version C2026C00335 registered 27/07/2026

Division 3—Registration

29M Registration of registrable superannuation entity

(1) APRA must register a registrable superannuation entity if, and only if:

(a) the application for registration complies with section 29L; and

(b) the applicant has provided to APRA all information that the applicant was requested, under section 29LA, to provide, or the request has been disposed of; and

(c) APRA is satisfied that nothing in the governing rules of the entity conflicts with Part 6; and

(e) the applicant for registration holds an RSE licence that enables:

(i) if the applicant is a body corporate—the body corporate; or

(ii) if the applicant is a group of individual trustees—each member of the group;

to be a trustee of that entity.

(2) Otherwise APRA must refuse to register the entity.

29MA Notice of registration

If APRA registers a registrable superannuation entity, APRA must notify the RSE licensee of the entity in writing of the registration.

29MB Documents required to bear ABNs

(1) After a registrable superannuation entity is registered, the RSE licensee of the entity must ensure that the entity's ABN is included in:

(a) each document that the RSE licensee gives to APRA that relates to the entity; and

Authorised Version C2026C00335 registered 27/07/2026

(b) any other document in which the RSE licensee identifies itself as the RSE licensee of the entity; and

(c) if the RSE licensee is a body corporate—any document in which the body corporate identifies itself as a trustee of the entity; and

(d) if the RSE licensee is a group of individual trustees—any document that a member of the group gives to APRA or in which a member of the group identifies itself as a trustee of the entity or as a member of a group of individual trustees that are the RSE licensee of the entity.

(2) However, an RSE licensee is not required to comply with subsection (1) in respect of a particular document if the RSE licensee has been given written approval by APRA not to ensure that the ABN is included in that document or in a class of documents that includes that document.

29MC APRA to give notice of refusal of applications

If APRA refuses an application by an RSE licensee for registration of a registrable superannuation entity, APRA must take all reasonable steps to ensure that the RSE licensee is given a notice:

(a) informing it of APRA's refusal of the application; and

(b) setting out the reasons for the refusal;

as soon as practicable after refusing the application.

Authorised Version C2026C00335 registered 27/07/2026

Division 4—Cancelling registration

29N Cancelling registration

(1) APRA must cancel the registration of a registrable superannuation entity if a document that:

(a) is a reporting document within the meaning of the *Financial Sector (Collection of Data) Act 2001*; and

(b) relates to the entity; and

(c) was given to APRA under that Act;

states that the entity has been wound up.

(1A) APRA may cancel the registration of a superannuation entity that has become a self managed superannuation fund.

(2) APRA may cancel the registration of a registrable superannuation entity if APRA is satisfied, on reasonable grounds, that:

(a) the entity has no beneficiaries and no assets; and

(b) there are no outstanding claims against the entity for benefits or other payments; and

(c) other circumstances (if any) prescribed by regulations made for the purposes of this paragraph exist.

(3) If APRA cancels the registration of a registrable superannuation entity under subsection (2), APRA must take all reasonable steps to ensure that the RSE licensee of the entity is given a notice:

(a) stating that APRA has cancelled the registration of the entity; and

(b) setting out the reasons for the cancellation;

as soon as practicable after cancelling the registration of the entity.

Authorised Version C2026C00335 registered 27/07/2026

Division 5—RSE licensees must provide information about registrable superannuation entities

Subdivision A—Annual members' meetings

29P Annual members' meeting

RSE licensees must hold annual members' meetings

(1) The RSE licensee of a registrable superannuation entity must hold an annual meeting of members of the entity for each year of income of the entity.

Notice of meeting

(2) The RSE licensee must give notice of the annual members' meeting to each of the following:
  (a) all members of the registrable superannuation entity;
  (b) if the RSE licensee is a body corporate—all responsible officers of the body corporate;
  (c) any individual, company or firm that is the RSE auditor of the registrable superannuation entity;
  (ca) any individual, company or firm that has been an RSE auditor of the registrable superannuation entity for the year of income of the entity;
  (d) any person who has been an actuary of the registrable superannuation entity during the year of income of the entity.

(3) The RSE licensee must:
  (a) set out in the notice:
    (i) if there is only one location at which to physically attend the annual members' meeting—the date, time and place for the meeting; and
    (ii) if there are 2 or more locations at which to physically attend the annual members' meeting—the date and time

Authorised Version C2026C00335 registered 27/07/2026

for the meeting at each location, and the main location for the meeting; and

(iii) if virtual meeting technology is to be used in holding the annual members' meeting—sufficient information to allow persons to participate in the meeting by means of the technology; and

(aaa) include in the notice the agenda of matters to be discussed at the annual members' meeting; and

(aa) include in the notice links to each of the following reports that are publicly available on the registrable superannuation entity's website:

(i) the financial report for the year of income of the entity;

(ii) the directors' report for the year of income of the entity;

(iii) the auditor's report on the financial report for the year of income of the entity; and

(b) include with the notice any other information prescribed by the regulations; and

(c) give the notice, and any information required to be included with the notice, in the manner (if any) prescribed by the regulations; and

(d) give the notice, and any information required to be included with the notice:

(i) no later than 6 months after the end of the year of income of the entity; and

(ii) at least 21 days before the meeting.

(3A) Despite subsection 14(2) of the *Legislation Act 2003*, regulations made for the purposes of paragraph (3)(b) may make provision in relation to a matter by applying, adopting or incorporating (with or without modification) any matter contained in a reporting standard, made by APRA under the *Financial Sector (Collection of Data) Act 2001*, as in force or existing from time to time.

Timing of meeting

(4) The meeting must be held within 3 months after the notice of the meeting is given in accordance with subsections (2) and (3).

Authorised Version C2026C00335 registered 27/07/2026

Place and time of meetings and presence at meetings

(4A) The RSE licensee may hold the annual members' meeting:

(a) at one or more physical venues; or

(b) at one or more physical venues and using virtual meeting technology; or

(c) using virtual meeting technology only.

(4B) The place at which the annual members' meeting is held is taken to be:

(a) if the meeting is held at only one physical venue (whether or not it is also held using virtual meeting technology)—that physical venue; or

(b) if the meeting is held at more than one physical venue (whether or not it is also held using virtual meeting technology)—the main physical venue of the meeting as set out in the notice of the meeting; or

(c) if the meeting is held using virtual meeting technology only—the registered address of, or an address for service of notices on, the registrable superannuation entity as contained in a register kept by APRA under regulations made for the purposes of subsection 353(2).

(4C) The time at which the annual members' meeting is held is taken to be the time at the place at which the meeting is taken to be held in accordance with subsection (4B).

(4D) A person who attends the annual members' meeting (whether at a physical venue or by using virtual meeting technology) is taken for all purposes to be present in person at the meeting while so attending.

Conduct of an annual members' meeting

(5) At the annual members' meeting, the RSE licensee must give members of the registrable superannuation entity reasonable opportunities to ask questions about:

(a) the registrable superannuation entity; and

Authorised Version C2026C00335 registered 27/07/2026

(b) if the RSE licensee is a body corporate—the RSE licensee and the responsible officers of the RSE licensee; and
(c) if the RSE licensee is a group of individual trustees—each of the individual trustees; and
(d) any audit of the registrable superannuation entity for the year of income of the entity; and
(e) any actuarial investigation of the registrable superannuation entity during the year of income of the entity; and
(f) any information included with the notice of the meeting.

Minutes of meeting

(6) The RSE licensee must ensure that:
(a) minutes of the annual members' meeting are prepared; and
(b) those minutes include the answers to any questions asked at the meeting that a person is obliged to answer either at or after the meeting under sections 29PB, 29PC, 29PD or 29PE; and
(c) those minutes are made available to all members on the registrable superannuation entity's website.

Subsection (1) does not apply in relation to certain entities

(7) Subsection (1) does not apply in relation to a registrable superannuation entity that is:
(a) a superannuation fund with no more than 6 members; or
(b) an excluded approved deposit fund; or
(c) a pooled superannuation trust; or
(d) an eligible rollover fund.

Offence

(8) A person commits an offence if:
(a) the person is:
(i) a body corporate that is an RSE licensee; or

Authorised Version C2026C00335 registered 27/07/2026

(ii) a member of a group of individual trustees that is an RSE licensee; and

(b) the RSE licensee contravenes subsection (1), (2), (3), (4), (5) or (6).

Penalty: 50 penalty units.

29PA Obligation to attend an annual members' meeting

(1) If:

(a) the RSE licensee of a registrable superannuation entity is a body corporate; and

(b) any of the following persons is given notice of an annual members' meeting for the entity in accordance with subsections 29P(2) and (3):

(i) the Chair of the board of directors of the RSE licensee;

(ii) a director of the RSE licensee;

(iii) an executive officer of the RSE licensee;

the person must attend the meeting.

Penalty: 50 penalty units.

(2) A member of a group of individual trustees that is an RSE licensee of a registrable superannuation entity must attend an annual members' meeting for the entity.

Penalty: 50 penalty units.

(3) If:

(a) a person (the ***relevant person***) has been an individual RSE auditor of a registrable superannuation entity for a year of income of the entity; and

(b) the relevant person is given notice of an annual members' meeting for the entity for the year in accordance with subsections 29P(2) and (3);

then:

Authorised Version C2026C00335 registered 27/07/2026

(c) if the relevant person is a practising auditor—the relevant person must attend the meeting; and

(d) if:

(i) the relevant person is not a practising auditor; and

(ii) another person is the individual RSE auditor of the entity;

the individual RSE auditor must attend the meeting; and

(e) if:

(i) the relevant person is not a practising auditor; and

(ii) a firm or company is the RSE auditor of the entity; and

(iii) the firm or company is conducting an audit of the entity;

the lead auditor of the audit must attend the meeting.

Penalty: 50 penalty units.

(3A) If:

(a) a firm or company has been an RSE auditor of a registrable superannuation entity for a year of income of the entity; and

(b) the firm or company is given notice of an annual members' meeting for the entity for the year in accordance with subsections 29P(2) and (3); and

(c) a person (the ***relevant lead auditor***) was the lead auditor of the audit of the entity that was conducted by the firm or company for the year;

then:

(d) if:

(i) the firm or company conducts audits; and

(ii) the relevant lead auditor is a member or employee of the firm or a director or employee of the company;

the relevant lead auditor must attend the meeting; and

(e) if:

(i) the firm or company conducts audits; and

(ii) paragraph (d) does not apply; and

(iii) a person (the ***relevant audit team member***) was a member of the audit team that was involved in the audit

Authorised Version C2026C00335 registered 27/07/2026

of the entity that was conducted by the firm or company for the year; and

(iv) the relevant audit team member is a member or employee of the firm or a director or employee of the company; and

(v) the relevant audit team member is not the lead auditor of the audit of the entity;

the relevant audit team member must attend the meeting; and

(f) if:

(i) the firm or company does not conduct audits; and

(ii) another person is the individual RSE auditor of the entity;

the individual RSE auditor must attend the meeting; and

(g) if:

(i) the firm or company does not conduct audits; and

(ii) another firm or company is the RSE auditor of the entity; and

(iii) the other firm or company is conducting an audit of the entity;

the lead auditor of the audit must attend the meeting.

Penalty: 50 penalty units.

(3B) If:

(a) 2 or more persons are required by paragraph (3A)(e) to attend a meeting; and

(b) one of those persons attends the meeting;

the remaining persons are not required to attend the meeting.

(4) A person who has been an actuary of a registrable superannuation entity during a year of income of the entity must attend an annual members' meeting for the entity relating to that year if the person is given notice of the meeting in accordance with subsections 29P(2) and (3).

Penalty: 50 penalty units.

Authorised Version C2026C00335 registered 27/07/2026

(5) Subsections (1), (2), (3), (3A) and (4) do not apply to a person if the person has a reasonable excuse for not attending.

(6) Subsection (1) does not apply to a director of an RSE licensee of a registrable superannuation entity, if:
  (a) other directors of the entity have attended the meeting; and
  (b) the number of directors of the entity who attended the meeting is no less than the number of directors that would constitute a quorum for a meeting of the board of directors of the entity.

29PB Obligation on responsible officers of RSE licensees to answer questions

(1) This section applies if a member of a registrable superannuation entity asks a responsible officer of the RSE licensee for the entity a question at the meeting.

(2) The responsible officer of the RSE licensee must answer the question at the meeting or, if it is not reasonably practicable to do so, within 1 month after the meeting.

Penalty: 50 penalty units.

(3) Subsection (2) does not apply:
  (a) if the question is not relevant to:
    (i) an action, or failure to act, by the RSE licensee in relation to the registrable superannuation entity or one or more members of the registrable superannuation entity; or
    (ii) the registrable superannuation entity; or
  (b) if it would be in breach of the governing rules of the registrable superannuation entity, this Act or any other law to answer the question; or
  (c) if answering the question would result in detriment to the members of the registrable superannuation entity, taken as a whole; or
  (d) in any other circumstances prescribed by the regulations.

Authorised Version C2026C00335 registered 27/07/2026

29PC Obligation on individual trustees to answer questions

(1) This section applies if a member of a registrable superannuation entity asks an individual trustee for the entity a question at an annual members' meeting for the entity.

(2) The individual trustee must answer the question at the meeting or, if it is not reasonably practicable to do so, within 1 month after the meeting.

Penalty: 50 penalty units.

(3) Subsection (2) does not apply:

(a) if the question is not relevant to:

(i) an action, or failure to act, by the RSE licensee in relation to the registrable superannuation entity or one or more members of the registrable superannuation entity; or

(ii) the registrable superannuation entity; or

(b) if it would be in breach of the governing rules of the registrable superannuation entity, this Act or any other law to answer the question; or

(c) if answering the question would result in detriment to the members of the registrable superannuation entity, taken as a whole; or

(d) in any other circumstances prescribed by the regulations.

29PD Obligation on auditor to answer questions

(1) This section applies if:

(a) a person is required by subsection 29P(3) or (3A) to attend an annual members' meeting for a registrable superannuation entity for a year of income of the entity; and

(b) a member of the entity asks the person a question at the meeting.

(2) The person must answer the question at the meeting or, if it is not reasonably practicable to do so, within 1 month after the meeting.

Authorised Version C2026C00335 registered 27/07/2026

Penalty: 50 penalty units.

(3) Subsection (2) does not apply:

(a) if the question is not relevant to:

(i) an action, or failure to act, by the RSE licensee in relation to the registrable superannuation entity or one or more members of the registrable superannuation entity; or

(ii) the registrable superannuation entity; or

(iii) an audit of the registrable superannuation entity carried out by the individual RSE auditor, the RSE audit firm or the RSE audit company, as the case may be; or

(iv) any matter that might reasonably be expected to be apparent to the auditor of the entity in relation to the entity; or

(b) if it would be in breach of the governing rules of the registrable superannuation entity, this Act or any other law to answer the question; or

(c) if answering the question would result in detriment to the members of the registrable superannuation entity, taken as a whole; or

(d) in any other circumstances prescribed by the regulations.

29PE Obligation on actuary to answer questions

(1) This section applies if a member of a registrable superannuation entity asks a person who has been an actuary of the registrable superannuation entity during a year of income of the entity a question at an annual members' meeting for the entity for the year.

(2) The actuary must answer the question at the meeting or, if it is not reasonably practicable to do so, within 1 month after the meeting.

Penalty: 50 penalty units.

(3) Subsection (2) does not apply:

(a) if the question is not relevant to:

Authorised Version C2026C00335 registered 27/07/2026

(i) an action, or failure to act, by the RSE licensee in relation to the registrable superannuation entity or one or more members of the registrable superannuation entity; or

(ii) the registrable superannuation entity; or

(iii) an actuarial investigation of the registrable superannuation entity carried out by the actuary; or

(iv) any matter that might reasonably be expected to be apparent to the actuary of the entity in relation to the entity; or

(b) if it would be in breach of the governing rules of the registrable superannuation entity, this Act or any other law to answer the question; or

(c) if answering the question would result in detriment to the members of the registrable superannuation entity, taken as a whole; or

(d) in any other circumstances prescribed by the regulations.

Subdivision B—Other obligations in relation to information

29QC Obligation to give consistent information

(1) Subject to subsection (2), if:

(a) an RSE licensee is required to give information to APRA under a reporting standard (within the meaning of the *Financial Sector (Collection of Data) Act 2001*); and

(b) under the reporting standard, the information is required to be calculated in a particular way; and

(c) the same or equivalent information is given by the RSE licensee to a person other than an agency of the Commonwealth or of a State or Territory, whether or not by publishing the information on a website;

the RSE licensee must ensure that the information given to the other person is calculated in the same way as the information given to APRA.

Authorised Version C2026C00335 registered 27/07/2026

Section 29QC

(2) Subsection (1) does not apply to information given to the other person in circumstances prescribed by the regulations.

(3) A person commits an offence if:

(a) the person is:

(i) a body corporate that is an RSE licensee; or

(ii) a member of a group of individual trustees that is an RSE licensee; and

(b) the RSE licensee contravenes subsection (1).

Penalty: 50 penalty units.

(4) Subsection (3) is an offence of strict liability.

Note 1: For strict liability, see section 6.1 of the *Criminal Code*.

Note 2: Chapter 2 of the *Criminal Code* sets out the general principles of criminal liability and Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

Authorised Version C2026C00335 registered 27/07/2026

Part 2C—MySuper

Division 1—Object of this Part

29R Object of this Part

(1) It is intended that all MySuper products will be simple products sharing common characteristics.

(2) The object of this Part is to ensure that a class of beneficial interest in a regulated superannuation fund is not offered as a MySuper product unless it has those characteristics.

(3) This is done by requiring the RSE licensee of a regulated superannuation fund to obtain authority from APRA before offering a class of beneficial interest in the fund as a MySuper product.

(4) The ability of an RSE licensee to offer a MySuper product is significant for the purposes of the *Superannuation Guarantee (Administration) Act 1992*. Under that Act, employers will need to pay contributions for an employee who has no chosen fund into a fund that offers a MySuper product, in order to meet the choice of fund requirements and so avoid a choice loading for the employee.

Authorised Version C2026C00335 registered 27/07/2026

Division 2—Applying for authority

29S Application for authority to offer a MySuper product

Who may apply?

(1) An RSE licensee may apply to APRA for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product.

Requirements for applications

(2) An application for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product must:
  (a) be in the approved form; and
  (b) contain the information required by the approved form; and
  (c) state the RSE licensee's and the fund's ABNs; and
  (d) be accompanied by an up-to-date copy of the trust deed by which the fund is constituted (except to the extent that the trust deed is constituted by governing rules of the fund); and
  (e) be accompanied by an up-to-date copy of the governing rules of the fund (except to the extent that the governing rules are constituted by the law of the Commonwealth or by unwritten rules); and
  (f) be accompanied by elections made in accordance with each of the following sections:
    (i) section 29SAA;
    (ii) section 29SAB;
    (iii) section 29SAC.

Notifying certain changes while applications are pending

(3) If:
  (a) an RSE licensee applies for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product; and

Authorised Version C2026C00335 registered 27/07/2026

(b) after the application is made but before APRA decides the application, the trust deed (other than the governing rules of the fund) by which the fund is constituted is varied or revoked and replaced;

the RSE licensee must lodge an up-to-date copy of the trust deed with APRA as soon as practicable after the trust deed is varied or revoked and replaced.

(4) If:

(a) an RSE licensee applies for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product; and

(b) after the application is made but before APRA decides the application, any governing rules of the fund (that are not constituted by the law of the Commonwealth or by unwritten rules) are varied or revoked and replaced;

the RSE licensee must lodge an up-to-date copy of the governing rules (that are not constituted by the law of the Commonwealth or by unwritten rules) with APRA as soon as practicable after the governing rules are varied or revoked and replaced.

(5) If:

(a) an RSE licensee applies for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product; and

(b) after the application is made, but before APRA decides the application, information contained in the application ceases to be correct;

the RSE licensee must give APRA the correct information, in writing, as soon as practicable after the information in the application ceases to be correct.

(6) An application is taken not to comply with this section if subsection (3), (4) or (5) is contravened.

Note: APRA cannot give authority to offer a class of beneficial interest in the fund as a MySuper product while the application does not comply with this section: see paragraph 29T(1)(a).

Authorised Version C2026C00335 registered 27/07/2026

Lapsed applications

(7) An application for authority lapses if:
  (a) it was made by an RSE licensee; and
  (b) the RSE licensee ceases to be an RSE licensee before:
    (i) APRA makes a decision on the application for authority; or
    (ii) if APRA's decision with respect to the application is subject to review under this Act—the review is finally determined or otherwise disposed of.

29SAA Election to transfer accrued default amounts

(1) An RSE licensee that applies for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product makes an election in accordance with this section if:
  (a) the RSE licensee elects that, if authority to offer the class of beneficial interest in the fund as a MySuper product is given, the RSE licensee will:
    (i) attribute to the MySuper product each amount that is an accrued default amount for a member of the fund who is eligible to hold the MySuper product, unless the member directs the RSE licensee in writing to attribute the amount to another MySuper product or an investment option within a choice product in the fund; and
    (ii) do so before the end of a period of 30 days beginning on the day on which notice of authority to offer the class of beneficial interest in the fund as a MySuper product is given to the RSE licensee under section 29TD; and
  (b) the RSE licensee elects that the RSE licensee will, before the end of the action period, take the action required under the prudential standards in relation to the following:
    (i) each amount that is an accrued default amount for a member of the fund who is not eligible to hold a MySuper product offered by the fund;

Authorised Version C2026C00335 registered 27/07/2026

(ii) each amount that is an accrued default amount for a member of another regulated superannuation fund of the RSE licensee that does not offer a MySuper product; and

(c) the election is in writing; and

(d) the election is in the approved form.

(2) The ***action period***, for the purposes of paragraph (1)(b), in relation to an application by an RSE licensee for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product, ends at the end of a period of 90 days beginning on:

(a) if APRA authorises the RSE licensee to offer the class of beneficial interest in the fund as a MySuper product—the day on which notice of that authority is given to the RSE licensee under section 29TD; or

(b) if APRA refuses the application—the day on which notice of the refusal is given to the RSE licensee under section 29TE.

(3) If an RSE licensee makes an election under this section, the RSE licensee must comply with any requirements prescribed in the regulations in relation to:

(a) notices to be given to a member of the fund for whom there is an accrued default amount before the amount is attributed, or a decision is taken to continue to attribute the amount, to a MySuper product or an investment option within a choice product in the fund; and

(b) notices to be given to a member of the fund for whom there is an accrued default amount before the amount is moved to another fund.

29SAB Election to transfer assets attributed to a MySuper product if authorisation cancelled

An RSE licensee that applies for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product makes an election in accordance with this section if:

(a) the RSE licensee elects:

Authorised Version C2026C00335 registered 27/07/2026

(i) to take the action required under the prudential standards in relation to any asset or assets of the fund that are attributed to the MySuper product, if the authority to offer the relevant class of beneficial interest in the fund as a MySuper product is cancelled under subsection 29U(1); and

(ii) to do so before the end of a period of 90 days beginning on the day on which notice of the cancellation is given to the RSE licensee under subsection 29U(3); and

(b) the election is in writing; and

(c) the election is in the approved form.

29SAC Election not to charge MySuper members for payment of conflicted remuneration

(1) An RSE licensee that applies for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product makes an election in accordance with this section if:

(a) the RSE licensee elects that, if the authority is given, the RSE licensee will not charge any MySuper member a fee in relation to the MySuper product, all or part of which relates directly or indirectly to costs incurred by a trustee or the trustees of the fund:

(i) in paying conflicted remuneration to a financial services licensee, or a representative of a financial services licensee; or

(ii) in paying an amount to another person that a trustee of the fund knows, or reasonably ought to know, relates to conflicted remuneration paid by that other person to a financial services licensee, or a representative of a financial services licensee; and

(b) the election is in writing; and

(c) the election is in the approved form.

(2) In this section:

Authorised Version C2026C00335 registered 27/07/2026

conflicted remuneration has the same meaning as in the *Corporations Act 2001*, subject to the extension of that meaning in subsection (3).

representative, of a financial services licensee, has the same meaning as in the *Corporations Act 2001*.

(3) In this section, ***conflicted remuneration*** also has the meaning it would have if:

(a) financial product advice provided to the RSE licensee mentioned in subsection (1) by a financial services licensee, or a representative of a financial services licensee, mentioned in subparagraph (1)(a)(i) or (ii) were provided to the RSE licensee as a retail client; and

(b) financial product advice provided to the other person mentioned in subparagraph (1)(a)(ii) by a financial services licensee, or a representative of a financial services licensee, mentioned in that subparagraph were provided to the other person as a retail client.

29SA APRA may request further information

APRA may give an RSE licensee that has applied for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product a notice requesting the RSE licensee to give APRA, in writing, specified information relating to the application.

Note: A failure to give the requested information delays the time within which APRA must decide the application: see paragraph 29SB(1)(b).

29SB Period for deciding applications for authority

(1) APRA must decide an application by an RSE licensee for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product:

(a) within 60 days after receiving the application; or

(b) if the applicant was requested to provide information under section 29SA—within 60 days after:

Authorised Version C2026C00335 registered 27/07/2026

(i) receiving from the RSE licensee all of the information the RSE licensee was requested to provide under that section; or

(ii) all notices relating to that information being disposed of;

unless APRA extends the period for deciding the application under subsection (2).

(2) APRA may extend the period for deciding an application by an RSE licensee for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product by up to 60 days if APRA informs the RSE licensee of the extension:

(a) in writing; and

(b) within the period in which it would otherwise be required to decide the application under subsection (1).

(3) If APRA extends the period for deciding an application for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product, it must decide the application within the extended period.

(4) If APRA has not decided an application for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product by the end of the period by which it is required to decide the application, APRA is taken to have decided, at the end of the last day of that period, to refuse the application.

Authorised Version C2026C00335 registered 27/07/2026

Division 3—Authority

29T Authority to offer a MySuper product

(1) APRA must authorise an RSE licensee to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product if, and only if:

(a) the application for authority complies with section 29S; and

(b) the applicant has provided to APRA all information that the applicant was requested, under section 29SA, to provide, or the request has been disposed of; and

(c) the fund is registered under Part 2B; and

(d) either:

(i) the fund has 7 or more members; or

(ii) APRA is satisfied that the fund will, if authority is given, have 7 or more members within a period specified in the authority; and

(e) the fund is not an eligible rollover fund; and

(f) one of the following subparagraphs applies:

(i) the licensee is not already authorised to offer another class of beneficial interest in the fund as a MySuper product;

(ii) the licensee is already authorised to offer another class of beneficial interest in the fund as a MySuper product, but section 29TA or 29TB is satisfied, in relation to the class of beneficial interest in the fund to which the application relates, at the time APRA gives authority;

(iii) the licensee is already authorised to offer another class of beneficial interest in the fund as a MySuper product, but section 29TA or 29TB was satisfied in relation to each class of beneficial interest that the RSE licensee is already authorised to offer as a MySuper product, at the time APRA gave that earlier authority; and

(g) APRA is satisfied that section 29TC is satisfied in relation to that class of beneficial interest; and

Authorised Version C2026C00335 registered 27/07/2026

(h) APRA has no reason to believe that:
  (i) where the RSE licensee is a body corporate—the RSE licensee; or
  (ii) where the RSE licensee is made up of a group of individual trustees—any of those individual trustees;
may fail to comply with the enhanced trustee obligations for MySuper products; and

(i) where the RSE licensee is a body corporate—APRA has no reason to believe that the directors of the RSE licensee may fail to comply with the enhanced director obligations for MySuper products; and

(j) APRA has no reason to believe that:
  (i) where the RSE licensee is a body corporate—the RSE licensee; or
  (ii) where the RSE licensee is made up of a group of individual trustees—any of those individual trustees;
may fail to comply with the general fees rules and the fees rules in relation to MySuper products; and

(k) APRA has no reason to believe that:
  (i) where the RSE licensee is a body corporate—the RSE licensee; or
  (ii) where the RSE licensee is made up of a group of individual trustees—any of those individual trustees;
may contravene section 29W, 29WA or 29WB.

(2) Otherwise APRA must refuse to give the authority.

29TA Product in another fund in which there is already material goodwill

This section is satisfied in relation to a class of beneficial interest in a regulated superannuation fund (the ***proposed MySuper product***) if:

(a) the benefits of members and beneficiaries in another regulated superannuation fund (the ***original fund***) are to be transferred to the fund; and

Authorised Version C2026C00335 registered 27/07/2026

(b) APRA is satisfied that:

(i) some or all of the persons whose benefits are to be transferred hold a class of interest in the original fund that is similar to the proposed MySuper product; and

(ii) there is material goodwill in that class of interest in the original fund; and

(iii) that goodwill could not be maintained unless the RSE licensee were authorised to offer the proposed MySuper product as an additional MySuper product in the fund; and

(iv) it would be in the best interests of the members of the fund, and those persons whose benefits are to be transferred to the fund, to maintain the distinction between the proposed MySuper product and other MySuper products within the fund.

29TB MySuper products for large employers

(1) This section is satisfied in relation to a class of beneficial interest in a regulated superannuation fund if:

(a) under the governing rules of the fund, one employer is specified as a large employer in relation to the fund who is relevant to that class of beneficial interest; and

(b) either:

(i) that employer is a large employer in relation to the fund (see subsection (2)); or

(ii) APRA is satisfied that, if authority to offer the class of beneficial interest in the fund as a MySuper product is given, that employer will be a large employer in relation to the fund by the end of the period specified in the authority; and

(c) under the governing rules of the fund, a person is not entitled to hold an interest of that class in the fund unless the person is:

(i) an employee or a former employee of the large employer; or

Authorised Version C2026C00335 registered 27/07/2026

(ii) an employee or a former employee of an associate of the large employer; or

(iii) a relative or dependant of an employee or a former employee mentioned in subparagraph (i) or (ii); and

(d) under the governing rules of the fund:

(i) where the large employer or an associate of the large employer contributes to the fund or would, apart from a temporary cessation of contributions, contribute to the fund for an employee of the large employer, any employee of the large employer who is not a defined benefit member of the fund may hold an interest of that class in the fund; and

(ii) where the large employer or an associate of the large employer contributes to the fund or would, apart from a temporary cessation of contributions, contribute to the fund for an employee of an associate of the large employer, any employee of that associate who is not a defined benefit member of the fund may hold an interest of that class in the fund.

(2) An employer is a ***large employer*** in relation to a regulated superannuation fund if there are 500 or more members of the fund who are any of the following:

(a) a member of the fund:

(i) who is an employee of the employer; and

(ii) in relation to whom the employer or an associate of the employer contributes to the fund or would, apart from a temporary cessation of contributions, contribute to the fund;

(b) a member of the fund:

(i) who is an employee of an associate of the employer; and

(ii) in relation to whom either the employer or an associate of the employer contributes to the fund or would, apart from a temporary cessation of contributions, contribute to the fund.

Authorised Version C2026C00335 registered 27/07/2026

(3) In working out under subsection (2) whether an employer is a ***large employer***, disregard defined benefit members of the fund.

29TC Characteristics of a MySuper product

(1) This section is satisfied in relation to a class of beneficial interest in a regulated superannuation fund if, under the governing rules of the fund:

(a) a single diversified investment strategy is to be adopted in relation to assets of the fund, to the extent that they are attributed to that class of beneficial interest in the fund; and

(b) all members who hold a beneficial interest of that class in the fund are entitled to access the same options, benefits and facilities except to the extent that a benefit is provided by taking out risk insurance; and

(c) amounts are attributed to members in relation to their beneficial interest of that class in the fund in a way that does not stream gains or losses that relate to any assets of the fund to only some of those members, except to the extent permitted under a lifecycle exception; and

(d) the same process is to be adopted in attributing amounts to members in relation to their beneficial interest of that class in the fund, except to the extent that a different process is necessary to allow for fee subsidisation by employers or to comply with section 99G (fee cap on low balances); and

(e) if fee subsidisation by employers is permitted, that subsidisation does not favour one member who holds a beneficial interest of that class in the fund and is an employee of a subsidising employer over another such member who is an employee of that employer; and

(f) the only limitations imposed on the source or kind of contributions made by or on behalf of persons who hold a beneficial interest of that class in the fund are those permitted under subsection (3); and

(g) a beneficial interest of that class in the fund cannot be replaced with a beneficial interest of another class in the fund, unless:

Authorised Version C2026C00335 registered 27/07/2026

(i) the person who holds the interest consents in writing to that replacement no more than 30 days before it occurs; or

(ii) the person who holds the interest has died and the interest is replaced with a beneficial interest of another class in the fund of a kind, and in the circumstances, prescribed by the regulations; and

(h) a beneficial interest of that class in the fund (the ***old interest***) cannot be replaced with a beneficial interest (the ***new interest***) in another superannuation entity unless:

(ii) the replacement is permitted, or is required, under a law of the Commonwealth; or

(iii) the person who holds the old interest consents in writing to the replacement with the new interest no more than 30 days before it occurs; and

(i) to the extent that assets of the fund are attributed to beneficial interests of that class, a pension is not payable out of those assets by the trustee, or trustees, of the fund on the satisfaction of a condition of release of benefits specified in a standard made under paragraph 31(2)(h) by a person who holds a beneficial interest of that class, unless the payment is derived from a benefit of the kind mentioned in subparagraph 62(1)(b)(ii) provided to the fund by an insurer; and

Note: Subparagraph 62(1)(b)(ii) is about benefits payable when a person ceases work due to ill-health.

(j) no member who holds a beneficial interest of that class in the fund is precluded from holding a beneficial interest of another class in the fund because of that fact; and

(k) no member is precluded from holding a beneficial interest of that class in the fund because the member holds a beneficial interest of another class in the fund.

(2) A ***lifecycle exception*** is a rule under the governing rules of the fund that allows gains and losses from different classes of asset of the fund to be streamed to different subclasses of the members of the fund who hold a MySuper product:

Authorised Version C2026C00335 registered 27/07/2026

(a) on the basis, and only on the basis, of the age of those members; or

(b) on the basis of the age of those members and other prescribed factors; or

(c) on the basis of the age of those members and other prescribed factors in prescribed circumstances.

(3) A limitation on the source or kind of contributions made by or on behalf of persons who hold a beneficial interest of a particular class in a regulated superannuation fund is permitted for the purposes of paragraph (1)(f) if:

(a) the limitation is of a prescribed kind; or

(b) the limitation is imposed by or under the general law or another law of the Commonwealth.

29TD Notice of authority

If APRA authorises an RSE licensee to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product, APRA must notify the RSE licensee in writing of the authority.

29TE APRA to give notice of refusal of authority

If APRA refuses an application by an RSE licensee for authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product, APRA must take all reasonable steps to ensure that the RSE licensee is given a notice:

(a) informing it of APRA's refusal of the application; and

(b) setting out the reasons for the refusal;

as soon as practicable after refusing the application.

Authorised Version C2026C00335 registered 27/07/2026

Division 4—Cancelling authority

29U Cancelling authority to offer MySuper product

(1) APRA may, in writing, cancel an authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product.

(2) Without limiting subsection (1), APRA may cancel an authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product if:

(a) APRA is no longer satisfied that section 29TC is satisfied in relation to that class of beneficial interest in the fund; or

(b) authority was given to offer that class of beneficial interest in the fund as a MySuper product because section 29TB was satisfied in relation to the class and either:

(i) in a case where that section was satisfied because APRA was satisfied that an employer would be a large employer by the end of a period specified in the authority—the employer was not a large employer at that time; or

(ii) in any case—that section was no longer satisfied in relation to the class on the last day of the immediately preceding year of income; or

(c) APRA has reason to believe that:

(i) where the RSE licensee is a body corporate—the RSE licensee; or

(ii) where the RSE licensee is made up of a group of individual trustees—any of those individual trustees;

may not comply with the enhanced trustee obligations for MySuper products (whether because of a previous failure to do so, or for any other reason); or

(ca) where the RSE licensee is a body corporate—APRA has reason to believe that the directors of the RSE licensee may not comply with the enhanced director obligations for

Authorised Version C2026C00335 registered 27/07/2026

MySuper products (whether because of a previous failure to do so, or for any other reason); or

(d) APRA has reason to believe that:

(i) where the RSE licensee is a body corporate—the RSE licensee; or

(ii) where the RSE licensee is made up of a group of individual trustees—any of those individual trustees;

may not comply with the general fees rules and the fees rules in relation to MySuper products (whether because of a previous failure to do so, or for any other reason); or

(e) APRA has reason to believe that:

(i) where the RSE licensee is a body corporate—the RSE licensee; or

(ii) where the RSE licensee is made up of a group of individual trustees—any of those individual trustees;

may contravene section 29W, 29WA or 29WB (whether because of a previous contravention of that section, or for any other reason); or

(f) the fund ceases to be registered under Part 2B; or

(g) either:

(i) in a case where authority was given to offer the class of beneficial interest in the fund as a MySuper product on the basis that the fund would have 7 or more members within a period specified in the authority—the fund does not have 7 or more members at the end of that period; or

(ii) in any case—the fund has ceased to have 7 or more members; or

(h) paragraph 29T(1)(e) is no longer satisfied in relation to the fund (no longer an eligible rollover fund); or

(i) APRA is satisfied that:

(i) where the RSE licensee is a body corporate—the RSE licensee; or

(ii) where the RSE licensee is made up of a group of individual trustees—one of those individual trustees;

Authorised Version C2026C00335 registered 27/07/2026

has contravened a provision of the governing rules of the fund relating to the MySuper product; or

(j) APRA is satisfied that the RSE licensee has failed to give effect to an election made in accordance with section 29SAA (election to transfer accrued default amounts to a MySuper product); or

(k) APRA is satisfied that the RSE licensee has failed to give effect to an election made in accordance with section 29SAC (election not to pass costs of conflicted remuneration to MySuper members).

(3) If APRA cancels an authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product it must take all reasonable steps to ensure that the RSE licensee is given a notice informing the RSE licensee:

(a) that APRA has cancelled the authority; and

(b) of the reasons for the cancellation.

(4) If:

(a) APRA cancels an authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product; and

(b) as a result of the cancellation, the fund no longer offers any MySuper product;

APRA must also notify the Fair Work Commission in writing of that fact.

29UA Cancellation of authority of an RSE licensee that is also a financial services licensee

(1) Before cancelling an authority of an RSE licensee that is also a financial services licensee, APRA must consult ASIC if, in APRA's opinion, the cancellation might reasonably be expected to affect the RSE licensee's ability to provide one or more of the financial services (within the meaning of the *Corporations Act 2001*) that the RSE licensee provides.

Authorised Version C2026C00335 registered 27/07/2026

(2) If APRA cancels the authority of an RSE licensee that is also a financial services licensee, APRA must inform ASIC of the cancellation within one week after the cancellation.

(3) A failure to comply with a requirement of this section does not invalidate the cancellation of an authority to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product.

29UB APRA may allow authority to continue in effect

In a notice that APRA gives to an RSE licensee cancelling an authority, APRA may specify that the authority continues in effect as though the cancellation had not happened for the purposes of:

(a) a specified provision, administered by APRA, of this Act, the regulations or the prudential standards; or

(b) a specified provision, administered by APRA, of any other law of the Commonwealth;

in relation to specified matters, a specified period, or both.

Authorised Version C2026C00335 registered 27/07/2026

Division 5—Fees rules for MySuper products

29V Fees that may be charged in relation to a MySuper product

(1) The trustee, or the trustees, of a regulated superannuation fund that offers a MySuper product may only charge fees of one or more of the following kinds in relation to that product:

(a) an administration fee;

(b) an investment fee;

(c) a buy-sell spread;

(d) a switching fee;

(f) an activity fee;

(g) an advice fee;

(h) an insurance fee.

(2) An ***administration fee*** is a fee that relates to the administration or operation of a superannuation entity and includes costs incurred by the trustee, or the trustees, of the entity that:

(a) relate to the administration or operation of the fund; and

(b) are not otherwise charged as an investment fee, a buy-sell spread, a switching fee, an activity fee, an advice fee or an insurance fee.

(3) An ***investment fee*** is a fee that relates to the investment of the assets of a superannuation entity and includes:

(a) fees in payment for the exercise of care and expertise in the investment of those assets (including performance fees); and

(b) costs incurred by the trustee, or the trustees, of the entity that:

(i) relate to the investment of assets of the entity; and

(ii) are not otherwise charged as an administration fee, a buy-sell spread, a switching fee, an activity fee, an advice fee or an insurance fee.

(4) A ***buy-sell spread*** is a fee to recover transaction costs incurred by the trustee, or the trustees, of a superannuation entity in relation to the sale and purchase of assets of the entity.

Authorised Version C2026C00335 registered 27/07/2026

(5) A ***switching fee*** is a fee to recover the costs of switching all or part of a member's interest in a superannuation entity from one class of beneficial interest in the entity to another.

(7) A fee is an ***activity fee*** if:

(a) the fee relates to costs incurred by the trustee, or the trustees, of a superannuation entity that are directly related to an activity of the trustee, or the trustees:

(i) that is engaged in at the request, or with the consent, of a member; or

(ii) that relates to a member and is required by law; and

(aa) the fee does not satisfy the condition in paragraph (8)(a); and

(b) those costs are not otherwise charged as an administration fee, an investment fee, a buy-sell spread, a switching fee or an insurance fee.

(8) A fee is an ***advice fee*** if:

(a) the fee relates directly to costs incurred by the trustee, or the trustees, of a superannuation entity because of the provision of financial product advice to a member by:

(i) a trustee of the entity; or

(ii) another person acting as an employee of, or under an arrangement with, a trustee or trustees of the entity; and

(b) those costs are not otherwise charged as an administration fee, an investment fee, a switching fee or an insurance fee.

(9) A fee is an ***insurance fee*** if:

(a) the fee relates directly to either or both of the following:

(i) insurance premiums paid by the trustee, or the trustees, of a superannuation entity in relation to a member or members of the entity;

(ii) costs incurred by the trustee, or the trustees, of a superannuation entity in relation to the provision of insurance for a member or members of the entity; and

(b) the fee does not relate to any part of a premium paid or cost incurred in relation to a life policy or a contract of insurance that relates to a benefit to the member that is based on the

Authorised Version C2026C00335 registered 27/07/2026

performance of an investment rather than the realisation of a risk; and

(c) the premiums and costs to which the fee relates are not otherwise charged as an administration fee, an investment fee, a switching fee, an activity fee or an advice fee.

29VA Charging rules

(1) The trustee, or the trustees, of a regulated superannuation fund that offers a MySuper product may only charge a fee in relation to the MySuper product during a period if it satisfies one of the charging rules set out in this section in relation to that period.

All MySuper members charged same flat fee

(2) This rule is satisfied if:

(a) the fee is charged in relation to all members of the fund who hold the MySuper product; and

(b) the amount of the fee is the same for each of those members.

All MySuper members charged same percentage of account balance

(3) This rule is satisfied if:

(a) the fee is charged in relation to all members of the fund who hold the MySuper product; and

(b) the amount of the fee charged in relation to one member is a percentage of so much of the member's account balance with the fund that relates to the MySuper product; and

(c) the amount of the fee charged in relation to each other member of the fund who holds the MySuper product is the same percentage of so much of that member's account balance with the fund that relates to the MySuper product.

All MySuper members charged combination of same flat fee and same percentage of account balance

(4) This rule is satisfied if:

Authorised Version C2026C00335 registered 27/07/2026

(a) the fee is charged in relation to all members of the fund who hold the MySuper product; and

(b) the amount of the fee charged in relation to one member is the sum of a fixed amount (the ***flat fee***) and another amount that is a percentage of so much of the member's account balance with the fund that relates to the MySuper product; and

(c) the amount of the fee charged in relation to each other member of the fund who holds the MySuper product is the sum of the flat fee and the same percentage of so much of that member's account balance with the fund that relates to the MySuper product.

All MySuper members to whom action relates charged same flat fee

(5) This rule is satisfied if:

(a) the fee is a buy-sell spread, a switching fee or an activity fee; and

(b) the fee is only charged in relation to those members of the fund:

(i) who hold the MySuper product; and

(ii) in relation to whom a relevant action is taken by the trustee or trustees of the fund; and

(c) the amount of the fee charged is the same for each member to whom it is charged.

All MySuper members to whom action relates charged same percentage of account balance

(6) This rule is satisfied if:

(a) the fee is a buy-sell spread, a switching fee or an activity fee; and

(b) the fee is only charged in relation to those members of the fund:

(i) who hold the MySuper product; and

Authorised Version C2026C00335 registered 27/07/2026

(ii) in relation to whom a relevant action is taken by the trustee or trustees of the fund; and

(c) the amount of the fee charged in relation to one of those members is a percentage of so much of the member's account balance with the fund:

(i) that relates to the MySuper product; and

(ii) in relation to which the relevant action is taken; and

(d) the amount of the fee charged in relation to each of the other of those members is the same percentage of so much of that member's account balance with the fund:

(i) that relates to the MySuper product; and

(ii) in relation to which the relevant action is taken.

All MySuper members to whom action relates charged combination of same flat fee and same percentage of account balance

(7) This rule is satisfied if:

(a) the fee is a buy-sell spread, a switching fee or an activity fee; and

(b) the fee is only charged in relation to those members of the fund:

(i) who hold the MySuper product; and

(ii) in relation to whom a relevant action is taken by the trustee or trustees of the fund; and

(c) the amount of the fee charged in relation to one of those members is the sum of a fixed amount (the ***flat fee***) and another amount that is a percentage of so much of the member's account balance with the fund:

(i) that relates to the MySuper product; and

(ii) in relation to which the relevant action is taken; and

(d) the amount of the fee charged in relation to each of the other of those members is the sum of the flat fee and the same percentage of so much of that member's account balance with the fund:

(i) that relates to the MySuper product; and

(ii) in relation to which the relevant action is taken.

Authorised Version C2026C00335 registered 27/07/2026

Administration fee exemption for employees of an employer-sponsor

(8) This rule is satisfied if:

(a) the fee is an administration fee charged in relation to one or more members of the fund who hold the MySuper product in accordance with the administration fee exemption for employees of an employee-sponsor (see section 29VB); and

(b) in relation to those members of the fund who hold the MySuper product but in relation to whom the administration fee is not charged in accordance with the administration fee exemption for employees of an employee-sponsor (the ***remaining members***)—the fee would satisfy the charging rule in subsection (2), (3) or (4) if the remaining members were the only members of the fund who held the MySuper product.

Note: In some circumstances, the RSE licensee may wish to offer a MySuper product for the employees of a large employer or its associates (see sections 29T and 29TB). Any fee set for that MySuper product may differ from the equivalent fee set for another MySuper product within the fund. In other circumstances, a separate MySuper product may not be offered, but instead a lower administration fee charged to the employees of a particular employer-sponsor (see section 29VB).

Lifecycle differentiated investment fees

(9) This rule is satisfied if:

(a) the fee is an investment fee; and

(b) the fee would satisfy one of the charging rules in subsections (2) to (4) if the rule were applied to a subclass of the members of the fund who hold the MySuper product to whom gains and losses from different classes of asset of the fund may be streamed in accordance with a lifecycle exception, rather than in relation to all members of the fund who hold the MySuper product; and

(d) the investment fees for each such subclass reflect a fair and reasonable attribution of the investment costs of the fund between all such subclasses.

Authorised Version C2026C00335 registered 27/07/2026

Advice fees

(9A) This rule is satisfied if:

(a) the fee is an advice fee that relates directly to financial product advice provided to a member; and

(b) the member holds a MySuper product; and

(c) the fee is charged to the member; and

(d) the fee is to be paid in accordance with the terms of an arrangement entered into by the member; and

(e) the arrangement is not an ongoing fee arrangement.

Insurance fees

(10) This rule is satisfied if:

(a) the fee is an insurance fee that relates directly to either or both of the following:

(i) insurance premiums paid by the trustee, or the trustees, of a superannuation entity in relation to a member;

(ii) costs incurred by the trustee, or the trustees, of a superannuation entity in relation to the provision of insurance for a member; and

(b) the member holds a MySuper product; and

(c) the fee is charged to the member.

Fees for members with low balances

(11) This rule is satisfied if:

(a) the fee is an administration fee or investment fee; and

(b) the fee is charged at a reduced amount, in accordance with section 99G, in relation to one or more members of the fund who hold the MySuper product; and

(c) in relation to the remaining members of the fund who hold the MySuper product, the fee would satisfy a charging rule in another subsection of this section if those were the only members of the fund who held the MySuper product.

Authorised Version C2026C00335 registered 27/07/2026

29VB Administration fee exemption for employees of an employer-sponsor

(1) An administration fee charged to members of a regulated superannuation fund who hold a MySuper product is charged in accordance with the ***administration fee exemption for employees of an employer-sponsor*** if:

(aa) although the trustee, or the trustees, of the fund are authorised to offer the MySuper product, it is not on the basis that section 29TB was satisfied in relation to that class of beneficial interest in the fund; and

(a) the fee is charged in relation to all members of the fund who hold the MySuper product; and

(b) an employer-sponsor contributes to the fund or would, apart from a temporary cessation of contributions, contribute to the fund for the benefit of those members of the fund (the ***employee members***) who hold the MySuper product and who are:

(i) employees of the employer-sponsor, or an associate of the employer-sponsor; or

(ii) the relatives or dependants of those employees; and

(c) the trustee, or the trustees, of the fund have entered into an arrangement with the employer-sponsor that secures lower administration fees for the employee members; and

(d) the fee is in accordance with subsection (2), (3), (4) or (4A); and

(e) the fee is in accordance with subsection (5).

All employees charged same flat fee

(2) The amount of the administration fee is the same for each of the employee members.

All employees charged same percentage of account balance

(3) Each of the following is satisfied:

Authorised Version C2026C00335 registered 27/07/2026

(a) the amount of the administration fee charged in relation to one of the employee members is a percentage of so much of the member's account balance with the fund that relates to the MySuper product;

(b) the amount of the administration fee charged in relation to each of the other employee members is the same percentage of so much of that member's account balance with the fund that relates to the MySuper product.

All employees charged combination of same flat fee and same percentage of account balance

(4) Each of the following is satisfied:

(a) the amount of the administration fee charged in relation to one of the employee members is the sum of a fixed amount (the ***flat fee***) and another amount that is a percentage of so much of the member's account balance with the fund that relates to the MySuper product;

(b) the amount of the administration fee charged in relation to each of the other employee members is the sum of the flat fee and the same percentage of so much of that member's account balance with that fund that relates to the MySuper product.

Reduced fees for employees with low balances

(4A) Each of the following is satisfied:

(a) the administration fee is charged at a reduced amount, in accordance with section 99G, in relation to one or more employee members of the fund;

(b) in relation to the remaining employee members of the fund, the administration fee would be in accordance with subsection (2), (3) or (4) if those were the only employee members of the fund.

(5) The total amount of the administration fee charged in relation to the employee members is at least equal to an amount that reasonably relates to costs that:

Authorised Version C2026C00335 registered 27/07/2026

(a) are incurred by the trustee, or the trustees, of the fund in the administration and operation of the fund in relation to those members; and

(b) are not otherwise charged as an investment fee, a buy-sell spread, a switching fee, an activity fee, an advice fee or an insurance fee.

29VC Activity fees and insurance fees to be charged on a cost recovery basis

(1) If the trustee, or the trustees, of a regulated superannuation fund charge an activity fee or an insurance fee to a member in relation to a MySuper product, the fee must be no more than it would be if it were charged on a cost recovery basis.

(2) The regulations may prescribe the way in which an activity fee or an insurance fee charged on a cost recovery basis is to be worked out.

29VD Performance-based fees

(1) This section applies if:

(a) a regulated superannuation fund offers a MySuper product; and

(b) the trustee, or the trustees, of the fund enter into an arrangement with an investment manager for the investment of an asset or assets of the fund attributed, in whole or in part, to the MySuper product; and

(c) under the arrangement, a fee payable to the investment manager is determined, in whole or in part, by reference to the performance of the investments made by the investment manager on behalf of the trustee or trustees of the fund (a ***performance-based fee***).

(2) The trustee, or the trustees, of the regulated superannuation fund must ensure that the arrangement complies with this section.

Authorised Version C2026C00335 registered 27/07/2026

Base fee must be set or adjusted to give incentive to obtain performance-based fee

(3) If, under the arrangement, a fee is or fees are payable to the investment manager in addition to the performance-based fee, the other fee or fees must be set or adjusted so that they are lower than they would be if the arrangement did not include the performance-based fee.

Period to which performance-based fee relates

(4) The period over which entitlement to the performance-based fee is determined under the arrangement must be appropriate to the kinds of investment to which the performance-based fee relates.

Performance of investment must be measured against an appropriate benchmark

(5) Under the arrangement, the performance of the investment must be measured by comparison with the performance of investments of a similar kind.

Performance-based fee to be worked out on after-costs, after-tax basis

(6) For the purposes of working out the performance-based fee payable under the arrangement, the performance of the investment must be determined on an after-costs and, where possible, an after-tax basis.

Disincentives to underperformance

(7) Under the arrangement, the performance-based fee must be calculated in a way that includes disincentives for poorly performing investments.

Best interests of MySuper members

(8) A trustee of a regulated superannuation fund does not breach this section to the extent that the asset or assets of the fund invested

Authorised Version C2026C00335 registered 27/07/2026

under the arrangement are attributed by the trustee or the trustees of the fund to a MySuper product if, despite the fact that the arrangement does not comply with one or more of the provisions of this section, the arrangement promotes the financial interests of the beneficiaries of the fund who hold the MySuper product.

29VE Percentage-based administration fees may be capped

If, under the governing rules of a regulated superannuation fund:

(a) all or part of the administration fee in relation to a MySuper product is charged to those members of the fund who hold the product as a percentage of so much of the account balance of each of those members that relates to the MySuper product; and

(b) the amount of the administration fee is capped at a specified amount; and

(c) either:

(i) the cap is the same for all of those members; or

(ii) if the administration fee is charged at a reduced amount, in accordance with section 99G, in relation to one or more of those members—the cap is the same for all of the remainder of those members; and

(d) but for the fact that the administration fee is capped in that way, a charging rule in section 29VA would be satisfied in relation to the administration fee;

that charging rule is taken to be satisfied in relation to the administration fee.

Authorised Version C2026C00335 registered 27/07/2026

Division 7—Offences

29W Offering a product as a MySuper product when not authorised to do so

(1) A person commits an offence if:

(a) the person makes a representation; and

(b) the representation is that a class of beneficial interest in a regulated superannuation fund is a MySuper product; and

(c) the RSE licensee for the fund does not have authority to offer a beneficial interest of that class in the fund as a MySuper product.

Penalty: 60 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility and Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

(2) Subsection (1) is an offence of strict liability.

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

29WA Contributions in relation to which no election is made are to be paid into MySuper product

(1) This section applies if:

(a) a person is a member of a regulated superannuation fund (other than a defined benefit member); and

(b) a contribution to the fund is made for the benefit of the person; and

(c) either:

(i) the person has not given the trustee, or the trustees, of the fund a direction that the contribution is to be invested under one or more specified investment options; or

(ii) the person has given the trustee, or the trustees, of the fund a direction that some of the contribution is to be

Authorised Version C2026C00335 registered 27/07/2026

invested under one or more specified investment options, but no such direction has been made in relation to the remainder of the contribution.

(2) The trustee, or trustees, of the fund must treat any contribution to the fund in relation to which no direction has been given, and any part of a contribution to the fund in relation to which no direction has been given, as a contribution to be paid into a MySuper product of the fund.

(3) A trustee commits an offence if the trustee contravenes subsection (2). This is an offence of strict liability.

Penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility and Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

Note 2: For strict liability, see section 6.1 of the *Criminal Code*.

Directions

(4) For the purposes of this section, a direction that it is alleged was given to the trustee, or the trustees, of the fund after 31 March 2013 is taken not to have been given if:

(a) the direction was not given in writing; or

(b) a copy of the direction is not held by or on behalf of the trustee, or the trustees, of the fund.

(5) The regulations may prescribe circumstances in which a direction given to the trustee, or the trustees, of one regulated superannuation fund is to be taken to be a direction given to the trustee, or the trustees, of another regulated superannuation fund for the purposes of this section.

Authorised Version C2026C00335 registered 27/07/2026

Exception—life policies, investment account contracts and cash investment options

(6) If an asset (or assets) attributed to the person mentioned in subsection (1) is invested in one or more of the following on 31 March 2013:

(a) a life policy under which contributions and accumulated earnings may not be reduced by negative investment returns or any reduction in the value of assets in which the policy is invested;

(b) a life policy under which the benefit to the person (or a relative or dependant of the person) is based only on the realisation of a risk, not the performance of an investment;

(c) an investment account contract the only beneficiaries of which are the person, and relatives and dependants of the person;

(d) an investment option under which the investment is held as cash;

subsection (2) does not apply to the extent that a contribution to the fund for the benefit of the person is invested in the life policy, under the investment account contract or in the cash investment option.

29WB Contributions by large employer in relation to which no election is made to be paid into large employer MySuper product

(1) This section applies if:

(a) the trustee, or the trustees, of a regulated superannuation fund are authorised to offer a class of beneficial interest in the fund as a MySuper product on the basis that section 29TB is satisfied in relation to that class of beneficial interest; and

(b) a member (other than a defined benefit member) is entitled to hold the MySuper product; and

(c) a contribution is made for the benefit of the member; and

(d) either:

Authorised Version C2026C00335 registered 27/07/2026

(i) the member has not given the trustee, or the trustees, of the fund a direction that the contribution is to be invested under one or more specified investment options; or

(ii) the member has given the trustee, or the trustees, of the fund a direction that some of the contribution is to be invested under one or more specified investment options, but no such direction has been made in relation to the remainder of the contribution.

(2) The trustee, or the trustees, of the fund must treat so much of the contribution in relation to which no direction is given as a contribution to be paid into the MySuper product.

(3) A trustee commits an offence if the trustee contravenes subsection (2). This is an offence of strict liability.

Penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility and Part IA of the *Crimes Act 1914* contains provisions dealing with penalties.

Note 2: For strict liability, see section 6.1 of the *Criminal Code*.

Directions

(4) For the purposes of this section, a direction that it is alleged was given to the trustee, or the trustees, of the fund after 31 March 2013 is taken not to have been given if:

(a) the direction was not given in writing; or

(b) a copy of the direction is not held by or on behalf of the trustee, or the trustees, of the fund.

(5) The regulations may prescribe circumstances in which a direction given to the trustee, or the trustees, of one regulated superannuation fund is to be taken to be a direction given to the trustee, or the trustees, of another regulated superannuation fund for the purposes of this section.

Authorised Version C2026C00335 registered 27/07/2026

Exception—life policies, investment account contracts and cash investment options

(6) If an asset (or assets) attributed to the member mentioned in subsection (1) is invested in one or more of the following on 31 March 2013:

(a) a life policy under which contributions and accumulated earnings may not be reduced by negative investment returns or any reduction in the value of assets in which the policy is invested;

(b) a life policy under which the benefit to the member (or a relative or dependant of the member) is based only on the realisation of a risk, not the performance of an investment;

(c) an investment account contract the only beneficiaries of which are the member, and relatives and dependants of the member;

(d) an investment option under which the investment is held as cash;

subsection (2) does not apply to the extent that a contribution to the fund for the benefit of the member is invested in the life policy, under the investment account contract or in the cash investment option.

Authorised Version C2026C00335 registered 27/07/2026

Division 8—Other matters

29X Prudential standards dealing with accrued default amounts

A prudential standard determined under section 34C may include provisions:

(a) requiring an RSE licensee of a regulated superannuation fund who holds an accrued default amount:

(i) for a member of the fund who is not eligible to hold a MySuper product offered by the fund; or

(ii) for a member of a regulated superannuation fund of the RSE licensee that does not offer a MySuper product;

to transfer that amount to another regulated superannuation fund that includes a MySuper product; and

(b) setting out the requirements that must be met in relation to the transfer of such an accrued default amount; and

(c) dealing with other matters relating to such an accrued default amount.

29XA Prudential standards dealing with assets attributed to former MySuper products

A prudential standard determined under section 34C may include provisions:

(a) requiring an RSE licensee who is authorised to offer a class of beneficial interest in a regulated superannuation fund as a MySuper product to transfer any asset or assets of the fund that are attributed to the MySuper product into another MySuper product within the fund, or a MySuper product within another fund, if the authority is cancelled under subsection 29U(1); and

(b) setting out the requirements that must be met in relation to the transfer of such an asset or assets; and

(c) dealing with other matters relating to such an asset or assets.

Authorised Version C2026C00335 registered 27/07/2026

29XB No liability for certain transfers

A trustee of a regulated superannuation fund is not subject to any liability to a member of the fund:

(a) for an action taken to give effect to an election made in accordance with section 29SAA or 29SAB; or

(b) for an action of the kind mentioned in subsection 55C(1).

29XC Public sector superannuation scheme ceases to be exempt

If APRA becomes aware that:

(a) a public sector superannuation scheme has ceased to be an exempt public sector superannuation scheme; and

(b) the scheme is not a regulated superannuation fund that offers a MySuper product;

APRA must notify the Fair Work Commission of that fact.

Authorised Version C2026C00335 registered 27/07/2026

Part 3—Operating standards

Division 1—Object of Part

30 Object of Part

The object of this Part is to provide for a system of prescribed standards applicable to:

(a) the operation of regulated superannuation funds, approved deposit funds and pooled superannuation trusts; and

(b) the trustees and RSE licensees of those funds and trusts.

Authorised Version C2026C00335 registered 27/07/2026

Division 2—Operating standards

31 Operating standards for regulated superannuation funds

(1) The regulations may prescribe standards applicable to the operation of regulated superannuation funds (***funds***) and to trustees and RSE licensees of those funds.

(2) The standards that may be prescribed include, but are not limited to, standards relating to the following matters:

(a) the persons who may contribute to funds;

(b) the vesting in beneficiaries in funds of benefits arising directly or indirectly from amounts contributed to the funds;

(c) the amount of contributions that a fund may accept;

(d) the circumstances in which a fund may accept contributions;

(da) the charging of fees (including the calculation of the amount of fees) to:

(i) members of a fund; and

(ii) members who hold a particular class of beneficial interest in a fund;

(db) the attribution of costs between classes of beneficial interest in a fund;

(dc) the calculation of a member's account balance with the fund on a particular day, or a member's account balance with the fund on a particular day that relates to a choice product or MySuper product;

(e) the form in which benefits may be provided by funds;

(ea) the kinds of benefits that must not be provided by taking out insurance, or insurance of a particular kind;

(eb) the kinds of benefits that must not be provided other than by taking out insurance, or insurance of a particular kind;

(f) the actuarial standards that will apply to funds;

(g) the preservation of benefits arising directly or indirectly from amounts contributed to funds;

Authorised Version C2026C00335 registered 27/07/2026

(h) the payment by funds of benefits arising directly or indirectly from amounts contributed to the funds;

(i) the portability of benefits arising directly or indirectly from amounts contributed to funds;

(j) the levels of benefits that may be provided by funds and the levels of assets that may be held by funds;

(k) the application by funds of money no longer required to meet payments of benefits to beneficiaries because the beneficiaries have ceased to be entitled to receive those benefits;

(l) the investment of assets of funds and the management of the investment;

(m) the number of trustees, and the composition of boards or committees of trustees, of funds;

(ma) the requirements relating to fitness and propriety for RSE licensees of funds and trustees of funds;

(n) the keeping and retention of records in relation to funds;

(o) the financial and actuarial reports to be prepared in relation to funds;

(p) the disclosure of information to beneficiaries in funds;

(pa) the disclosure of information by a trustee of a fund who is a member of a group of individual trustees to the other trustees in that group;

(q) the disclosure of information about funds to the Regulator;

(r) the disclosure of information about funds to persons other than beneficiaries or the Regulator;

(s) the financial position of funds;

(sa) the outsourcing arrangements relating to the operation of funds;

(sb) the adequacy of resources (including human resources, technical resources, and financial resources) of, or available to, trustees of funds;

(t) the funding and solvency of funds;

(u) the winding-up of funds.

Authorised Version C2026C00335 registered 27/07/2026

32 Operating standards for approved deposit funds

(1) The regulations may prescribe standards applicable to the operation of approved deposit funds (***funds***) and to trustees and RSE licensees of those funds.

(2) The standards that may be prescribed include, but are not limited to, standards relating to the following matters:

(a) the kinds of amounts that may be deposited with funds;

(aa) the circumstances in which amounts may be deposited with funds;

(b) the preservation of amounts deposited with funds, and of earnings on such amounts;

(c) the payment out of funds of amounts deposited with the funds, and of earnings on such amounts;

(d) the portability of amounts deposited with funds, and of earnings on such amounts;

(e) the form in which benefits may be paid out of funds;

(f) the investment of assets of funds and the management of the investment;

(fa) the requirements relating to fitness and propriety for RSE licensees of funds and trustees of funds;

(g) the keeping and retention of records in relation to funds;

(h) the financial and actuarial reports to be prepared in relation to funds;

(i) the disclosure of information to beneficiaries in funds;

(j) the disclosure of information about funds to the Regulator;

(k) the disclosure of information about funds to persons other than beneficiaries or the Regulator;

(l) the financial position of funds;

(la) the outsourcing arrangements relating to the operation of funds;

(lb) the adequacy of resources (including human resources, technical resources, and financial resources) of, or available to, trustees of funds;

(m) the funding and solvency of funds;

Authorised Version C2026C00335 registered 27/07/2026

(n) the winding-up of funds.

33 Operating standards for pooled superannuation trusts

(1) The regulations may prescribe standards applicable to the operation of pooled superannuation trusts (***trusts***) and to trustees and RSE licensees of those trusts.

(2) The standards that may be prescribed include, but are not limited to, standards relating to the following matters:

(aa) the circumstances in which units in trusts may be acquired;

(a) the ownership and disposal of units in trusts;

(b) the investment of assets of trusts and the management of the investment;

(ba) the requirements relating to fitness and propriety for RSE licensees of trusts and trustees of trusts;

(c) the persons who may be trustees of trusts;

(d) the number of trustees, and the composition of boards or committees of trustees, of trusts;

(e) the keeping and retention of records in relation to trusts;

(f) the financial and actuarial reports to be prepared in relation to trusts;

(g) the disclosure of information to unit-holders in trusts;

(h) the disclosure of information about trusts to the Regulator;

(i) the disclosure of information about trusts to persons other than unit-holders or the Regulator;

(j) the financial position of trusts;

(ja) the outsourcing arrangements relating to the operation of trusts;

(jb) the adequacy of resources (including human resources, technical resources and financial resources) of, or available to, trustees of trusts;

(k) the funding and solvency of trusts.

Authorised Version C2026C00335 registered 27/07/2026

33A Relationship between operating standards, this Act and the regulations

(1) A standard applicable to the operation of a superannuation entity may be prescribed that elaborates, supplements or otherwise deals with any aspect of:

(a) a matter relating to the operation of the entity to which a covenant referred to in sections 52 to 53 or prescribed under section 54A relates; or

(b) a matter relating to the operation of the entity to which a provision of this Act or another provision of the regulations relates.

(2) However, a standard applicable to the operation of a superannuation entity is of no effect to the extent that it conflicts with this Act.

34 Prescribed operating standards must be complied with

Standards must be complied with

(1) Each trustee of a superannuation entity must ensure that the prescribed standards applicable to the operation of the entity are complied with at all times.

Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

Offence

(2) A person who intentionally or recklessly contravenes subsection (1) commits an offence punishable on conviction by a fine not exceeding 100 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Standards relating to record keeping obligations

(2A) If standards are prescribed by the regulations for the purposes of paragraph 31(2)(n), 32(2)(g) or 33(2)(e), each trustee of a

Authorised Version C2026C00335 registered 27/07/2026

superannuation entity must ensure that those standards are, when applied to the operation of the entity, complied with at all times.

Penalty: 50 penalty units.

(2B) Subsection (2A) is an offence of strict liability.

Validity of transaction not affected by contravention

(3) A contravention of subsection (1) or (2A) does not affect the validity of a transaction.

Authorised Version C2026C00335 registered 27/07/2026

Division 3—Portability forms

34A Portability forms

(1) For the purposes of standards made under Division 2, and without limiting that Division, the regulations may prescribe a scheme under which:

(a) a beneficiary of:

(i) a regulated superannuation fund; or

(ii) an approved deposit fund;

gives to the Commissioner of Taxation a request for the benefits held for the beneficiary in the fund to be rolled-over or transferred; and

(b) the Commissioner may pass the request on to the trustee of the fund.

Note: The standards may require the trustee to act on the request. See paragraphs 31(2)(i) and 32(2)(d).

(2) The regulations may provide that the request must be given to the Commissioner in the approved form.

Note: The approved form may require the beneficiary to set out his or her tax file number. See subsection 299U(2A).

Authorised Version C2026C00335 registered 27/07/2026

Part 3A—Prudential standards

34B Object of this Part

The object of this Part is to provide for a system of standards in relation to prudential matters concerning registrable superannuation entities.

34C APRA may determine *prudential standards*

(1) APRA may determine (in writing) standards (***prudential standards***) relating to prudential matters that must be complied with by:

(a) all RSE licensees of registrable superannuation entities; or

(b) the connected entities of all RSE licensees of registrable superannuation entities; or

(c) a specified class of RSE licensees of registrable superannuation entities; or

(d) a specified class of connected entities of RSE licensees of registrable superannuation entities; or

(e) one or more specified RSE licensees of registrable superannuation entities; or

(f) one or more specified connected entities of RSE licensees of registrable superannuation entities.

(2) A prudential standard may impose different requirements to be complied with:

(a) by different classes of RSE licensees of registrable superannuation entities or connected entities of RSE licensees of registrable superannuation entities; or

(b) in different situations; or

(c) in respect of different activities.

(3) Without limiting the prudential matters in relation to which APRA may determine a prudential standard, a prudential standard may

Authorised Version C2026C00335 registered 27/07/2026

require the following entities to ensure that the entity's connected entities (or particular connected entities), or the entity and the entity's connected entities (or particular connected entities), collectively satisfy particular requirements:

(a) each RSE licensee of a registrable superannuation entity;

(b) each RSE licensee of a registrable superannuation entity included in a specified class of RSE licensees;

(c) a specified RSE licensee of a registrable superannuation entity;

(d) each of 2 or more RSE licensees of registrable superannuation entities.

(4) A ***prudential matter*** is a matter relating to:

(a) the conduct by an RSE licensee of a registrable superannuation entity of the affairs of the registrable superannuation entity, or the affairs of a connected entity of the RSE licensee, in such a way as to:

(i) protect the interests of the beneficiaries of the registrable superannuation entity; or

(ii) meet the reasonable expectations of the beneficiaries of the registrable superannuation entity; or

(b) the conduct by a connected entity of an RSE licensee of a registrable superannuation entity of the affairs of the connected entity in such a way as to:

(i) protect the interests of the beneficiaries of the registrable superannuation entity; or

(ii) meet the reasonable expectations of the beneficiaries of the registrable superannuation entity; or

(c) the conduct by an RSE licensee of a registrable superannuation entity of the affairs of the licensee in such a way as:

(i) to keep itself in a sound financial position; or

(ii) not to cause or promote instability in the Australian financial system; or

(d) the conduct by an RSE licensee of a registrable superannuation entity of the affairs of the registrable

Authorised Version C2026C00335 registered 27/07/2026

superannuation entity in such a way as not to cause or promote instability in the Australian financial system; or

(e) the conduct by a connected entity of an RSE licensee of a registrable superannuation entity of the affairs of the connected entity in such a way as:

(i) to keep itself in a sound financial position; or

(ii) not to cause or promote instability in the Australian financial system; or

(ea) the conduct by an RSE licensee of a registrable superannuation entity, or by a connected entity of such an RSE licensee, of the affairs of the licensee, the registrable superannuation entity, or any connected entity of the licensee, in such a way as to:

(i) facilitate resolution of the RSE licensee; or

(ii) facilitate resolution of the registrable superannuation entity; or

(iii) facilitate resolution of the connected entity that is reasonably necessary to facilitate resolution of the RSE licensee; or

(iv) facilitate resolution of the connected entity that is reasonably necessary to facilitate resolution of the registrable superannuation entity; or

(v) facilitate resolution of the connected entity that is reasonably necessary to protect the interests of the beneficiaries of the registrable superannuation entity; or

(vi) facilitate resolution of the connected entity that is reasonably necessary to meet the reasonable expectations of the beneficiaries of the registrable superannuation entity; or

(f) the conduct by an RSE licensee of a registrable superannuation entity, or a connected entity of the RSE licensee, of any of its affairs that are relevant to the registrable superannuation entity with integrity, prudence and professional skill; or

(g) the appointment of auditors and actuaries; or

(h) the conduct of audits and actuarial investigations.

Authorised Version C2026C00335 registered 27/07/2026

(5) The prudential standards may provide for APRA to exercise powers and discretions under the standards, including but not limited to discretions to approve, impose, adjust or exclude specific prudential requirements in relation to the following:

(a) a particular RSE licensee of a registrable superannuation entity;

(b) a particular connected entity of an RSE licensee of a registrable superannuation entity;

(c) specified RSE licensees of registrable superannuation entities;

(d) specified connected entities of RSE licensees of registrable superannuation entities.

(6) APRA may, in writing, vary or revoke a standard.

(7) A standard referred to in paragraph (1)(e) or (f), or a variation of a standard referred to in those paragraphs, comes into force on the later of:

(a) the day on which APRA satisfies subsection 34E(1) in relation to the standard or variation (obligation to give a copy to each RSE licensee and connected entity to which it applies); and

(b) if APRA includes with the copy of the standard or variation a notice that the standard or variation will come into force on a later day—that later day.

(8) The revocation of a standard referred to in paragraph (1)(e) or (f) comes into force on the later of:

(a) the day on which APRA satisfies subsection 34E(2) in relation to the revocation (obligation to give notice of the revocation to each RSE licensee or connected entity to which the standard relates); and

(b) the day specified in that notice as the day on which the revocation comes into force.

(9) The following instruments made under this section are not legislative instruments:

(a) a standard referred to in paragraph (1)(e) or (f);

Authorised Version C2026C00335 registered 27/07/2026

(b) an instrument varying or revoking a standard referred to in paragraph (1)(e) or (f).

(10) Otherwise, an instrument made under this section is a legislative instrument.

34D Relationship between prudential standards, this Act and the regulations

(1) A prudential standard may be determined that elaborates, supplements or otherwise deals with any aspect of:

(a) a prudential matter to which a covenant referred to in sections 52 to 53 or prescribed under section 54A relates; or

(b) a prudential matter to which a provision of this Act or the regulations relates.

(2) However, a prudential standard is of no effect to the extent that it conflicts with this Act or the regulations.

34E Notice of determination, variation or revocation of certain prudential standards

(1) If APRA determines or varies a prudential standard referred to in paragraph 34C(1)(e) or (f), APRA must give a copy of the standard or of the variation to each RSE licensee and connected entity to which the standard applies.

(2) If APRA revokes a prudential standard referred to in paragraph 34C(1)(e) or (f), APRA must give notice of the revocation to each RSE licensee and connected entity to which the standard applies.

34F APRA to monitor prudential matters

The functions of APRA include:

(a) collecting and analysing information on prudential matters concerning RSE licensees of registrable superannuation entities and connected entities of RSE licensees of registrable superannuation entities; and

Authorised Version C2026C00335 registered 27/07/2026

(b) encouraging and promoting the carrying out of sound practices in relation to prudential matters by RSE licensees of registrable superannuation entities and connected entities of RSE licensees of registrable superannuation entities; and

(c) evaluating the effectiveness and carrying out of those practices.

Authorised Version C2026C00335 registered 27/07/2026

Part 3B—Superannuation data and payment regulations and standards

Division 1—Superannuation data and payment regulations and standards

34H Object of Part

(1) The object of this Part is to further the interests of beneficiaries of eligible superannuation entities by improving the productivity of the superannuation system.

(2) The Part does this by providing for a system of standards relating to payments and information connected with the operation of eligible superannuation entities.

34J Alternative constitutional basis

Without limiting its effect apart from this section, this Part also has the effect it would have if each reference to an employer were, by express provision, confined to an employer that is a corporation to which paragraph 51(xx) of the Constitution applies.

34K Superannuation data and payment regulations and standards

(1) The regulations may make provision for and in relation to superannuation data and payment matters, to be complied with by:
  (a) trustees of eligible superannuation entities; and
  (b) employers in their dealings with eligible superannuation entities.

(2) The regulations may prescribe different requirements for different classes of eligible superannuation entity or employer.

(3) The Commissioner of Taxation may, by legislative instrument, determine standards (***superannuation data and payment***

Authorised Version C2026C00335 registered 27/07/2026

standards) relating to superannuation data and payment matters, applicable to:

(a) trustees of eligible superannuation entities; and

(b) employers in their dealings with eligible superannuation entities.

Note: For variation and revocation, see subsection 33(3) of the *Acts Interpretation Act 1901*.

(4) The superannuation data and payment standards may specify different requirements for different classes of eligible superannuation entity or employer.

(5) A ***superannuation data and payment matter*** is a matter relating to the manner in which payments and information of a kind mentioned in subsection (6):

(a) relating to:

(i) a member of an eligible superannuation entity; or

(ii) an employee for whose benefit a contribution to an eligible superannuation entity is to be made by an employer; and

(b) connected with the operation of the eligible superannuation entity;

are dealt with.

(6) The kinds of payments and information are:

(a) transactions, including payments, contributions, roll-over superannuation benefits (within the meaning of the *Income Tax Assessment Act 1997*), allocations, transfers and refunds; and

(b) reports; and

(c) records, including registrations; and

(d) unique identifiers for use with such transactions, reports and records; and

(e) any other kind of payment or information that is prescribed by the regulations for the purposes of this paragraph; and

Authorised Version C2026C00335 registered 27/07/2026

(f) to avoid doubt, any payment or information of a kind mentioned in paragraphs (a) to (e) and made or provided by the Commissioner of Taxation.

Adoption of other instruments

(7) The regulations or standards may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in any other instrument or writing:
(a) as in force or existing at a particular time; or
(b) as in force or existing from time to time.

(8) Subsection (7) has effect despite anything in subsection 14(2) of the *Legislation Act 2003*.

Consultations in preparing superannuation data and payment standards

(9) The Commissioner of Taxation must consult with APRA in preparing the superannuation data and payment standards.

Note: For further consultation requirements, see section 17 of the *Legislation Act 2003*.

(10) A failure to comply with subsection (9) does not affect the validity or enforceability of the superannuation data and payment standards.

34L Relationship between standards and other law

(1) A superannuation data and payment standard may elaborate on or supplement any aspect of regulations made under this Part.

(2) However, a superannuation data and payment standard is of no effect to the extent that it conflicts with this Act or the regulations.

Authorised Version C2026C00335 registered 27/07/2026

Division 2—Compliance with superannuation data and payment regulations and standards

34M Compliance requirement—trustees of eligible superannuation entities

(1) Each trustee of an eligible superannuation entity must ensure that payments and information relating to a member of the eligible superannuation entity, or a person for whose benefit a contribution to the eligible superannuation entity is to be made, are dealt with in a manner that complies with any applicable:

(a) regulations made under this Part; and

(b) superannuation data and payment standards.

Note: Section 288-110 in Schedule 1 to the *Taxation Administration Act 1953* provides an administrative penalty for contravention of this subsection.

Strict liability offence

(2) A person commits an offence of strict liability if the person contravenes subsection (1).

Penalty: 20 penalty units.

Note: For offences of strict liability, see subsection 6.1(1) of the *Criminal Code*.

(3) A contravention of subsection (1) does not affect the validity of a transaction.

34N Compliance requirement—employers

(1) An employer must deal with payments and information relating to an employee, for whose benefit a contribution to an eligible superannuation entity is to be made, in a manner that complies with any applicable:

(a) regulations made under this Part; and

(b) superannuation data and payment standards.

Authorised Version C2026C00335 registered 27/07/2026

Note: Section 288-110 in Schedule 1 to the *Taxation Administration Act 1953* provides an administrative penalty for contravention of this subsection.

Strict liability offence

(2) A person commits an offence of strict liability if the person contravenes subsection (1).

Penalty: 20 penalty units.

Note: For offences of strict liability, see subsection 6.1(1) of the *Criminal Code*.

(3) A contravention of subsection (1) does not affect the validity of a transaction.

34P Regulator's power to give directions in certain circumstances—trustees of eligible superannuation entities

(1) The Regulator may give a trustee of an eligible superannuation entity a direction of a kind specified in subsection (4) if the Regulator reasonably believes that a trustee of the eligible superannuation entity has contravened, or is likely to contravene:

(a) a particular regulation made under this Part; or

(b) a particular superannuation data and payment standard.

(2) In deciding whether to give a direction, and deciding the content of the direction, the Regulator must take account of the following matters:

(a) the extent (if any) to which the eligible superannuation entity is operating in a way that is contrary to the object of this Part;

(b) any other matter that the Regulator considers relevant.

(3) The direction must be given by notice in writing to the trustee of the eligible superannuation entity.

(4) The kinds of direction that a trustee of an eligible superannuation entity may be given are directions to do any one or more of the following by a specified time:

Authorised Version C2026C00335 registered 27/07/2026

(a) do a specified act that the Regulator considers is necessary to address the contravention mentioned in subsection (1) (or prevent the likely contravention mentioned in that subsection);

(b) refrain from doing an act, if the Regulator considers the refraining is necessary to address the contravention mentioned in subsection (1) (or prevent the likely contravention mentioned in that subsection).

(5) The time specified in the direction must be 21 days or more after the day the direction is given.

(6) The trustee of the eligible superannuation entity must ensure the direction is complied with by the specified time.

Note: Section 288-110 in Schedule 1 to the *Taxation Administration Act 1953* provides an administrative penalty for contravention of this subsection.

Strict liability offence

(7) A person commits an offence of strict liability if the person contravenes subsection (6).

Penalty: 50 penalty units.

Note: For offences of strict liability, see subsection 6.1(1) of the *Criminal Code*.

(8) The Regulator may, by notice in writing to the trustee of the eligible superannuation entity, vary the direction or the time specified if, at the time of the variation, the Regulator considers that the variation is necessary and appropriate.

(9) The direction has effect until the Regulator revokes it by notice in writing to the trustee of the eligible superannuation entity. The Regulator may revoke the direction if, at the time of revocation, it considers that the direction is no longer necessary or appropriate.

Authorised Version C2026C00335 registered 27/07/2026

34Q Regulator's power to give directions in certain circumstances—employers

(1) The Regulator may give an employer a direction of a kind specified in subsection (4) if the Regulator reasonably believes that the employer has contravened, or is likely to contravene:
  (a) a particular regulation made under this Part; or
  (b) a particular superannuation data and payment standard.

(2) In deciding whether to give a direction, and deciding the content of the direction, the Regulator must take account of the following matters:
  (a) the extent (if any) to which the employer is operating in a way that is contrary to the object of this Part;
  (b) any other matter that the Regulator considers relevant.

(3) The direction must be given by notice in writing to the employer.

(4) The kinds of direction that the employer may be given are directions to do any one or more of the following by a specified time:
  (a) do a specified act that the Regulator considers is necessary to address the contravention mentioned in subsection (1) (or prevent the likely contravention mentioned in that subsection);
  (b) refrain from doing an act, if the Regulator considers the refraining is necessary to address the contravention mentioned in subsection (1) (or prevent the likely contravention mentioned in that subsection).

(5) The time specified in the direction must be 21 days or more after the day the direction is given.

(6) The employer must comply with the direction by the specified time.

Note: Section 288-110 in Schedule 1 to the *Taxation Administration Act 1953* provides an administrative penalty for contravention of this subsection.

Authorised Version C2026C00335 registered 27/07/2026

Strict liability offence

(7) A person commits an offence of strict liability if the person contravenes subsection (6).

Penalty: 50 penalty units.

Note: For offences of strict liability, see subsection 6.1(1) of the *Criminal Code*.

(8) The Regulator may, by notice in writing to the employer, vary the direction or the time specified if, at the time of the variation, it considers that the variation is necessary and appropriate.

(9) The direction has effect until the Regulator revokes it by notice in writing to the employer. The Regulator may revoke the direction if, at the time of revocation, it considers that the direction is no longer necessary or appropriate.

Authorised Version C2026C00335 registered 27/07/2026

Division 3—Infringement notices

34R When an infringement notice may be given

(1) If the Regulator has reasonable grounds to believe that a person has contravened an offence of strict liability in Division 2, the Regulator may give to the person an infringement notice for the alleged contravention.

(2) The infringement notice must be given within 12 months after the day on which the contravention is alleged to have taken place.

(3) A single infringement notice may be given to a person in respect of:
  (a) 2 or more alleged contraventions of an offence of strict liability in Division 2; and
  (b) alleged contraventions of 2 or more offences of strict liability in Division 2.

34S Matters to be included in notice

(1) An infringement notice must:
  (a) state the day on which it is given; and
  (b) state the name of the person to whom it is given; and
  (c) state the name of the person who gave the notice; and
  (d) give brief details of the alleged contravention, including:
    (i) the provision that was allegedly contravened; and
    (ii) the maximum penalty that a court could impose for the contravention; and
    (iii) the time (if known) and day of, and the place of, the alleged contravention; and
  (e) state the amount that is payable under the notice; and
  (f) give an explanation of how payment of the amount is to be made; and
  (g) state that, if the person to whom the notice is given pays the amount within 28 days after the day the notice is given, then

Authorised Version C2026C00335 registered 27/07/2026

(unless the notice is withdrawn) the person is not liable to be prosecuted in a court in relation to the alleged contravention; and

(h) state that payment of the amount is not an admission of guilt or liability; and

(i) state that the person may apply to the Regulator to have the period in which to pay the amount extended; and

(j) state that the person may choose not to pay the amount and, if the person does so, the person may be prosecuted in a court in relation to the alleged contravention; and

(k) set out how the notice can be withdrawn; and

(l) state that if the notice is withdrawn:

(i) any amount paid under the notice must be refunded; and

(ii) the person may be prosecuted in a court for the alleged contravention; and

(m) state that the person may make written representations to the Regulator seeking the withdrawal of the notice.

(2) For the purposes of paragraph (1)(e), the amount to be stated in the notice for the alleged contravention of the provision must be equal to one-fifth of the maximum penalty that a court could impose on the person for that contravention.

34T Extension of time to pay amount

(1) A person to whom an infringement notice has been given may apply to the Regulator for an extension of the period referred to in paragraph 34S(1)(g).

(2) If the application is made before the end of that period, the Regulator may, in writing, extend that period. The Regulator may do so before or after the end of that period.

(3) If the Regulator extends that period, a reference in this Division, or in a notice or other instrument under this Division, to the period referred to in paragraph 34S(1)(g) is taken to be a reference to that period as so extended.

Authorised Version C2026C00335 registered 27/07/2026

(4) If the Regulator does not extend that period, a reference in this Division, or in a notice or other instrument under this Division, to the period referred to in paragraph 34S(1)(g) is taken to be a reference to the period that ends on the later of the following days:
  (a) the day that is the last day of the period referred to in paragraph 34S(1)(g);
  (b) the day that is 7 days after the day the person was given notice of the Regulator's decision not to extend.

(5) The Regulator may extend the period more than once under subsection (2).

34U Withdrawal of an infringement notice

Representations seeking withdrawal of notice

(1) A person to whom an infringement notice has been given may, within 21 days after the day the notice is given, make written representations to the Regulator seeking the withdrawal of the notice.

Withdrawal of notice

(2) The Regulator may withdraw an infringement notice given to a person (whether or not the person has made written representations seeking the withdrawal).

(3) When deciding whether or not to withdraw an infringement notice (the ***relevant infringement notice***), the Regulator:
  (a) must take into account any written representations seeking the withdrawal that were given by the person to the Regulator; and
  (b) may take into account the following:
    (i) whether a court has previously imposed a penalty on the person for a contravention of an offence of strict liability in Division 2;
    (ii) the circumstances of the alleged contravention;

Authorised Version C2026C00335 registered 27/07/2026

(iii) whether the person has paid an amount, stated in an earlier infringement notice, for a contravention of an offence of strict liability in Division 2 if the contravention is constituted by conduct that is the same, or substantially the same, as the conduct alleged to constitute the contravention in the relevant infringement notice;

(iv) any other matter the Regulator considers relevant.

Notice of withdrawal

(4) Notice of the withdrawal of the infringement notice must be given to the person. The withdrawal notice must state:

(a) the person's name and address; and

(b) the day the infringement notice was given; and

(c) that the infringement notice is withdrawn; and

(d) that the person may be prosecuted in a court in relation to the alleged contravention.

Refund of amount if infringement notice withdrawn

(5) If:

(a) the Regulator withdraws the infringement notice; and

(b) the person has already paid the amount stated in the notice;

the Commonwealth must refund to the person an amount equal to the amount paid.

34V Effect of payment of amount

(1) If the person to whom an infringement notice for an alleged contravention of a provision is given pays the amount stated in the notice before the end of the period referred to in paragraph 34S(1)(g):

(a) any liability of the person for the alleged contravention is discharged; and

(b) the person may not be prosecuted in a court for the alleged contravention; and

Authorised Version C2026C00335 registered 27/07/2026

(c) the person is not regarded as having been convicted of the alleged offence; and

(d) the person is not regarded as having admitted guilt or liability for the alleged contravention.

(2) Subsection (1) does not apply if the notice has been withdrawn.

34W Effect of this Division

This Division does not:

(a) require an infringement notice to be given to a person for an alleged contravention of an offence of strict liability in Division 2; or

(b) affect the liability of a person for an alleged contravention of an offence of strict liability in Division 2 if:

(i) the person does not comply with an infringement notice given to the person for the contravention; or

(ii) an infringement notice is not given to the person for the contravention; or

(iii) an infringement notice is given to the person for the contravention and is subsequently withdrawn; or

(c) prevent the giving of 2 or more infringement notices to a person for an alleged contravention of an offence of strict liability in Division 2; or

(d) limit a court's discretion to determine the amount of a penalty to be imposed on a person who is found to have contravened an offence of strict liability in Division 2.

Authorised Version C2026C00335 registered 27/07/2026

Division 4—Information

Subdivision A—Correction and rectification of information

34X Correction and rectification of information

(1) The Commissioner of Taxation may alter information in his or her possession for the purposes of ensuring the information complies with:

(a) any applicable regulations made under this Part; and

(b) any applicable superannuation data and payment standards.

(2) An alteration made by the Commissioner of Taxation under subsection (1) does not have the effect of discharging any liability of a person for a contravention of a provision of this Part relating to the information.

Subdivision B—Register of information about certain funds and schemes

34Y Register of information about certain funds and schemes

(1) The Commissioner of Taxation must keep a register of information for the purposes of this Part.

(2) The Commissioner of Taxation is to keep the register by electronic means.

(3) The register is not a legislative instrument.

(4) The Commissioner of Taxation may cause the contents of all or part of the register to be made available to:

(a) entities that must comply with the superannuation data and payment regulations and standards; and

(b) entities that must comply with the data and payment regulations and standards relating to RSAs; and

(c) exempt public sector superannuation schemes.

Authorised Version C2026C00335 registered 27/07/2026

Contents of the register

(5) The register must contain the information given to the Commissioner of Taxation in accordance with section 34Z.

(6) The trustee of an exempt public sector superannuation scheme may give the Commissioner of Taxation information that both:
   (a) relates to the scheme; and
   (b) is of the kind given to the Commissioner of Taxation in accordance with section 34Z.

   The Commissioner of Taxation may include that information on the register.

34Z Trustees to provide information for inclusion in register

(1) The following matters may be prescribed by regulation:
   (a) information that is required to be given to the Commissioner of Taxation in accordance with this section in relation to prescribed eligible superannuation entities;
   (b) the manner and form (including electronic form) in which the prescribed information is to be provided;
   (c) the time at which, or period within which, the prescribed information is to be provided.

(2) Each trustee of a prescribed eligible superannuation entity must ensure that the prescribed information in relation to the entity is given to the Commissioner of Taxation in accordance with the regulation.

Contravening requirement to give information

(3) A person commits an offence of strict liability if the person contravenes subsection (2).

Penalty: 25 penalty units.

Note: For offences of strict liability, see subsection 6.1(1) of the *Criminal Code*.

Authorised Version C2026C00335 registered 27/07/2026

Part 4—Accounts, audit and reporting obligations for superannuation entities

Division 1—Objects

35 Objects of Part

The objects of this Part are:

(a) to set out rules about the accounts, statements and audits of superannuation entities; and

(b) to require certain reports and returns relating to superannuation entities to be given to the Regulator.

Authorised Version C2026C00335 registered 27/07/2026

Division 2—Obligations for registrable superannuation entities

35A Accounting records

Accounting records must be kept etc.

(1) Each trustee of a registrable superannuation entity must ensure that:

(a) accounting records that correctly record and explain the transactions and financial position of the RSE licensee for the entity and the entity are kept; and

(b) the accounting records of the RSE licensee and the entity are kept in a way that enables:

(i) the preparation of reporting documents referred to in section 13 of the *Financial Sector (Collection of Data) Act 2001*; and

(ii) the preparation of any other documents required to be audited under the RSE licensee law or Chapter 2M of the *Corporations Act 2001*; and

(c) the accounting records of the RSE licensee and the entity are kept in a way that enables those reporting documents and other documents to be conveniently and properly audited in accordance with the RSE licensee law and Chapter 2M of the *Corporations Act 2001* (if applicable).

(1A) If accounting records of an RSE licensee or a registrable superannuation entity are kept in accordance with subsection (1), each trustee of the entity must ensure that the records are retained for at least 7 years after the end of the year of income to which the transactions relate.

(2) If accounting records of an RSE licensee or a registrable superannuation entity are kept in accordance with subsection (1), each trustee of the entity must ensure that:

(b) the records are kept either:

Authorised Version C2026C00335 registered 27/07/2026

(i) in Australia; or

(ii) in another country if the Regulator gives written approval for the records to be kept in that country, and the conditions (if any) specified in the approval are met; and

(c) the records are kept:

(i) in writing in the English language; or

(ii) in a form in which they are readily accessible and readily convertible into writing in the English language.

(3) An approval given under subparagraph (2)(b)(ii) may be given subject to specified conditions.

Notification of address where accounting records are kept

(4) A trustee of a registrable superannuation entity must notify APRA, in the approved form, of the address where the accounting records of the RSE licensee and the entity are kept:

(a) if, immediately before the commencement of this subsection, APRA has not already been notified of the current address where the accounting records of the RSE licensee or the entity are kept—within 28 days after that commencement; or

(b) otherwise—within 28 days after the entity is registered under section 29M.

(5) If:

(a) a trustee of a registrable superannuation entity has notified APRA of the address where the accounting records of the RSE licensee and the entity are kept; and

(b) the entity moves the accounting records to a new address;

a trustee of the entity must notify APRA, in the approved form and within 28 days after the day on which the accounting records are moved to the new address, of the new address where the accounting records are kept.

Authorised Version C2026C00335 registered 27/07/2026

Offences

(6) A trustee commits an offence if the trustee contravenes subsection (1) or (1A).

Penalty: Imprisonment for 2 years.

(7) A trustee commits an offence of strict liability if the trustee contravenes subsection (1), (1A), (2), (4) or (5).

Penalty: 60 penalty units.

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

35AB Auditor requests for documents

(1) If the auditor of a registrable superannuation entity requests, in writing, a trustee of the entity to give the auditor a document, each trustee of the entity must ensure that the document is given to the auditor within 14 days of the request being made. An auditor may only request documents that are relevant to the preparation of a report about the operations of the entity or the RSE licensee of the entity.

(2) A trustee commits an offence if the trustee contravenes subsection (1).

Penalty: Imprisonment for 2 years.

(3) A trustee commits an offence of strict liability if the trustee contravenes subsection (1).

Penalty: 60 penalty units.

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

35AC Appointed auditor's functions and duties

(1) This section applies if the RSE licensee law:

(a) requires an auditor of a registrable superannuation entity to be appointed; or

Authorised Version C2026C00335 registered 27/07/2026

(b) requires or permits a function or duty to be performed, or a power to be exercised, by an auditor.

(1A) Subject to this Part, the following may be appointed as an auditor of the registrable superannuation entity:

(a) an individual;

(b) a firm;

(c) a company.

The entity may only have one auditor.

Note: In addition to audit requirements under the RSE licensee law, a registrable superannuation entity may have audit requirements under Chapter 2M of the *Corporations Act 2001*. Subsection (8) sets out a rule that is applicable in such a case.

(2) The RSE licensee of the registrable superannuation entity must not appoint an individual as an auditor of the entity unless the RSE licensee is reasonably satisfied that the individual:

(a) meets the eligibility criteria for auditors of registrable superannuation entities set out in the prudential standards; and

(b) has not been disqualified from being or acting as an auditor of a registrable superannuation entity under section 130D; and

(c) is not a member or employee of a firm that is disqualified under section 130EA; and

(d) is not a director or employee of a company that is disqualified under section 130EA.

(2A) The RSE licensee of the registrable superannuation entity must not appoint a firm or company as an auditor of the entity unless the RSE licensee is reasonably satisfied that:

(a) the lead auditor for an audit of the entity that is conducted, or to be conducted, by the firm or company:

(i) meets the eligibility criteria for auditors of registrable superannuation entities set out in the prudential standards; and

Authorised Version C2026C00335 registered 27/07/2026

(ii) has not been disqualified from being or acting as an auditor of a registrable superannuation entity under section 130D; and

(b) the firm or company has not been disqualified from being or acting as an auditor of a registrable superannuation entity under section 130EA.

(3) An individual, company or firm that is appointed as an auditor must perform the functions and duties set out in the RSE licensee law that are relevant to the appointment of the individual, company or firm.

(4) The appointed auditor must comply with the RSE licensee law in performing the functions and duties.

(5) The trustee of the registrable superannuation entity to whom the RSE licensee law applies must make any arrangements that are necessary to enable the appointed auditor to perform the functions and duties.

(6) The RSE licensee of the registrable superannuation entity must end the appointment of an individual as an auditor of the entity if the RSE licensee becomes aware that the individual:

(a) no longer meets the eligibility criteria for auditors of registrable superannuation entities set out in the prudential standards; or

(b) has been disqualified from being or acting as an auditor of a registrable superannuation entity under section 130D; or

(c) is a member or employee of a firm that is disqualified under section 130EA; or

(d) is a director or employee of a company that is disqualified under section 130EA.

(7) The RSE licensee of the registrable superannuation entity must end the appointment of a firm or company as an auditor of the entity if the RSE licensee becomes aware that:

(a) the lead auditor for an audit of the entity that is conducted, or to be conducted, by the firm or company:

Authorised Version C2026C00335 registered 27/07/2026

(i) no longer meets the eligibility criteria for auditors of registrable superannuation entities set out in the prudential standards; or

(ii) has been disqualified from being or acting as an auditor of a registrable superannuation entity under section 130D; or

(b) the firm or company has been disqualified from being or acting as an auditor of a registrable superannuation entity under section 130EA.

(8) If the registrable superannuation entity is a registrable superannuation entity within the meaning of Chapter 2M of the *Corporations Act 2001*, the RSE licensee for the entity must ensure that the appointed auditor of the entity is the individual, firm or company that is the auditor of the entity for the purposes of that Chapter.

(9) If:

(a) the registrable superannuation entity is a registrable superannuation entity within the meaning of Chapter 2M of the *Corporations Act 2001*; and

(b) an individual, firm or company ceases to be the auditor of the entity for the purposes of that Chapter;

then, for the purposes of the RSE licensee law, the appointment of the individual, firm or company as the auditor of the entity ends at the time of the cessation.

35AD Appointed actuary's functions and duties

(1) This section applies if the RSE licensee law:

(a) requires an actuary of a registrable superannuation entity to be appointed; or

(b) requires or permits a function or duty to be performed, or a power to be exercised, by an actuary.

(2) The RSE licensee of a registrable superannuation entity must not appoint a person as an actuary of the entity unless the RSE licensee is reasonably satisfied that the person:

Authorised Version C2026C00335 registered 27/07/2026

(a) meets the eligibility criteria for actuaries of registrable superannuation entities set out in the prudential standards; and

(b) has not been disqualified from being or acting as an actuary of a registrable superannuation entity under section 130D.

(3) A person who is appointed as an actuary must perform the functions and duties set out in the RSE licensee law that are relevant to the person's appointment.

(4) The appointed actuary must comply with the RSE licensee law in performing the functions and duties.

(5) The trustee of the registrable superannuation entity to whom the RSE licensee law applies must make any arrangements that are necessary to enable the appointed actuary to perform the functions and duties.

(6) The RSE licensee of a registrable superannuation entity must end the appointment of a person as an actuary of the entity if the RSE licensee becomes aware that the person:

(a) no longer meets the eligibility criteria for actuaries of registrable superannuation entities set out in the prudential standards; or

(b) has been disqualified from being or acting as an actuary of a registrable superannuation entity under section 130D.

Authorised Version C2026C00335 registered 27/07/2026

Division 3—Obligations for self managed superannuation funds

35AE Accounting records

Accounting records must be kept etc.

(1) Each trustee of a superannuation entity that is a self managed superannuation fund must ensure that:

(a) accounting records that correctly record and explain the transactions and financial position of the entity are kept; and

(b) the accounting records of the entity are kept in a way that enables the following to be prepared:

(i) the accounts and statements of the entity referred to in section 35B;

(ii) the returns of the entity referred to in section 35D; and

(c) the accounting records of the entity are kept in a way that enables those accounts, statements and returns to be conveniently and properly audited in accordance with this Act.

(2) If accounting records of a superannuation entity that is a self managed superannuation fund are kept in accordance with subsection (1), each trustee of the superannuation entity must ensure that:

(a) the records are retained for at least 5 years after the end of the year of income to which the transactions relate; and

(b) the records are kept in Australia; and

(c) the records are kept:

(i) in writing in the English language; or

(ii) in a form in which they are readily accessible and readily convertible into writing in the English language.

Authorised Version C2026C00335 registered 27/07/2026

Offences

(3) A trustee commits an offence if the trustee contravenes subsection (1) or (2).

Penalty: 100 penalty units.

(4) A trustee commits an offence of strict liability if the trustee contravenes subsection (1) or (2).

Penalty: 50 penalty units.

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

35B Accounts and statements

(1) Each trustee of a superannuation entity that is a self managed superannuation fund must, in respect of each year of income of the fund, ensure that the following accounts and statements are prepared in respect of the entity:

(a) except where the regulations provide that this paragraph does not apply—a statement of financial position;

(b) except where the regulations provide that this paragraph does not apply—an operating statement;

(c) the accounts and statements specified in the regulations.

(2) The regulations may provide for or in relation to the preparation of accounts and statements covered by subsection (1). If the regulations do so, the accounts and statements covered by subsection (1) must be prepared in accordance with the regulations.

(3) The accounts and statements prepared in accordance with subsection (1) must be signed as follows:

(a) if there is a single corporate trustee—by:

(i) if the corporate trustee has one or 2 directors—each director; or

(ii) otherwise—at least half of the directors; or

(b) if there is a group of individual trustees—by:

(i) if there are only 2 trustees—both trustees; or

Authorised Version C2026C00335 registered 27/07/2026

(ii) otherwise—at least half of the trustees.

(4) Each trustee must ensure that the accounts and statements prepared in accordance with subsection (1) are retained for a period of 5 years after the end of the year of income to which they relate.

(5) A person commits an offence if the person contravenes this section.

Penalty: 100 penalty units.

(6) A person commits an offence if the person contravenes this section. This is an offence of strict liability.

Penalty: 50 penalty units.

Note 1: For ***strict liability***, see section 6.1 of the *Criminal Code*.

Note 2: Section 166 imposes an administrative penalty for a contravention of this section.

35C Audit of accounts and statements

(1) For each year of income, each trustee of a superannuation entity that is a self managed superannuation fund must ensure that an approved SMSF auditor is appointed to give the trustee or trustees a report, in the approved form, of the operations of the entity for that year. The appointment must be made within whichever of the periods set out in the regulations applies to the entity.

(2) If an auditor requests, in writing, a trustee of a superannuation entity that is a self managed superannuation fund to give the auditor a document, each trustee of the entity must ensure that the document is given to the auditor within 14 days of the request being made. Only documents that are relevant to the preparation of the report may be requested.

(3) A trustee commits an offence if the trustee contravenes subsection (1) or (2).

Penalty: Imprisonment for 2 years.

Authorised Version C2026C00335 registered 27/07/2026

(4) A trustee commits an offence if the trustee contravenes subsection (1) or (2). This is an offence of strict liability.

Penalty: 50 penalty units.

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

(5) Without limiting subsection (1), an approved form:

(a) must either:

(i) relate solely to the audit of the accounts and statements referred to in subsection 35B(1) and prepared in respect of a year of income; or

(ii) relate only to the audit of those accounts and statements and of any other accounts and statements, prepared in respect of a year of income, that are identified in the form; and

(b) must include a statement by the auditor as to the extent of the auditor's compliance with the auditor independence requirements referred to in paragraph 128F(d); and

(c) must include a statement by the auditor as to whether, in the auditor's opinion, each trustee of the entity has, during the year of income, complied with the provisions of this Act and the regulations that are identified in the form.

(6) The auditor must give the report to each trustee of the entity within the prescribed period after the end of the year of income.

(8) The auditor commits an offence if the auditor contravenes subsection (6). This is an offence of strict liability.

Penalty: 50 penalty units.

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

35D Trustee to lodge annual returns

Lodgment

(1) Each trustee of a superannuation entity that was a self managed superannuation fund at any time during a year of income must,

Authorised Version C2026C00335 registered 27/07/2026

within the reporting period, or within such longer period as the Commissioner of Taxation allows, ensure that the Commissioner of Taxation is given a return under this section.

Period for lodgment

(2) The ***reporting period*** is the period that begins at the end of the year of income and whose length is:
  (a) prescribed by the regulations for the purposes of this paragraph; or
  (b) if the length of the period is not prescribed—specified, by legislative instrument, by the Commissioner of Taxation.

Form of return

(3) The return must:
  (a) be in the approved form; and
  (b) contain the information required by the form in relation to the fund in respect of that year of income or in relation to another year of income, or both.

Note: The approved form of return may require a trustee to set out the tax file number of the entity. See subsection 299U(2).

(4) A person commits an offence if the person contravenes this section.

Penalty: 50 penalty units.

(5) A person commits an offence if the person contravenes this section. This is an offence of strict liability.

Penalty: 25 penalty units.

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

Authorised Version C2026C00335 registered 27/07/2026

Part 5—Notices about complying fund status

Division 1—Objects and interpretation

37 Objects of Part

The objects of this Part are:

(a) to provide for a system of notices about complying fund status in relation to a year of income (see Division 2); and

(b) to provide for those notices to be used to determine complying fund status for tax purposes (see Division 3).

38 Meaning of *entity*

In this Part:

entity means a fund, scheme or trust.

Authorised Version C2026C00335 registered 27/07/2026

Division 2—The Regulator may give notices about complying fund status

38A Meaning of *regulatory provision*

In this Division:

regulatory provision, in relation to a superannuation entity, means:

(a) a provision of this Act or the regulations; or

(aa) a provision of the *Financial Sector (Collection of Data) Act 2001*; or

(aba) a provision of the *Financial Accountability Regime Act 2023*; or

(ab) for a superannuation entity that is a self managed superannuation fund—any of the following provisions in Schedule 1 to the *Taxation Administration Act 1953*:

(i) subsections 284-75(1) and (4) and section 284-95;

(ii) Division 390;

(iii) subsection 136-80(1); or

(b) any of the following provisions of the *Corporations Act 2001* as applying in relation to financial products (within the meaning of Division 3 of Part 7.1 of that Act) that are interests in the superannuation entity:

(i) subsection 1013K(1) or (2);

(ii) subsection 1016A(2) or (3);

(iii) subsection 1017B(1);

(iv) subsection 1017C(2), (3) or (5);

(v) subsection 1017D(1);

(vi) subsection 1017DA(3);

(vii) subsection 1017E(3) or (4);

(viii) subsection 1020E(8) or (9);

(ix) subsection 1021C(1) or (3);

(x) subsection 1021D(1);

(xi) subsection 1021E(1);

Authorised Version C2026C00335 registered 27/07/2026

(xii) subsection 1021O(1) or (3);
(xiii) section 1041E;
(xiv) subsection 1041F(1);
(xv) subsection 1043A(1) or (2);
(xvi) any other provisions that are specified in regulations made for the purposes of this subparagraph; or

(c) any of the following provisions of the *Corporations Act 2001*:
(i) subsection 1021NA(1), (2) or (3);
(ii) subsection 1021NB(1), (2) or (3).

39 Meaning of *contravention*

(1) For the purposes of this Division, a contravention of a regulatory provision is to be ignored unless the contravention is:
(a) an offence; or
(b) a contravention of a civil penalty provision; or
(c) a contravention of a provision mentioned in paragraph 38A(ab).

(1A) In relation to a regulatory provision that states that a person commits an offence if they engage, or fail to engage, in specified conduct, a person is, for the purposes of this Division, taken to contravene the provision if the person engages, or fails to engage, in that conduct.

(1B) To avoid doubt, for the purposes of this Division, treat conduct giving rise to an administrative penalty under subsection 284-75(1) or (4) in Schedule 1 to the *Taxation Administration Act 1953* as a contravention of that subsection.

(2) For the purposes of this Division, it is sufficient if a contravention is established on the balance of probabilities.

Authorised Version C2026C00335 registered 27/07/2026

40 Notices by the Regulator to trustee

Notice about complying fund status

(1) The Regulator may give a written notice to a trustee of an entity stating:

(a) whether the entity is or is not a complying superannuation fund; or

(b) whether the entity is or is not a complying approved deposit fund; or

(c) whether the entity is or is not a pooled superannuation trust;

as the case may be, in relation to a year of income specified in the notice.

Reasons

(2) If the Regulator gives a notice to a trustee of an entity stating that:

(a) the entity is not a complying superannuation fund; or

(b) the entity is not a complying approved deposit fund; or

(c) the entity is not a pooled superannuation trust;

as the case may be, in relation to a year of income, the notice must set out the reasons why the Regulator so stated.

Commissioner of Taxation to be told about notice

(3) When APRA gives a notice under this section, APRA must give particulars of the notice to the Commissioner of Taxation.

Note: A statement of the tax file number of the entity may accompany the particulars of the notice. See subsection 299U(3).

Revocation

(4) If:

(a) the Regulator gives a notice under this section (the ***original notice***) to a trustee of an entity stating that:

(i) the entity is a complying superannuation fund; or

(ii) the entity is a complying approved deposit fund; or

Authorised Version C2026C00335 registered 27/07/2026

(iii) the entity is a pooled superannuation trust;

as the case may be, in relation to a year of income; and

(b) the Regulator subsequently gives a notice under this section (the ***second notice***) to a trustee of the entity stating that:

(i) the entity is not a complying superannuation fund; or

(ii) the entity is not a complying approved deposit fund; or

(iii) the entity is not a pooled superannuation trust;

as the case may be, in relation to the year of income;

the second notice is taken to revoke the original notice.

Note: Because "the Regulator" is whichever of APRA or the Commissioner of Taxation is administering this provision in respect of a fund, a notice given by one of those Regulators could revoke a notice given by the other Regulator. This might happen if a fund became, or stopped being, a self managed superannuation fund after the first notice was given.

41 When the Regulator obliged to give notice of compliance

(1) Except as provided by subsection (2), the Regulator is not obliged to give a notice under section 40.

(2) The Regulator must give a notice under section 40 to a trustee of an entity stating that the entity is a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust, as the case may be, in relation to a year of income (the ***current year of income***) if:

(a) the entity is a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust, as the case requires, in relation to the current year of income; and

(b) either:

(i) the Regulator has not given a notice to a trustee of the entity under section 40 stating that the entity is a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust, as the case requires, in relation to a previous year of income; or

Authorised Version C2026C00335 registered 27/07/2026

(ii) both:

(A) the Regulator has given a notice to a trustee of the entity under section 40 stating that the entity is not a complying superannuation fund, is not a complying approved deposit fund or is not a pooled superannuation trust, as the case requires, in relation to a previous year of income; and

(B) the Regulator has not given a notice to a trustee of the entity under section 40 stating that the fund is a complying superannuation fund, a complying approved deposit fund or a pooled superannuation trust, as the case requires, in relation to a year of income that is later than that previous year of income and earlier than the current year of income.

(3) Despite section 2, a previous year mentioned in subsection (2) may be a year of income earlier than the 1994-95 year of income (see section 49). However, despite section 49, for the purposes of the application of subsection (2) to a complying superannuation fund, if the fund was not a regulated superannuation fund at all times during the current year of income when the fund was in existence, paragraph (2)(b) does not apply unless the previous year of income is the 1994-95 year of income or a later year of income.

(4) For the purposes of this section, if a notice under section 40 is revoked, or the decision to give the notice is set aside, the notice is taken never to have been given.

42 Complying superannuation fund

(1) An entity is a complying superannuation fund in relation to a year of income for the purposes of this Division if:

(a) either:

(i) the entity was a resident regulated superannuation fund at all times during the year of income when the entity was in existence; or

Authorised Version C2026C00335 registered 27/07/2026

(ii) the entity was a resident regulated superannuation fund at all times during the year of income when the entity was in existence other than a time, before it became a resident regulated superannuation fund, when the entity was a resident approved deposit fund; and

(b) either of the following conditions is satisfied:

(i) no trustee of the entity contravened any of the regulatory provisions in relation to the entity in respect of the year of income;

(ii) both:

(A) a trustee of the entity contravened one or more of the regulatory provisions in relation to the entity in respect of the year of income on one or more occasions; and

(B) the entity did not fail the culpability test set out in subsection (1A) in relation to any of those contraventions; and

(c) the entity was not a self managed superannuation fund at any time during the year of income.

(1AA) An entity is also a complying superannuation fund in relation to the 1994-95 year of income or a later year of income if:

(a) the entity:

(i) is a superannuation fund that came into existence during the year of income; or

(ii) was a resident approved deposit fund that became a superannuation fund during the year of income; and

(b) the entity complied with subsections 19(2) to (4):

(i) within 60 days after the day on which it came into existence or became a superannuation fund, as the case may be; or

(ii) within such further period, if any, as the Commissioner of Taxation (whether before or after the end of the period of 60 days) allows; and

(c) either of the following conditions is satisfied:

Authorised Version C2026C00335 registered 27/07/2026

(i) no trustee of the entity contravened any of the regulatory provisions in relation to the entity in respect of the whole of the period (the ***pre-lodgment period***) that began when the entity came into existence or became a superannuation fund, as the case may be, and ended when the entity complied with subsections 19(2) to (4);

(ii) a trustee of the entity contravened one or more of the regulatory provisions in relation to the entity in respect of the pre-lodgment period on one or more occasions but the Commissioner of Taxation is satisfied that, because of special circumstances that existed in relation to the fund during the pre-lodgment period, it would be reasonable for the fund to be treated as if it had satisfied the regulatory provisions; and

(d) the entity was a resident regulated superannuation fund at all times during the part of the year of income occurring after the end of the pre-lodgment period; and

(da) the entity was not a self managed superannuation fund at any time during the year of income; and

(e) either of the conditions stated in paragraph (1)(b) is satisfied in relation to the entity in respect of the part of the year of income occurring after the end of the pre-lodgment period.

(1AB) In determining for the purpose of paragraph (1AA)(c) whether any of the regulatory provisions were contravened in respect of the entity in respect of the pre-lodgment period, the regulatory provisions are taken to have applied in relation to the entity in respect of that period as if the entity were a resident regulated superannuation fund during that period.

(1AC) An entity is also a complying superannuation fund in relation to the 1994-95 year of income or a later year of income if:

(a) the trustee, or the trustees, of the entity have purported to make an election under subsection 19(4); and

(b) the requirements of subsections 19(2) to (4) (to the extent that they have not already been complied with) are complied with within 28 days after a trustee of the entity finds out

Authorised Version C2026C00335 registered 27/07/2026

(whether by written notice from the Commissioner of Taxation or otherwise) that they were not complied with, or within such further period, if any, as the Commissioner of Taxation (whether before or after the end of the period of 28 days) allows; and

(c) except where a trustee of the entity received written notice from the Commissioner of Taxation about the non-compliance—a trustee of the entity tells the Commissioner of Taxation in writing of the compliance within 7 days after the requirements are complied with or within such further period, if any, as the Commissioner of Taxation (whether before or after the end of the period of 7 days) allows; and

(d) either of the following conditions is satisfied:

(i) no trustee of the entity contravened any of the regulatory provisions in relation to the entity in respect of the whole of the period (the ***rectification period***) that began when the trustee, or the trustees, of the entity lodged the purported election under subsection 19(4) and ended when the entity complied with subsections 19(2) to (4);

(ii) a trustee of the entity contravened one or more of the regulatory provisions in relation to the entity in respect of the rectification period on one or more occasions but the Commissioner of Taxation is satisfied that, because of special circumstances that existed in relation to the fund during the rectification period, it would be reasonable for the fund to be treated as if it had satisfied the regulatory provisions; and

(e) if the fund was in existence before the beginning of its 1994-95 year of income—under regulations made for the purposes of former section 50 (as those regulations were in force as at the beginning of that year of income), the fund is treated as if it had satisfied the transitional superannuation fund conditions at all times during the period that began at the beginning of the fund's 1994-95 year of income and

Authorised Version C2026C00335 registered 27/07/2026

ended when the trustee, or the trustees, of the entity lodged the purported election under subsection 19(4); and

(f) the entity was a resident regulated superannuation fund at all times during the part of the year of income occurring after the end of the rectification period; and

(fa) the entity was not a self managed superannuation fund at any time during the year of income; and

(g) either of the conditions stated in paragraph (1)(b) is satisfied in relation to the entity in respect of the part of the year of income occurring after the end of the rectification period.

(1AD) In determining for the purpose of paragraph (1AC)(d) whether any of the regulatory provisions were contravened in respect of the entity in respect of the rectification period, the regulatory provisions are taken to have applied in relation to the entity in respect of that period as if the entity were a resident regulated superannuation fund during that period.

(1A) For the purposes of subparagraph (1)(b)(ii), an entity fails the culpability test in relation to a particular contravention of a regulatory provision if:

(a) both:

(i) all of the members of the entity were in any way directly or indirectly knowingly concerned in, or party to, the contravention; and

(ii) the Regulator, after considering:

(A) the taxation consequences that would arise if the entity were to be treated as a non-complying superannuation fund for the purposes of the *Income Tax Assessment Act 1997* in relation to the year of income concerned; and

(B) the seriousness of the contravention; and

(C) all other relevant circumstances;

thinks that a notice should be given stating that the entity is not a complying superannuation fund in relation to the year of income concerned; or

(b) all of the following conditions are satisfied:

Authorised Version C2026C00335 registered 27/07/2026

(i) one or more members of the entity were in any way directly or indirectly knowingly concerned in, or party to, the contravention;

(ii) one or more members of the entity (the ***innocent members***) were not in any way directly or indirectly knowingly concerned in, or party to, the contravention;

(iii) none of the innocent members would suffer any substantial financial detriment if the entity were to be treated as a non-complying superannuation fund for the purposes of the *Income Tax Assessment Act 1997* in relation to the year of income concerned;

(iv) the Regulator, after considering:

(A) the taxation consequences that would arise if the entity were to be treated as a non-complying superannuation fund for the purposes of the *Income Tax Assessment Act 1997* in relation to the year of income concerned; and

(B) the seriousness of the contravention; and

(C) all other relevant circumstances;

thinks that a notice should be given stating that the entity is not a complying superannuation fund in relation to the year of income concerned.

Note: The culpability test is still relevant to a fund that has been a self managed fund during only part of a year of income—see subparagraph 42A(2)(b)(ii), paragraph 42A(3)(g) and subparagraph 42A(4)(f)(ii).

(1B) For the purposes of subsection (1A), if there is a question whether a person was in any way directly or indirectly knowingly concerned in, or party to, a particular contravention, that question may be decided on the balance of probabilities.

(2) In this section, a reference to a member of an entity means, if the entity is an approved deposit fund, a beneficiary of the fund.

Authorised Version C2026C00335 registered 27/07/2026

42A Complying superannuation fund—fund that has been a self managed superannuation fund at any time during a year

Entity that was a self managed superannuation fund throughout a year of income

(1) An entity that was a self managed superannuation fund at all times during a year of income is a complying superannuation fund in relation to that year of income for the purposes of this Division if:

(a) either:

(i) the entity was a resident regulated superannuation fund at all times during the year of income when the entity was in existence; or

(ii) the entity was a resident regulated superannuation fund at all times during the year of income when the entity was in existence other than a time, before it became a resident regulated superannuation fund, when the entity was a resident approved deposit fund; and

(b) the entity passes the test in subsection (5) in relation to the year of income.

Entity that was a self managed superannuation fund during only part of a year of income

(2) An entity that was a self managed superannuation fund during a part or parts of a year of income is a complying superannuation fund in relation to that year of income for the purposes of this Division if:

(a) either:

(i) the entity was a resident regulated superannuation fund at all times during the year of income when the entity was in existence; or

(ii) the entity was a resident regulated superannuation fund at all times during the year of income when the entity was in existence other than a time, before it became a resident regulated superannuation fund, when the entity was a resident approved deposit fund; and

Authorised Version C2026C00335 registered 27/07/2026

(b) both:

(i) the entity passes the test in subsection (5) in respect of the part or parts of the year of income during which the entity was a self managed superannuation fund; and

(ii) if a trustee of the entity contravened one or more of the regulatory provisions in relation to the entity in respect of any other part or parts of the year of income—the entity did not fail the culpability test set out in subsection 42(1A) in relation to any of those contraventions.

Funds coming into existence during year of income etc.

(3) An entity that:

(a) is a superannuation fund that came into existence during the year of income and at that time or later in the year of income became a self managed superannuation fund; or

(b) was a resident approved deposit fund that became a superannuation fund during the year of income;

is also a complying superannuation fund in relation to the year of income if:

(c) the entity complied with subsections 19(2) to (4):

(i) within 60 days after the day on which it came into existence or became a superannuation fund, as the case may be; or

(ii) within such further period, if any, as the Commissioner of Taxation (whether before or after the end of the period of 60 days) allows; and

(d) either of the following conditions is satisfied:

(i) no trustee of the entity contravened any of the regulatory provisions in relation to the entity during the whole of the period (the ***pre-lodgment period***) that began when the entity came into existence or became a superannuation fund, as the case may be, and ended when the entity complied with subsections 19(2) to (4);

(ii) a trustee of the entity contravened one or more of the regulatory provisions in relation to the entity during the

Authorised Version C2026C00335 registered 27/07/2026

pre-lodgment period on one or more occasions but the Commissioner of Taxation is satisfied that, because of special circumstances that existed in relation to the fund during the pre-lodgment period, it would be reasonable for the fund to be treated as if it had satisfied the regulatory provisions; and

(e) the entity was a resident regulated superannuation fund at all times during the part of the year of income occurring after the pre-lodgment period; and

after the pre-lodgment period:

(f) the entity passed the test in subsection (5) in respect of the part or parts of the year of income, occurring after the pre-lodgment period, during which the entity was a self managed superannuation fund; and

(g) if a trustee of the entity contravened one or more of the regulatory provisions in relation to the entity in respect of any part or parts of the year of income, occurring after the pre-lodgment period, during which the entity was not a self managed superannuation fund—the entity did not fail the culpability test set out in subsection 42(1A) in relation to any of those contraventions.

Trustee makes an election

(4) An entity that was a self managed superannuation fund at some time, or at all times, during a year of income is also a complying superannuation fund in relation to the year of income if:

(a) the trustee, or the trustees, of the entity have purported to make an election under subsection 19(4); and

(b) if, when the election was made, the requirements of subsections 19(2) to (4) are not complied with:

(i) the requirements of subsections 19(2) to (4) (to the extent that they have not already been complied with) are complied with within 28 days after a trustee of the entity finds out (whether by written notice from the Commissioner of Taxation or otherwise) that they were not complied with, or within such further period, if any,

Authorised Version C2026C00335 registered 27/07/2026

as the Commissioner of Taxation (whether before or after the end of the period of 28 days) allows; and

(ii) except where a trustee of the entity received written notice from the Commissioner of Taxation about the non-compliance—a trustee of the entity tells the Commissioner of Taxation in writing of the compliance within 7 days after the requirements are complied with or within such further period, if any, as the Commissioner of Taxation (whether before or after the end of the period of 7 days) allows; and

(c) either of the following conditions is satisfied:

(i) no trustee of the entity contravened any of the regulatory provisions in relation to the entity during the whole of the period (the ***rectification period***) that began when the trustee, or the trustees, of the entity lodged the purported election under subsection 19(4) and ended when the entity complied with subsections 19(2) to (4);

(ii) a trustee of the entity contravened one or more of the regulatory provisions in relation to the entity during the rectification period on one or more occasions but the Commissioner of Taxation is satisfied that, because of special circumstances that existed in relation to the fund during the rectification period, it would be reasonable for the fund to be treated as if it had satisfied the regulatory provisions; and

(d) if the fund was in existence before the beginning of its 1994-95 year of income—under regulations made for the purposes of former section 50 (as those regulations were in force as at the beginning of that year of income), the fund is treated as if it had satisfied the transitional superannuation fund conditions at all times during the period that began at the beginning of the fund's 1994-95 year of income and ended when the trustee, or the trustees, of the entity lodged the purported election under subsection 19(4); and

(e) the entity was a resident regulated superannuation fund at all times during the part of the year of income occurring after the end of the rectification period; and

Authorised Version C2026C00335 registered 27/07/2026

(f) in respect of the part of the year of income occurring after the end of the rectification period, both:

(i) the entity passed the test in subsection (5) in respect of the part or parts of the year of income occurring after the end of the rectification period, during which the entity was a self managed superannuation fund; and

(ii) if a trustee of the entity contravened one or more of the regulatory provisions in relation to the entity in respect of any other part or parts of the year of income occurring after the end of the rectification period, during which the entity was not a self managed superannuation fund—the entity did not fail the culpability test set out in subsection 42(1A) in relation to any of those contraventions.

Circumstances in which entity passes the test in this subsection

(5) An entity passes the test in this subsection in relation to a year of income or part of a year of income if:

(a) no trustee of the entity contravened any of the regulatory provisions in relation to the entity during the year of income or the part of the year of income; or

(b) if a trustee of the entity contravened one or more of the regulatory provisions in relation to the entity during the year of income or the part of the year of income, the Regulator, after considering:

(i) the taxation consequences that would arise if the entity were to be treated as a non-complying superannuation fund for the purposes of the *Income Tax Assessment Act 1997* in relation to the year of income concerned; and

(ii) the seriousness of the contravention or contraventions; and

(iii) all other relevant circumstances;

thinks that a notice should nevertheless be given stating that the entity is a complying superannuation fund in relation to the year of income concerned.

Authorised Version C2026C00335 registered 27/07/2026

Determining whether contravention

(6) In determining for the purposes of this section whether any of the regulatory provisions were contravened in respect of the entity in respect of the pre-lodgment period or the rectification period, the regulatory provisions are taken to have applied in relation to the entity in respect of that period as if the entity were a resident regulated superannuation fund during that period.

43 Complying approved deposit fund

An entity is a complying approved deposit fund in relation to a year of income for the purposes of this Division if:

(a) at all times during the year of income when the entity was in existence, the entity was a resident approved deposit fund; and

(b) any of the following conditions is satisfied:

(i) the trustee did not contravene any of the regulatory provisions in relation to the entity in respect of the year of income;

(ii) both:

(A) the trustee contravened one or more of the regulatory provisions in relation to the entity in respect of the year of income on one or more occasions; and

(B) each contravention was rectified within a period of 30 days after the trustee became aware of the contravention or within such further period as APRA allows;

(iii) both:

(A) the trustee contravened one or more of the regulatory provisions in relation to the entity in respect of the year of income on one or more occasions; and

(B) APRA is satisfied that the seriousness or frequency, or both, of the contraventions does not warrant the giving of a notice stating that

Authorised Version C2026C00335 registered 27/07/2026

the entity is not a complying approved deposit fund in relation to the year of income;

(iv) APRA, after considering all relevant circumstances, thinks that a notice should be given stating that the entity is a complying approved deposit fund in relation to the year of income.

44 Pooled superannuation trust

An entity is a pooled superannuation trust in relation to a year of income for the purposes of this Division if:

(a) at all times during the year of income when the entity was in existence, the entity was a pooled superannuation trust; and

(b) any of the following conditions is satisfied:

(i) the trustee did not contravene any of the regulatory provisions in relation to the entity in respect of the year of income;

(ii) both:

(A) the trustee contravened one or more of the regulatory provisions in relation to the entity in respect of the year of income on one or more occasions; and

(B) each contravention was rectified within a period of 30 days after the trustee became aware of the contravention or such further period as APRA allows;

(iii) both:

(A) the trustee contravened one or more of the regulatory provisions in relation to the entity in respect of the year of income on one or more occasions; and

(B) APRA is satisfied that the seriousness or frequency, or both, of the contraventions does not warrant the giving of a notice stating that the entity is not a pooled superannuation trust in relation to the year of income;

Authorised Version C2026C00335 registered 27/07/2026

(iv) APRA, after considering all relevant circumstances, thinks that a notice should be given stating that the entity is a pooled superannuation trust in relation to the year of income.

Authorised Version C2026C00335 registered 27/07/2026

Division 3—Complying fund status for tax purposes

45 Complying superannuation fund

(1) A fund is a complying superannuation fund for the purposes of the Income Tax Assessment Act in relation to a year of income (the ***current year of income***) if, and only if:

(a) the Regulator has given a notice to a trustee of the fund under section 40 stating that the fund is a complying superannuation fund in relation to the current year of income; or

(b) the Regulator has given a notice to a trustee of the fund under section 40 stating that the fund is a complying superannuation fund in relation to a previous year of income and has not given a notice to a trustee of the fund under that section stating that the fund was not a complying superannuation fund in relation to:

(i) the current year of income; or

(ii) a year of income that is:

(A) later than that previous year of income; and

(B) earlier than the current year of income.

(2) Despite section 2, the previous year mentioned in paragraph (1)(b) may be a year of income earlier than the 1994-95 year of income (see section 49). However, despite section 49, if the fund was not a regulated superannuation fund at all times during the current year of income when the fund was in existence, paragraph (1)(b) does not apply unless the previous year of income is the 1994-95 year of income or a later year of income.

(3) For the purposes of this section, if a notice under section 40 is revoked, or the decision to give the notice is set aside, the notice is taken never to have been given.

(4) Section 170 of the Income Tax Assessment Act does not prevent the amendment of an assessment at any time for the purposes of giving effect to subsection (3).

Authorised Version C2026C00335 registered 27/07/2026

(5) For the purposes of this section, if a notice under section 40 is given in relation to a fund in relation to a year of income, the notice is taken to have been given at the beginning of the year of income.

(6) Despite subsection (1), if, at all times during a year of income when a fund was in existence, the fund was, or was part of, an exempt public sector superannuation scheme, the fund is a complying superannuation fund in relation to the year of income for the purposes of the Income Tax Assessment Act.

46 Complying superannuation scheme—superannuation guarantee charge

An exempt public sector superannuation scheme is taken to be a complying superannuation scheme for the purposes of the *Superannuation Guarantee (Administration) Act 1992*.

47 Complying approved deposit fund

(1) A fund is a complying approved deposit fund for the purposes of the Income Tax Assessment Act in relation to a year of income (the ***current year of income***) if, and only if:

(a) APRA has given a notice to the trustee under section 40 stating that the fund is a complying approved deposit fund in relation to the current year of income; or

(b) APRA has given a notice to the trustee under section 40 stating that the fund is a complying approved deposit fund in relation to a previous year of income and has not given a notice to the trustee under that section stating that the fund was not a complying approved deposit fund in relation to:

(i) the current year of income; or

(ii) a year of income that is:

(A) later than that previous year of income; and

(B) earlier than the current year of income.

Authorised Version C2026C00335 registered 27/07/2026

(2) Despite section 2, the previous year mentioned in paragraph (1)(b) may be a year of income earlier than the 1994-95 year of income (see section 49).

(3) For the purposes of this section, if a notice under section 40 is revoked, or the decision to give the notice is set aside, the notice is taken never to have been given.

(4) Section 170 of the Income Tax Assessment Act does not prevent the amendment of an assessment at any time for the purposes of giving effect to subsection (3).

(5) For the purposes of this section, if a notice under section 40 is given in relation to a fund in relation to a year of income, the notice is taken to have been given at the beginning of the year of income.

48 Pooled superannuation trust

(1) A unit trust is a pooled superannuation trust for the purposes of the Income Tax Assessment Act in relation to a year of income (the ***current year of income***) if, and only if:

(a) APRA has given a notice to the trustee under section 40 stating that the trust is a pooled superannuation trust in relation to the current year of income; or

(b) APRA has given a notice to the trustee under section 40 stating that the trust is a pooled superannuation trust in relation to a previous year of income and has not given a notice to the trustee under that section stating that the trust was not a pooled superannuation trust in relation to:

(i) the current year of income; or

(ii) a year of income that is:

(A) later than that previous year of income; and

(B) earlier than the current year of income.

(2) Despite section 2, the previous year mentioned in paragraph (1)(b) may be a year of income earlier than the 1994-95 year of income (see section 49).

Authorised Version C2026C00335 registered 27/07/2026

(3) For the purposes of this section, if a notice under section 40 is revoked, or the decision to give the notice is set aside, the notice is taken never to have been given.

(4) Section 170 of the Income Tax Assessment Act does not prevent the amendment of an assessment at any time for the purposes of giving effect to subsection (3).

(5) For the purposes of this section, if a notice under section 40 is given in relation to a trust in relation to a year of income, the notice is taken to have been given at the beginning of the year of income.

49 Transitional—notices under the repealed provisions of the *Occupational Superannuation Standards Act 1987*

Superannuation funds—positive

(1) For the purposes of paragraph 41(2)(b) and this Division, if:

(a) a notice under repealed section 12 or 13 of the *Occupational Superannuation Standards Act 1987* stated that the Commissioner is satisfied that:

(i) a fund satisfied the superannuation fund conditions in relation to a year of income; or

(ii) a fund should be treated as if it had satisfied the superannuation fund conditions in relation to a year of income; and

(b) the year of income is the 1993-94 year of income or an earlier year of income;

the notice has effect as if it were a notice under section 40 stating that the fund is a complying superannuation fund in relation to the year of income.

ADFs—positive

(2) For the purposes of paragraph 41(2)(b) and this Division, if:

(a) a notice under repealed section 14 or 15 of the *Occupational Superannuation Standards Act 1987* stated that the Commissioner is satisfied that:

Authorised Version C2026C00335 registered 27/07/2026

(i) a fund satisfied the approved deposit fund conditions in relation to a year of income; or

(ii) a fund should be treated as if it had satisfied the approved deposit fund conditions in relation to a year of income; and

(b) the year of income is the 1993-94 year of income or an earlier year of income;

the notice has effect as if it were a notice under section 40 stating that the fund is a complying approved deposit fund in relation to the year of income.

PSTs—positive

(3) For the purposes of paragraph 41(2)(b) and this Division, if:

(a) a notice under repealed section 15B or 15C of the *Occupational Superannuation Standards Act 1987* stated that the Commissioner is satisfied that:

(i) a trust satisfied the pooled superannuation trust conditions in relation to a year of income; or

(ii) a trust should be treated as if it had satisfied the pooled superannuation trust conditions in relation to a year of income; and

(b) the year of income is the 1993-94 year of income or an earlier year of income;

the notice has effect as if it were a notice under section 40 stating that the trust is a pooled superannuation trust in relation to the year of income.

Superannuation funds—negative

(4) For the purposes of paragraph 41(2)(b) and this Division, if:

(a) a notice under the repealed section 12 or 13 of the *Occupational Superannuation Standards Act 1987* stated that the Commissioner is not satisfied that a fund satisfied the superannuation fund conditions in relation to a year of income; and

Authorised Version C2026C00335 registered 27/07/2026

(b) the year of income is the 1993-94 year of income or an earlier year of income;

the notice has effect as if it were a notice under section 40 stating that the fund is not a complying superannuation fund in relation to the year of income.

ADFs—negative

(5) For the purposes of paragraph 41(2)(b) and this Division, if:

(a) a notice under the repealed section 14 or 15 of the *Occupational Superannuation Standards Act 1987* stated that the Commissioner is not satisfied that a fund satisfied the approved deposit fund conditions in relation to a year of income; and

(b) the year of income is the 1993-94 year of income or an earlier year of income;

the notice has effect as if it were a notice under section 40 stating that the fund is not a complying approved deposit fund in relation to the year of income.

PSTs—negative

(6) For the purposes of paragraph 41(2)(b) and this Division, if:

(a) a notice under the repealed section 15B or 15C of the *Occupational Superannuation Standards Act 1987* stated that the Commissioner is not satisfied that a trust satisfied the pooled superannuation trust conditions in relation to a year of income; and

(b) the year of income is the 1993-94 year of income or an earlier year of income;

the notice has effect as if it were a notice under section 40 stating that the trust is not a pooled superannuation trust in relation to the year of income.

OSSA—continued operation

(7) A reference in this section to a provision of the *Occupational Superannuation Standards Act 1987* includes a reference to that

Authorised Version C2026C00335 registered 27/07/2026

provision as it continues to apply, despite its repeal, because of the *Occupational Superannuation Standards Amendment Act 1993*.

Authorised Version C2026C00335 registered 27/07/2026

Part 6—Provisions relating to governing rules of superannuation entities

51 Object of Part

The object of this Part is to set out rules about the content of the governing rules of superannuation entities.

51A Covenants are cumulative

To avoid doubt, each covenant referred to in sections 52 to 53 or prescribed under section 54A that applies to a trustee of a superannuation entity, or a director of a corporate trustee of a superannuation entity, applies in addition to every other covenant or obligation referred to in those sections that applies to the trustee or director.

52 Covenants to be included in governing rules—registrable superannuation entities

Governing rules taken to contain covenants

(1) If the governing rules of a registrable superannuation entity do not contain covenants to the effect of the covenants set out in this section, those governing rules are taken to contain covenants to that effect.

Note: There are civil and criminal consequences for contravening a covenant: see sections 54B, 54C, 55 and 202. Civil consequences may arise from an act or omission resulting in a contravention of a covenant regardless of whether or not the act or omission was intentional. Criminal consequences under section 202 require proof of dishonesty or intention in relation to a contravention of a covenant.

General covenants

(2) The covenants referred to in subsection (1) include the following covenants by each trustee of the entity:

Authorised Version C2026C00335 registered 27/07/2026

(a) to act honestly in all matters concerning the entity;

(b) to exercise, in relation to all matters affecting the entity, the same degree of care, skill and diligence as a prudent superannuation trustee would exercise in relation to an entity of which it is trustee and on behalf of the beneficiaries of which it makes investments;

(c) to perform the trustee's duties and exercise the trustee's powers in the best financial interests of the beneficiaries;

(d) where there is a conflict between the duties of the trustee to the beneficiaries, or the interests of the beneficiaries, and the duties of the trustee to any other person or the interests of the trustee or an associate of the trustee:

(i) to give priority to the duties to and interests of the beneficiaries over the duties to and interests of other persons; and

(ii) to ensure that the duties to the beneficiaries are met despite the conflict; and

(iii) to ensure that the interests of the beneficiaries are not adversely affected by the conflict; and

(iv) to comply with the prudential standards in relation to conflicts;

(e) to act fairly in dealing with classes of beneficiaries within the entity;

(f) to act fairly in dealing with beneficiaries within a class;

(g) to keep the money and other assets of the entity separate from any money and assets, respectively:

(i) that are held by the trustee personally; or

(ii) that are money or assets, as the case may be, of a standard employer-sponsor, or an associate of a standard employer-sponsor, of the entity;

(h) not to enter into any contract, or do anything else, that would prevent the trustee from, or hinder the trustee in, properly performing or exercising the trustee's functions and powers;

(i) if there are any reserves of the entity—to formulate, review regularly and give effect to a strategy for their prudential management, consistent with the entity's investment

Authorised Version C2026C00335 registered 27/07/2026

strategies and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due;

(j) to allow a beneficiary of the entity access to any prescribed information or any prescribed documents.

Superannuation trustee

(3) In paragraph (2)(b), a ***superannuation trustee*** is a person whose profession, business or employment is or includes acting as a trustee of a superannuation entity and investing money on behalf of beneficiaries of the superannuation entity.

Payments to third parties must be in best financial interests of beneficiaries

(3A) To avoid doubt, the obligations of the trustee under paragraph (2)(c) apply in respect of payments to a third party by, or on behalf of, the entity.

Obligations to beneficiaries override obligations under certain other Acts

(4) The obligations of the trustee under paragraph (2)(d) override any conflicting obligations an executive officer or employee of the trustee has under:

(a) Part 2D.1 of the *Corporations Act 2001*; or

(b) Subdivision A of Division 3 of Part 2-2 of the *Public Governance, Performance and Accountability Act 2013* (which deals with general duties of officials) or any rules made for the purposes of that Subdivision.

Trustee not prevented from engaging or authorising persons to act on trustee's behalf

(5) A covenant referred to in paragraph (2)(h) does not prevent the trustee from engaging or authorising persons to do acts or things on behalf of the trustee.

Authorised Version C2026C00335 registered 27/07/2026

Investment covenants

(6) The covenants referred to in subsection (1) include the following covenants by each trustee of the entity:

(a) to formulate, review regularly and give effect to an investment strategy for the whole of the entity, and for each investment option offered by the trustee in the entity, having regard to:

(i) the risk involved in making, holding and realising, and the likely return from, the investments covered by the strategy, having regard to the trustee's objectives in relation to the strategy and to the expected cash flow requirements in relation to the entity; and

(ii) the composition of the investments covered by the strategy, including the extent to which the investments are diverse or involve the entity in being exposed to risks from inadequate diversification; and

(iii) the liquidity of the investments covered by the strategy, having regard to the expected cash flow requirements in relation to the entity; and

(iv) whether reliable valuation information is available in relation to the investments covered by the strategy; and

(v) the ability of the entity to discharge its existing and prospective liabilities; and

(vi) the expected tax consequences for the entity in relation to the investments covered by the strategy; and

(vii) the costs that might be incurred by the entity in relation to the investments covered by the strategy; and

(viii) any other relevant matters;

(b) to exercise due diligence in developing, offering and reviewing regularly each investment option;

(c) to ensure the investment options offered to each beneficiary allow adequate diversification.

Authorised Version C2026C00335 registered 27/07/2026

Insurance covenants

(7) The covenants referred to in subsection (1) include the following covenants by each trustee of the entity:

(a) to formulate, review regularly and give effect to an insurance strategy for the benefit of beneficiaries of the entity that includes provisions addressing each of the following matters:

(i) the kinds of insurance that are to be offered to, or acquired for the benefit of, beneficiaries;

(ii) the level, or levels, of insurance cover to be offered to, or acquired for the benefit of, beneficiaries;

(iii) the basis for the decision to offer or acquire insurance of those kinds, with cover at that level or levels, having regard to the demographic composition of the beneficiaries of the entity;

(iv) the method by which the insurer is, or the insurers are, to be determined;

(b) to consider the cost to all beneficiaries of offering or acquiring insurance of a particular kind, or at a particular level;

(c) to only offer or acquire insurance of a particular kind, or at a particular level, if the cost of the insurance does not inappropriately erode the retirement income of beneficiaries;

(d) to do everything that is reasonable to pursue an insurance claim for the benefit of a beneficiary, if the claim has a reasonable prospect of success.

Covenants relating to risk

(8) The covenants referred to in subsection (1) include the following covenants by each trustee of the entity:

(a) to formulate, review regularly and give effect to a risk management strategy that relates to:

(i) the activities, or proposed activities, of the trustee, to the extent that they are relevant to the exercise of the trustee's powers, or the performance of the trustee's duties and functions, as trustee of the entity; and

Authorised Version C2026C00335 registered 27/07/2026

(ii) the risks that arise in operating the entity;

(b) to maintain and manage in accordance with the prudential standards financial resources (whether capital of the trustee, a reserve of the entity or both) to cover the operational risk that relates to the entity.

Retirement income covenants

(8A) The covenants referred to in subsection (1) include the following covenants by each trustee of the entity:

(a) to formulate, review regularly and give effect to a retirement income strategy that meets the requirements in section 52AA;

(b) to take reasonable steps to gather the information necessary to inform the formulation and review of the strategy;

(c) to record the strategy in writing;

(d) to record in the document in which the strategy is recorded:

(i) each determination made by the trustee for the purposes of the strategy, and the reasons for the determination; and

(ii) each other decision made by the trustee in formulating, reviewing or giving effect to the strategy that the trustee considers to be significant, and the reasons for the decision; and

(iii) the steps taken to gather the information that informed the formulation of the strategy, and the reasons for taking those steps;

(e) to make a summary of the strategy publicly available on the website of the entity.

(8B) Subsection (8A) does not apply if the entity is a regulated superannuation fund, and the only benefits it provides to, or in respect of, its members are any of the following:

(a) death benefit;

(b) permanent incapacity benefit;

(c) a benefit provided if, and only if, a member is suffering temporary incapacity (within the meaning of the superannuation data and payment standards).

Authorised Version C2026C00335 registered 27/07/2026

Covenants relating to regulated superannuation funds—annual outcomes assessments

(9) If the entity is a regulated superannuation fund (other than a regulated superannuation fund with no more than 6 members), the covenants referred to in subsection (1) include the following covenants by each trustee of the entity:

(a) to determine, in writing, on an annual basis, for each MySuper product and choice product offered by the entity, whether the financial interests of the beneficiaries of the entity who hold the product are being promoted by the trustee, having regard to:

(i) if the product is a MySuper product—a comparison of the MySuper product with other MySuper products offered by other regulated superannuation funds, based on the factors mentioned in subsection (10), and a comparison of the MySuper product with any other benchmarks specified in regulations made for the purposes of this subparagraph; and

(ii) if the product is a choice product—a comparison of the choice product with the comparable choice products in relation to the choice product, based on factors mentioned in subsection (10A), and a comparison of the choice product with any other benchmarks specified in regulations made for the purposes of this subparagraph; and

(iii) the factors mentioned in subsection (11); and

(iv) the latest determination (if any) made by APRA under subsection 60C(2) for the product;

(aa) to determine, in writing, on an annual basis, whether each trustee of the entity is promoting the financial interests of the beneficiaries of the fund, as assessed against benchmarks specified in regulations made for the purposes of this paragraph;

(b) to make the determination referred to in paragraph (a), and a summary of the assessments and comparisons on which the

Authorised Version C2026C00335 registered 27/07/2026

determination is based, publicly available on the website of the entity;

(c) to do so within 28 days after the determination is made;

(d) to keep the determination, and the summary of the assessments and comparisons on which the determination is based, on the website until a new determination is made as referred to in paragraph (a).

(10) In comparing a MySuper product with other MySuper products, the trustees must compare each of the following:

(a) the fees and costs that affect the return to the beneficiaries holding the MySuper products;

(b) the return for the MySuper products (after the deduction of fees, costs and taxes);

(c) the level of investment risk for the MySuper products;

(d) any other matter set out in the prudential standards.

(10A) In comparing a choice product with the comparable choice products in relation to the choice product, the trustees must compare each of the following:

(a) the fees and costs that affect the return to the beneficiaries holding the choice products;

(b) the return for the choice products;

(c) the level of investment risk for the choice products;

(d) any other matter specified in the prudential standards.

(11) In determining whether the financial interests of the beneficiaries of the entity who hold a MySuper product or choice product are being promoted by the trustee, the trustee must assess each of the following:

(a) whether the options, benefits and facilities offered under the product are appropriate to those beneficiaries;

(b) whether the investment strategy for the product, including the level of investment risk and the return target, is appropriate to those beneficiaries;

(c) whether the insurance strategy for the product is appropriate to those beneficiaries;

Authorised Version C2026C00335 registered 27/07/2026

(d) whether any insurance fees charged in relation to the product inappropriately erode the retirement income of those beneficiaries;

(e) any other relevant matters, including any matters set out in the prudential standards.

Covenants relating to regulated superannuation funds—promoting financial interests of beneficiaries

(12) If the entity is a regulated superannuation fund (other than a regulated superannuation fund with no more than 6 members), the covenants referred to in subsection (1) include a covenant by each trustee of the entity to promote the financial interests of the beneficiaries of the entity who hold a MySuper product or a choice product, in particular returns to those beneficiaries (after the deduction of fees, costs and taxes).

Covenants relating to regulated superannuation funds—MySuper products

(13) If the entity is a regulated superannuation fund that offers a MySuper product, the covenants referred to in subsection (1) include the following covenants by each trustee of the entity:

(a) to include in the investment strategy for the MySuper product the details of the trustee's determination of the matters mentioned in paragraph (9)(a);

(b) to include in the investment strategy for the MySuper product, and update each year:

(i) the investment return target over a period of 10 years for the assets of the entity that are attributed to the MySuper product; and

(ii) the level of risk appropriate to the investment of those assets.

Authorised Version C2026C00335 registered 27/07/2026

Covenants relating to regulated superannuation funds—failing annual performance assessments

(14) If the entity is a regulated superannuation fund (other than a regulated superannuation fund with no more than 6 members), the covenants referred to in subsection (1) include the following covenants by each trustee of the entity:

(a) to comply with subsection 60E(2) (notifying beneficiaries);

(b) to comply with subsection 60F(2) (consequences of 2 consecutive fail assessments).

52AA Retirement income strategy requirements—registrable superannuation entities

(1) A retirement income strategy formulated for an entity by a trustee for the purposes of subsection 52(8A) must meet the requirements in this section.

(2) The strategy must be for the benefit of beneficiaries of the entity who are retired or who are approaching retirement and must address how the trustee will assist those beneficiaries to achieve and balance the following objectives:

(a) to maximise expected retirement income over the period of retirement;

(b) to manage expected risks to the sustainability and stability of retirement income over the period of retirement of the following kinds:

(i) longevity risks;

(ii) investment risks;

(iii) inflation risks;

(iv) any other risks to the sustainability and stability of the retirement income;

(c) to have flexible access to expected funds over the period of retirement.

Authorised Version C2026C00335 registered 27/07/2026

Determining the class of beneficiaries who are retired or who are approaching retirement

(3) The trustee must determine the class of beneficiaries of the entity who are retired or who are approaching retirement for the purposes of the strategy. The class may be determined excluding beneficiaries who:

(a) only hold a defined benefit interest in the entity; and

(b) are not eligible to commute that benefit (whether during the period of retirement or otherwise).

(4) The strategy may divide the class of beneficiaries into sub-classes and make different provision in respect of those sub-classes.

Determining meaning of retirement income and period of retirement

(5) The trustee must determine the meaning of retirement income for the purposes of the strategy, which:

(a) must include income, net of tax, received during the period of retirement of the following kinds:

(i) income paid from, or supported by, a superannuation interest in the entity;

(ii) income from an age pension under the *Social Security Act 1991*; and

(b) may include income from any other source if the trustee determines that it is appropriate to include income from that source.

(6) The trustee must determine the meaning of period of retirement for the purposes of the strategy.

Authorised Version C2026C00335 registered 27/07/2026

52A Covenants relating to directors to be included in governing rules—registrable superannuation entities

Governing rules taken to contain covenants

(1) If the governing rules of a registrable superannuation entity of which a trustee is a body corporate do not contain covenants to the effect of the covenants set out in subsection (2), those governing rules are taken to contain covenants to that effect.

Note: There are civil and criminal consequences for contravening a covenant: see sections 54B, 54C, 55 and 202. Civil consequences may arise from an act or omission resulting in a contravention of a covenant regardless of whether or not the act or omission was intentional. Criminal consequences under section 202 require proof of dishonesty or intention in relation to a contravention of a covenant.

The covenants

(2) The covenants referred to in subsection (1) are the following covenants by each director of a corporate trustee of the entity:

(a) to act honestly in all matters concerning the entity;

(b) to exercise, in relation to all matters affecting the entity, the same degree of care, skill and diligence as a prudent superannuation entity director would exercise in relation to an entity where he or she is a director of the trustee of the entity and that trustee makes investments on behalf of the entity's beneficiaries;

(c) to perform the director's duties and exercise the director's powers as director of the corporate trustee in the best financial interests of the beneficiaries;

(d) where there is a conflict between the duties of the director to the beneficiaries, or the interests of the beneficiaries, and the duties of the director to any other person or the interests of the director, the corporate trustee or an associate of the director or corporate trustee:

(i) to give priority to the duties to and interests of the beneficiaries over the duties to and interests of other persons; and

Authorised Version C2026C00335 registered 27/07/2026

(ii) to ensure that the duties to the beneficiaries are met despite the conflict; and

(iii) to ensure that the interests of the beneficiaries are not adversely affected by the conflict; and

(iv) to comply with the prudential standards in relation to conflicts;

(e) not to enter into any contract, or do anything else, that would:

(i) prevent the director from, or hinder the director in, properly performing or exercising the director's functions and powers as director of the corporate trustee; or

(ii) prevent the corporate trustee from, or hinder the corporate trustee in, properly performing or exercising the corporate trustee's functions and powers as trustee of the entity;

(f) to exercise a reasonable degree of care and diligence for the purposes of ensuring that the corporate trustee carries out the covenants referred to in section 52.

Payments to third parties must be in best financial interests of beneficiaries

(2A) To avoid doubt, the obligations of the director under paragraph (2)(c) apply in respect of payments to a third party by, or on behalf of, the entity.

Obligations to beneficiaries override obligations under certain other Acts

(3) The obligations of the director under paragraph (2)(d) override any conflicting obligations the director has under:

(a) Part 2D.1 of the *Corporations Act 2001*; or

(b) Subdivision A of Division 3 of Part 2-2 of the *Public Governance, Performance and Accountability Act 2013* (which deals with general duties of officials) or any rules made for the purposes of that Subdivision.

Authorised Version C2026C00335 registered 27/07/2026

Director not prevented from engaging or authorising persons to act on behalf of the trustee

(4) A covenant referred to in paragraph (2)(e) does not prevent the director from engaging or authorising persons to do acts or things on behalf of the trustee.

Using reasonable care and diligence to ensure compliance by corporate trustee

(5) The reference in paragraph (2)(f) to a reasonable degree of care and diligence is a reference to the degree of care and diligence that a superannuation entity director would exercise in the circumstances of the corporate trustee.

Covenants operate as if director party to the governing rules

(6) A covenant referred to in subsection (2) operates as if the director were a party to the governing rules.

Superannuation entity director

(7) A ***superannuation entity director*** is a person whose profession, business or employment is or includes acting as director of a corporate trustee of a superannuation entity and investing money on behalf of beneficiaries of the superannuation entity.

52B Covenants to be included in governing rules—self managed superannuation funds

Governing rules taken to contain covenants

(1) If the governing rules of a self managed superannuation fund do not contain covenants to the effect of the covenants set out in this section, those governing rules are taken to contain covenants to that effect.

Authorised Version C2026C00335 registered 27/07/2026

The covenants

(2) The covenants referred to in subsection (1) are the following covenants by each trustee of the fund:

(a) to act honestly in all matters concerning the fund;

(b) to exercise, in relation to all matters affecting the fund, the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another for whom the person felt morally bound to provide;

(c) to perform the trustee's duties and exercise the trustee's powers in the best financial interests of the beneficiaries;

(d) to keep the money and other assets of the fund separate from any money and assets, respectively:

(i) that are held by the trustee personally; or

(ii) that are money or assets, as the case may be, of a standard employer-sponsor, or an associate of a standard employer-sponsor, of the fund;

(e) not to enter into any contract, or do anything else, that would prevent the trustee from, or hinder the trustee in, properly performing or exercising the trustee's functions and powers;

(f) to formulate, review regularly and give effect to an investment strategy that has regard to the whole of the circumstances of the fund including, but not limited to, the following:

(i) the risk involved in making, holding and realising, and the likely return from, the fund's investments, having regard to its objectives and its expected cash flow requirements;

(ii) the composition of the fund's investments as a whole including the extent to which the investments are diverse or involve the fund in being exposed to risks from inadequate diversification;

(iii) the liquidity of the fund's investments, having regard to its expected cash flow requirements;

(iv) the ability of the fund to discharge its existing and prospective liabilities;

Authorised Version C2026C00335 registered 27/07/2026

(g) if there are any reserves of the fund—to formulate, review regularly and give effect to a strategy for their prudential management, consistent with the fund's investment strategy and its capacity to discharge its liabilities (whether actual or contingent) as and when they fall due;

(h) to allow a beneficiary of the fund access to any prescribed information or any prescribed documents.

Payments to third parties must be in best financial interests of beneficiaries

(2A) To avoid doubt, the obligations of the trustee under paragraph (2)(c) apply in respect of payments to a third party by, or on behalf of, the fund.

Trustee not prevented from engaging or authorising persons to act on trustee's behalf

(3) A covenant referred to in paragraph (2)(e) does not prevent the trustee from engaging or authorising persons to do acts or things on behalf of the trustee.

Covenant referred to in paragraph (2)(f)

(4) An investment strategy is taken to be in accordance with paragraph (2)(f) even if it provides for a specified beneficiary or a specified class of beneficiaries to give directions to the trustee, where:

(a) the directions relate to the strategy to be followed by the trustee in relation to the investment of a particular asset or assets of the fund; and

(b) the directions are given in circumstances prescribed by regulations made for the purposes of this paragraph.

Authorised Version C2026C00335 registered 27/07/2026

52C Covenant relating to directors to be included in governing rules—self managed superannuation funds

Governing rules taken to contain covenant

(1) If the governing rules of a self managed superannuation fund of which a trustee is a body corporate do not contain a covenant to the effect of the covenant set out in subsection (2), those governing rules are taken to contain a covenant to that effect.

The covenant

(2) The covenant referred to in subsection (1) is a covenant by each director of a corporate trustee of the fund to exercise a reasonable degree of care and diligence for the purposes of ensuring that the corporate trustee carries out the covenants referred to in section 52B.

Reasonable degree of care and diligence

(3) The reference in subsection (2) to a reasonable degree of care and diligence is a reference to the degree of care and diligence that a reasonable person in the position of director of the corporate trustee would exercise in the corporate trustee's circumstances.

Covenant operates as if director party to the governing rules

(4) The covenant referred to in subsection (2) operates as if the director were a party to the governing rules.

53 Covenants to repay amounts to beneficiaries in approved deposit funds

Governing rules to contain 2 covenants

(1) If the governing rules of an approved deposit fund (other than an excluded approved deposit fund) do not contain covenants to the effect of those set out in subsection (2), they are taken to contain covenants to that effect.

Authorised Version C2026C00335 registered 27/07/2026

Content of the covenants

(2) The covenants are:

(a) that, if:

(i) a beneficiary, by written notice given to the trustee, requests the trustee to pay to the beneficiary an amount equal to the beneficiary's interest in the fund; and

(ii) compliance by the trustee with the request would not be inconsistent with the standards applicable to the fund under section 32;

the trustee will pay that amount within a period (not being more than 12 months) determined by the trustee; and

(b) that each director of the trustee will ensure that the trustee gives effect to the covenant in paragraph (a).

Legal personal representatives of beneficiaries

(2A) A reference in subsection (2) to a beneficiary includes a reference to the legal personal representative of a beneficiary.

Note: Section 15 sets out additional rules relating to the interpretation of subsection (2).

Directors taken to be parties to governing rules

(3) The covenant in paragraph (2)(b) has effect as if each director were a party to the governing rules.

Period for payments to beneficiaries

(4) The trustee is to determine the period within which amounts are to be paid to beneficiaries under the covenant referred to in paragraph (2)(a).

Variation of payment period

(5) When the trustee has determined the period under subsection (4), the trustee may make a further determination varying that period if, and only if:

(a) ASIC has consented in writing to the variation; or

Authorised Version C2026C00335 registered 27/07/2026

(b) the requirements of section 54 have been complied with.

54 Prerequisites to variation of repayment period

(1) The requirements referred to in paragraph 53(5)(b) are as follows:

(a) the question whether the variation should be made has been voted on at a meeting of the beneficiaries;

(b) the trustee convened the meeting by sending by post, to the last-known address of each of the beneficiaries, at least 21 days before the meeting, a notice that set out:

(i) the date, time and place of the meeting; and

(ii) the reason for convening the meeting;

(c) the beneficiaries who, at the meeting, vote (whether in person or by proxy) on the question hold interests equal in value to at least the prescribed percentage of the total value of all the interests in the fund;

(d) the prescribed percentage of the beneficiaries who voted on the question cast their votes in favour of making the variation.

(2) For the purposes of paragraph (1)(c), the value of an interest is the price at which the trustee would have to make a payment in respect of the interest if the trustee were required to do so, under the covenant referred to in section 53, on the day immediately before the day when the meeting is held.

54A Regulations may prescribe other covenants

(1) The regulations may prescribe a covenant to be included in the governing rules of a superannuation entity and, if the governing rules of such a superannuation entity do not contain a covenant to the effect of the prescribed covenant, those rules are taken to contain a covenant to that effect.

Authorised Version C2026C00335 registered 27/07/2026

Prescribed covenants may deal with same matters as other requirements

(2) Without limiting the generality of subsection (1), the regulations may prescribe, for the purposes of that subsection, a covenant that elaborates, supplements, or otherwise deals with, any aspect of:

(a) a matter to which a covenant in sections 52 to 53 relates; or

(b) a matter to which a provision of this Act relates.

But prescribed covenants must be capable of operating concurrently with other requirements

(3) However, a covenant prescribed under subsection (1) must be capable of operating concurrently with:

(a) all the covenants referred to in sections 52 to 53; and

(b) this Act.

(4) The regulations may specify that a covenant prescribed under subsection (1) is to form part of the enhanced trustee obligations, or the enhanced director obligations, for MySuper products or eligible rollover funds.

54B Civil and criminal consequences for contravening sections 52 and 52A covenants

Section 52 covenants

(1) A person must not contravene a covenant that:

(a) is to the effect of a covenant set out in section 52; and

(b) is contained, or taken to be contained, in the governing rules of a superannuation entity.

Section 52A covenants

(2) A person must not contravene a covenant that:

(a) is to the effect of a covenant set out in section 52A; and

(b) is contained, or taken to be contained, in the governing rules of a superannuation entity.

Authorised Version C2026C00335 registered 27/07/2026

Contravention has civil and criminal consequences

(3) Subsections (1) and (2) are civil penalty provisions as defined by section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or being involved in a contravention of, those subsections.

(4) A contravention of subsection (1) or (2) does not result in the invalidity of a transaction.

(5) This section does not limit the operation of section 55.

Note: A contravention of subsection (1) or (2) may result in an action to recover loss or damage under section 55.

54C Other covenants must not be contravened

(1) A person must not contravene any other covenant contained, or taken to be contained, in the governing rules of a superannuation entity.

(2) A contravention of subsection (1) is not an offence.

(3) A contravention of subsection (1) does not result in the invalidity of a transaction.

(4) This section does not limit the operation of section 55.

Note: A contravention of subsection (1) may result in an action to recover loss or damage under section 55.

55 Recovering loss or damage for contravention of covenant

Breach of covenant may result in action to recover loss or damage

(3) Subject to subsection (4A), a person who suffers loss or damage as a result of conduct of another person that was engaged in in contravention of subsection 54B(1), 54B(2) or 54C(1) may recover the amount of the loss or damage by action against that other person or against any person involved in the contravention.

Authorised Version C2026C00335 registered 27/07/2026

(4) Unless an action under subsection (3) is of a kind dealt with in subsections (4A) to (4D), it may be begun at any time within 6 years after the day on which the cause of action arose.

Leave of court required where directors' covenants contravened

(4A) If:

(a) the person who is alleged to have contravened subsection 54B(2) or 54C(1) is or was a director of a corporate trustee of a registrable superannuation entity; and

(b) it is alleged that the contravention is of a covenant that is contained, or taken to be contained, in the governing rules of the entity, and is:

(i) a covenant of the kind mentioned in subsection 52A(2); or

(ii) a covenant prescribed under section 54A that relates to the conduct of the director of a corporate trustee of a registrable superannuation entity;

an action under subsection (3) may be brought only with the leave of the court.

(4B) A person may, within 6 years after the day on which the cause of action arose, seek the leave of the court to bring such an action.

(4C) In deciding whether to grant an application for leave to bring such an action, the court must take into account whether:

(a) the applicant is acting in good faith; and

(b) there is a serious question to be tried.

(4D) The court may, in granting leave to bring such an action, specify a period within which the action may be brought.

Defences in actions to recover loss or damage

(5) It is a defence to an action for loss or damage suffered by a person as a result of the making of an investment by or on behalf of a trustee of a superannuation entity if the defendant establishes that the defendant has complied with all of the covenants referred to in

Authorised Version C2026C00335 registered 27/07/2026

sections 52 to 53 and prescribed under section 54A that apply to the defendant in relation to each act, or failure to act, that resulted in the loss or damage.

(6) It is a defence to an action for loss or damage suffered by a person as a result of the management of any reserves by a trustee of a superannuation entity if the defendant establishes that the defendant has complied with all of the covenants referred to in sections 52 to 53 and prescribed under section 54A that apply to the defendant in relation to each act, or failure to act, that resulted in the loss or damage.

(7) Subsections (5) and (6) apply to an action for loss or damage, whether brought under subsection (3) or otherwise.

55A Rules about cashing benefits after death of members

(1) The governing rules of a regulated superannuation fund must not permit a fund member's benefits to be cashed after the member's death otherwise than in accordance with standards prescribed for the purposes of section 31.

(2) If the governing rules of a fund are inconsistent with subsection (1):
   (a) subsection (1) prevails; and
   (b) the governing rules are invalid, to the extent of the inconsistency.

55B Governing rules do not prevent giving effect to certain elections

A provision in the governing rules of a regulated superannuation fund is void to the extent that it would prevent a trustee or trustees of the fund from giving effect to:
   (a) an election made in accordance with section 29SAA (election to transfer accrued default amounts to a MySuper product); or

Authorised Version C2026C00335 registered 27/07/2026

(b) an election made in accordance with section 29SAB (election to transfer assets attributed to a MySuper product if authorisation cancelled); or

(c) a requirement in regulations made for the purposes of subsection 29SAA(3); or

(d) an election made in accordance with section 29SAC (election not to pass costs of paying conflicted remuneration onto MySuper members); or

(e) an election made in accordance with section 242B (election to transfer amounts held in an eligible rollover fund if authorisation cancelled); or

(f) an election made in accordance with section 242C (election not to pass costs of paying conflicted remuneration to members of eligible rollover fund).

55C Governing rules do not prevent transfer from pre-MySuper default option to MySuper product

(1) A provision of the governing rules of a regulated superannuation fund is void to the extent that it would prevent a trustee or trustees of the fund from attributing an amount to a MySuper product for a member, instead of attributing the amount to a pre-MySuper default option.

(2) A ***pre-MySuper default option***, in relation to an amount attributed to a member of a regulated superannuation fund, is an investment option under which an asset (or assets) of the fund attributed to the member in relation to the amount would be invested, under the governing rules of the fund, if the member gave no direction in relation to the amount.

55D Governing rules void to the extent that they are inconsistent with obligations in relation to annual outcomes assessments and MySuper products

A provision of the governing rules of a regulated superannuation fund is void to the extent that it is inconsistent with:

Authorised Version C2026C00335 registered 27/07/2026

(a) a covenant referred to in subsection 52(9), (12) or (13) that is contained, or taken to be contained, in the governing rules of the fund; or

(b) if the trustee of the fund is a body corporate—a covenant referred to in paragraph 52A(2)(f) that is contained, or taken to be contained, in the governing rules of the fund, to the extent that the covenant relates to a covenant referred to in subsection 52(9), (12) or (13).

56 Indemnification of trustee from assets of entity

(1) Subject to subsections (2) and (2A), a provision in the governing rules of a superannuation entity is void if:

(a) it purports to preclude a trustee of the entity from being indemnified out of the assets of the entity in respect of any liability incurred while acting as trustee of the entity; or

(b) it limits the amount of such an indemnity.

(2) A provision in the governing rules of a superannuation entity is void in so far as it would have the effect of exempting a trustee of the entity from, or indemnifying a trustee of the entity against:

(a) liability for breach of trust if the trustee:

(i) fails to act honestly in a matter concerning the entity; or

(ii) intentionally or recklessly fails to exercise, in relation to a matter affecting the entity, the degree of care and diligence that the trustee was required to exercise; or

(b) liability for an amount of a criminal, civil or administrative penalty incurred by the trustee of the entity in relation to a contravention of a law of the Commonwealth (including this Act); or

(c) the payment of any amount payable under an infringement notice (however described) given under a law of the Commonwealth (including this Act); or

(d) liability for the costs of undertaking a course of education in compliance with an education direction (within the meaning of this Act).

Authorised Version C2026C00335 registered 27/07/2026

(2A) A provision in the governing rules of a registrable superannuation entity is void in so far as it would have the effect of allowing a trustee of the entity:

(a) to indemnify itself out of the assets of the entity for any amount expended out of capital of the trustee managed and maintained by the trustee to cover the operational risk of the entity; or

(b) to indemnify itself out of any assets of the entity that do not form part of a reserve maintained for the purpose of covering the operational risk relating to the entity, any amount that relates to that risk, without first exhausting the reserve and any other financial resources managed and maintained by the trustee to cover the risk.

(3) Nothing in the governing rules of a superannuation entity prohibits a trustee of the entity from seeking advice from any person in respect of any matter relating to performance of the duties or the exercise of the powers of a trustee. A provision in the governing rules that purports to preclude a trustee of the entity from being indemnified out of assets of the entity in respect of the cost of obtaining such advice, or to limit the amount of such an indemnity, is void.

57 Indemnification of directors of trustee from assets of entity

(1) Subject to subsection (2), the governing rules of a superannuation entity may provide for a director of the trustee to be indemnified out of the assets of the entity in respect of a liability incurred while acting as a director of the trustee.

(2) A provision of the governing rules of a superannuation entity is void in so far as it would have the effect of indemnifying a director of the trustee against:

(a) a liability that arises because the director:

(i) fails to act honestly in a matter concerning the entity; or

(ii) intentionally or recklessly fails to exercise, in relation to a matter affecting the entity, the degree of care and diligence that the director is required to exercise; or

Authorised Version C2026C00335 registered 27/07/2026

(b) liability for an amount of a criminal, civil or administrative penalty incurred by the director in relation to a contravention of a law of the Commonwealth (including this Act); or

(c) the payment of any amount payable under an infringement notice (however described) given under a law of the Commonwealth (including this Act); or

(d) liability for the costs of undertaking a course of education in compliance with an education direction (within the meaning of this Act).

(3) A director of the trustee of a superannuation entity may be indemnified out of the assets of the entity in accordance with provisions of the entity's governing rules that comply with this section.

(4) This section has effect despite section 241 of the *Corporations Act 2001*.

58 Trustee not to be subject to direction

(1) Subject to subsection (2), the governing rules of a superannuation entity other than a superannuation fund with no more than 6 members or an excluded approved deposit fund must not permit a trustee to be subject, in the exercise of any of the trustee's powers under those rules, to direction by any other person.

(2) Subsection (1) does not apply to:

(a) a direction given by a court; or

(b) a direction given by the Regulator; or

(c) a direction given by a beneficiary or a group of beneficiaries that relates to benefits payable to that beneficiary or those beneficiaries, as the case may be; or

(d) a direction given by a beneficiary to take up, dispose of or alter the amount invested in an investment option, where:

(i) the entity is a registrable superannuation entity; and

(ii) the direction is given in circumstances prescribed by the regulations for the purposes of this paragraph; or

Authorised Version C2026C00335 registered 27/07/2026

(da) a direction given by a member of a regulated superannuation fund to attribute (or continue to attribute) an amount that is an accrued default amount for the member to a MySuper product or an investment option within a choice product in the fund; or

(e) if the entity is an employer-sponsored fund—a direction given by an employer-sponsor, or an associate of an employer-sponsor, in circumstances prescribed by the regulations; or

(fa) a direction given under the AFCA scheme; or

(g) a direction given by a member (within the meaning of the *Superannuation Contributions Tax (members of Constitutionally Protected Superannuation Funds) Assessment and Collection Act 1997*) that is permitted to be given by subsection 15(8A) of that Act.

(2A) To avoid doubt, paragraph (2)(fa) applies in relation to any requirement imposed under the AFCA scheme, whether the requirement is referred to, in Part 7.10A of the *Corporations Act 2001* or in a determination under that Part, as a direction or by any other name.

(2B) Subsection (2A) does not affect the meaning of any paragraph of subsection (2) other than paragraph (2)(fa).

(3) If the governing rules of a superannuation entity are inconsistent with subsection (1), that subsection prevails, and the governing rules are, to the extent of the inconsistency, invalid.

58A Service providers and investments cannot be limited to particular persons or associates

Does not apply to self managed superannuation funds

(1) This section does not apply to a regulated superannuation fund that is a self managed superannuation fund.

Authorised Version C2026C00335 registered 27/07/2026

Service providers

(2) A provision in the governing rules of a regulated superannuation fund is void to the extent that it specifies a person or persons (whether by name or in any other way, directly or indirectly) from whom the trustee, or one or more of the trustees, of the fund may or must acquire a service.

Investments in entities

(3) A provision in the governing rules of a regulated superannuation fund is void to the extent that it specifies an entity or entities (whether by name or in any other way, directly or indirectly) in or through which one or more of the assets of the fund may or must be invested.

Financial products

(4) A provision in the governing rules of a regulated superannuation fund is void to the extent that it specifies (whether by name or by reference to an entity) a financial product or financial products:
  (a) in or through which one or more of the assets of the fund may or must be invested; or
  (b) that may or must be purchased using assets of the fund; or
  (c) in relation to which one or more assets of the fund may or must be used to make payments.

Exception

(5) Subsections (2), (3) and (4) do not apply if the relevant person, entity or financial product is specified in a law of the Commonwealth or of a State or Territory, or is required to be specified under such a law.

58B Service providers and investments

(1) This section applies if a trustee, or the trustees, of a regulated superannuation fund does one or more of the following:
  (a) acquires a service from an entity;

Authorised Version C2026C00335 registered 27/07/2026

(b) invests assets of the fund in or through an entity;
(c) invests assets of the fund in or through a financial product;
(d) purchases a financial product using assets of the fund;
(e) uses assets of the fund to make payments in relation to a financial product.

(2) If the trustee, or the trustees, would not breach:
(a) a provision of any of the following:
(i) this or any other Act;
(ii) a legislative instrument made under this or any other Act;
(iii) the prudential standards;
(iv) the operating standards;
(v) the governing rules of the fund; or
(b) any covenant referred to in this Part or prescribed under this Part;

in doing one or more of the things mentioned in subsection (1), the general law relating to conflict of interest does not apply to the extent that it would prohibit the trustee, or the trustees, from doing the thing.

59 Exercise of discretion by person other than trustee

(1) Subject to subsection (1A), the governing rules of a superannuation entity other than a self managed superannuation fund must not permit a discretion under those rules that is exercisable by a person other than a trustee of the entity to be exercised unless:
(a) those rules require the consent of the trustee, or the trustees, of the entity to the exercise of that discretion; or
(b) if the entity is an employer-sponsored fund:
(i) the exercise of the discretion relates to the contributions that an employer-sponsor will, after the discretion is exercised, be required or permitted to pay to the fund; or
(ii) the exercise of the discretion relates solely to a decision to terminate the fund; or

Authorised Version C2026C00335 registered 27/07/2026

(iii) the circumstances in which the discretion was exercised are covered by regulations made for the purposes of this subparagraph.

(1A) Despite subsection (1), the governing rules of a superannuation entity may, subject to a trustee of the entity complying with any conditions contained in the regulations, permit a member of the entity, by notice given to a trustee of the entity in accordance with the regulations, to require a trustee of the entity to provide any benefits in respect of the member on or after the member's death to a person or persons mentioned in the notice, being the legal personal representative or a dependant or dependants of the member.

(2) If the governing rules of a superannuation entity are inconsistent with subsection (1), that subsection prevails, and the governing rules are, to the extent of the inconsistency, invalid.

60 Amendment of governing rules

(1) The governing rules of a superannuation entity other than a self managed superannuation fund must not permit those rules to be amended unless:

(a) the trustee, or the trustees, of the entity have consented to the amendment; or

(b) if the entity is an employer-sponsored fund:

(i) the amendment relates to the contributions that an employer-sponsor will, after the amendment, be required or permitted to pay to the fund; or

(ii) the amendment relates solely to the termination of the fund; or

(iii) the circumstances in which the amendment was made are covered by regulations made for the purposes of this subparagraph; or

(c) the amendment is made solely for the purpose of conferring on the trustee, or the trustees, the power to consent to amendments of those rules.

Authorised Version C2026C00335 registered 27/07/2026

(2) The governing rules of a regulated superannuation fund must not permit those rules to be amended in such a way that:

(a) a person other than a constitutional corporation would be eligible to be appointed as trustee unless the rules provide, and will continue to provide after the amendment is made, that the fund has, as its sole or primary purpose, the provision of old-age pensions; or

(b) the sole or primary purpose of the fund would be a purpose other than the provision of old-age pensions unless the rules provide, and will continue to provide after the amendment is made, that the trustee must be a constitutional corporation.

(3) If the governing rules of the superannuation entity are inconsistent with subsection (1) or (2), the subsection concerned prevails, and the governing rules are, to the extent of the inconsistency, invalid.

60A Dismissal of trustee of public offer entity

(1) Subject to subsection (2), the governing rules of a public offer entity must not permit the trustee to be removed by a person other than APRA.

Note: Part 17 provides for the removal of trustees by APRA.

(2) Subsection (1) does not apply to a removal of a kind specified in regulations made for the purposes of this subsection.

(3) If the governing rules of the public offer entity are inconsistent with subsection (1), that subsection prevails, and the governing rules are, to the extent of the inconsistency, invalid.

Authorised Version C2026C00335 registered 27/07/2026

Part 6A—Annual performance assessments etc.

60B Meaning of *Part 6A product*

A ***Part 6A product*** is:

(a) a MySuper product; or

(b) a class of beneficial interest in a regulated superannuation fund, if that class is identified by regulations made for the purposes of this paragraph.

60C Regulator to make annual performance assessments

(1) This section applies in relation to each entity that is a regulated superannuation fund (other than a regulated superannuation fund with no more than 6 members).

(2) APRA must determine in relation to each financial year, for each Part 6A product offered by the entity, whether the requirement in subsection 60D(1) has been met.

(3) APRA must give the trustee or trustees of the entity a notification of the determination. The notification must include a copy of the determination.

(4) APRA must make the determination and give the notification:

(a) in writing; and

(b) within a period, starting after the end of the financial year, worked out under regulations made for the purposes of this subsection.

(5) APRA must ensure that a description of the contents of every notification it gives under subsection (3) in relation to a financial year is published, within the period mentioned in paragraph (4)(b), on a website maintained by APRA.

Authorised Version C2026C00335 registered 27/07/2026

60D Requirements for assessment

Meeting requirements specified in regulations

(1) The requirement in this subsection is met for a Part 6A product in relation to a financial year if:

(a) where the Part 6A product is in a class of Part 6A products specified in regulations made for the purposes of this subsection—the requirements (if any) specified in regulations made for the purposes of this subsection for that class of Part 6A product are met for the Part 6A product in relation to the financial year; or

(b) the Part 6A product is not in a class of Part 6A products specified in regulations made for the purposes of this subsection.

Requirements specified in regulations

(2) Regulations made for the purposes of subsection (1) may specify requirements in respect of:

(a) investment returns; and

(b) any other matter (whether or not related to investment returns).

(3) The investment returns mentioned in paragraph (2)(a) may be investment returns net of fees and/or tax.

(4) Regulations made for the purposes of subsection (1) may do any of the following:

(a) specify requirements that depend on the exercise of a discretion by APRA;

(b) if the regulations specify requirements that depend on the exercise of such a discretion—specify matters that APRA must or may take into account in exercising that discretion;

(c) if the regulations specify requirements that depend on the exercise of such a discretion—allow APRA to make specified assumptions in exercising that discretion.

Authorised Version C2026C00335 registered 27/07/2026

Comparing actual return and benchmark return

(5) Regulations made for the purposes of subsection (1) may specify requirements based on a comparison of the actual return for a Part 6A product for a period with a benchmark return for the Part 6A product, or a class of Part 6A products, for the period.

Methods for determining return—general

(6) In specifying requirements mentioned in subsection (5), regulations made for the purposes of subsection (1) may:
  (a) specify one or more methods for determining the actual return for a Part 6A product, or a class of Part 6A products, for a period; and
  (b) specify one or more methods for determining the benchmark return for a Part 6A product, or a class of Part 6A products, for a period.

Methods for determining return—assumptions

(7) In specifying a method or methods mentioned in subsection (6), regulations made for the purposes of subsection (1) may:
  (a) specify assumptions to be made in applying that method or methods; and
  (b) allow APRA to determine, by legislative instrument, specified alternative assumptions that:
    (i) are to be made in applying that method or methods; and
    (ii) replace one or more of the assumptions mentioned in paragraph (a); and
  (c) require specified conditions to be met before APRA can make such a determination.

(8) The assumptions mentioned in subsection (7) may include assumptions as to any of the following matters:
  (a) rates of fees for a period;
  (b) rates of taxation for a period;
  (c) any other matter (whether or not related to a matter mentioned in paragraphs (a) and (b)).

Authorised Version C2026C00335 registered 27/07/2026

Methods for determining return—regulations to replace assumptions

(9) Subsections (10) and (11) apply if:

(a) APRA makes a determination mentioned in paragraph (7)(b) that specifies an assumption (the ***earlier assumption***); and

(b) the earlier assumption is to be made in applying a method or methods in relation to a matter in respect of a period (the ***relevant period***).

(10) Regulations made for the purposes of subsection (1) may later specify an assumption (the ***later assumption***) that:

(a) is to be made in applying that method or methods in relation to that matter in respect of the relevant period; and

(b) replaces the earlier assumption.

(11) However, if the regulations mentioned in subsection (10) are made after the end of the relevant period, the later assumption must be the same as the earlier assumption.

Scope of regulations not limited

(12) Subsections (2) to (11) do not limit the scope of regulations that may be made for the purposes of subsection (1).

Incorporation by reference

(13) Despite subsection 14(2) of the *Legislation Act 2003*, regulations made for the purposes of subsection (1) may make provision in relation to a matter by applying, adopting or incorporating, with or without modification, any matter contained in an instrument or other writing as in force or existing from time to time.

60E Trustee to notify beneficiaries of fail assessment

(1) This section applies if:

(a) APRA gives the trustee or trustees of an entity a notification of a determination under subsection 60C(2); and

Authorised Version C2026C00335 registered 27/07/2026

(b) the determination is that the requirement in subsection 60D(1) has not been met for a Part 6A product offered by the entity, in relation to a financial year.

(2) Each trustee of the entity must ensure that each beneficiary of the entity who holds the Part 6A product is given notice of the determination in accordance with subsections (3), (5) and (6).

(3) The notice must be given no later than:
  (a) 28 days after APRA gave the notification; or
  (b) if APRA or ASIC informs the trustee or trustees of the entity of a later day in accordance with subsection (4)—that later day.

(4) For the purposes of paragraph (3)(b), APRA or ASIC may, no later than 28 days after APRA gave the notification, inform the trustee or trustees of the entity in writing of a later day.

(5) The notice must consist of:
  (a) unless paragraph (b) applies—both of the following:
    (i) a letter sent to the beneficiary by pre-paid post or by courier to the address of the place of residence or business of the beneficiary last known to the trustee;
    (ii) an electronic communication (within the meaning of the *Corporations Act 2001*) sent to the beneficiary to the nominated electronic address (within the meaning of that Act) in relation to the beneficiary; or
  (b) if there is no nominated electronic address (within the meaning of that Act) in relation to the beneficiary—a letter sent to the beneficiary by pre-paid post or by courier to the address of the place of residence or business of the beneficiary last known to the trustee.

(6) The notice must:
  (a) be in the form specified in regulations made for the purposes of this subsection; and
  (b) contain information of a kind specified in regulations made for the purposes of this subsection that relates to:

Authorised Version C2026C00335 registered 27/07/2026

(i) the ranking of Part 6A products according to relative fee levels, investment returns or any other criterion; or

(ii) any other matter (whether or not related to the matter mentioned in subparagraph (i)).

Note: Regulations made for the purposes of this subsection may refer to regulations made for the purposes of section 60J, which may specify formulas as a basis for ranking such products.

(7) Regulations made for the purposes of subsection (6) may specify kinds of information by applying, adopting or incorporating any matter contained in an instrument or other writing, as in force or existing from time to time, if the instrument or other writing is published on a website maintained by the Australian Taxation Office.

(8) Regulations made for the purposes of subsection (6) may specify information that is a standard text or standard texts.

(9) Subsection (8) does not limit the scope of regulations that may be made for the purposes of subsection (6).

60F Consequences of 2 consecutive fail assessments

Application of section

(1) Subsection (2) applies if both of the following conditions are satisfied:

(a) APRA gives the trustee or trustees of an entity a notification of a determination under subsection 60C(2) that the requirement in subsection 60D(1) has not been met for a Part 6A product offered by the entity, in relation to a financial year;

(b) APRA gives the trustee or trustees of the entity a notification (the ***second notification***) of another determination under subsection 60C(2) that the requirement in subsection 60D(1) has not been met for that Part 6A product, in relation to the next financial year.

Authorised Version C2026C00335 registered 27/07/2026

No new beneficiaries for the Part 6A product

(2) Each trustee of the entity must ensure that:

(a) a person who, on the day when the second notification is given, is not a beneficiary of the entity does not become a beneficiary of the entity who holds the Part 6A product; and

(b) a person who, on that day, is a beneficiary of the entity who does not hold the Part 6A product does not start to hold the Part 6A product.

Exemption determination

(3) Subsection (2) does not apply in relation to a Part 6A product offered by an entity if a determination made by APRA under subsection (4) that specifies the Part 6A product and the entity is in force.

(4) APRA may make a determination, in writing, that specifies a Part 6A product offered by a specified entity, if APRA considers that requirements specified in regulations made for the purposes of this subsection have been met in relation to the Part 6A product and the entity.

(5) The determination comes into force on:

(a) the day on which the determination is made; or

(b) a later day specified in the determination.

(6) APRA must give a copy of the determination to the entity as soon as practicable after making it.

(7) A determination under subsection (4) is not a legislative instrument.

(8) To avoid doubt, if APRA makes a determination under subsection (4) in relation to a Part 6A product:

(a) APRA may later give notifications for the purposes of subsection (1) in relation to the Part 6A product in relation to financial years ending after APRA made the determination; and

Authorised Version C2026C00335 registered 27/07/2026

(b) subsection (3) does not prevent subsection (2) from applying in relation to the Part 6A product as a result of those notifications.

Family law payment splits

(9) Subsection (2) does not apply in relation to:

(a) a person becoming a beneficiary of an entity who holds a Part 6A product, if this occurs as a result of a payment split (within the meaning of Part VIIIB or VIIIC of the *Family Law Act 1975*); or

(b) a person starting to hold a Part 6A product, if this occurs as a result of such a payment split.

Notifications to Fair Work Commission

(10) If:

(a) subsection (2) starts to apply in relation to a Part 6A product that is a MySuper product offered by an entity; or

(b) APRA makes a determination under subsection (4) in relation to a Part 6A product that is a MySuper product offered by an entity;

APRA must notify the Fair Work Commission in writing of that fact.

60G Multiple Part 6A products treated as one Part 6A product in certain circumstances

(1) This section applies if regulations made for the purposes of this subsection:

(a) specify one or more kinds of circumstances; and

(b) specify provisions of this Part in relation to each of those kinds of circumstances.

(2) In circumstances of a kind specified in the regulations, for the purposes of provisions of this Part specified in the regulations in relation to that kind of circumstances:

Authorised Version C2026C00335 registered 27/07/2026

(a) treat 2 or more Part 6A products (the ***single Part 6A products***) as being one Part 6A product (the ***combined Part 6A product***); and

(b) treat anything that happened in relation to a single Part 6A product as having happened in relation to the combined Part 6A product; and

(c) treat a person who holds a single Part 6A product as holding the combined Part 6A product.

(3) Subsection (4) applies if a Part 6A product (the ***replaced product***) ceased to exist because it was incorporated into one or more single Part 6A products (whether or not the entity that offered the replaced product before it ceased to exist is the entity offering the single Part 6A product or any of the single Part 6A products).

(4) For the purposes of paragraph (2)(b), treat anything that happened in relation to the replaced product as having happened in relation to the single Part 6A product.

(5) Regulations made for the purposes of subsection (1) may:

(a) specify different provisions of this Part in relation to different kinds of circumstances; and

(b) in specifying provisions of this Part, specify all the provisions of this Part (apart from this section).

(6) Regulations made for the purposes of subsection (1) may do any of the following:

(a) specify requirements that depend on the exercise of a discretion by APRA;

(b) if the regulations specify requirements that depend on the exercise of such a discretion—specify matters that APRA must or may take into account in exercising that discretion;

(c) if the regulations specify requirements that depend on the exercise of such a discretion—allow APRA to make specified assumptions in exercising that discretion.

(7) Subsections (5) and (6) do not limit the scope of regulations made for the purposes of subsection (1).

Authorised Version C2026C00335 registered 27/07/2026

60H Requirements for contributions to blocked fund not enforceable

(1) This section applies if there is a requirement in:

(a) a Commonwealth law or a Territory law; or

(b) a Commonwealth industrial award or a Territory industrial award;

that an employer make contributions to a specified superannuation fund (or to a superannuation fund in a specified class or group of superannuation funds) on behalf of an employee.

(2) This section also applies if there is a requirement in

(a) a State law; or

(b) a State industrial award;

that an employer make contributions to a specified superannuation fund (or to a superannuation fund in a specified class or group of superannuation funds) on behalf of an employee.

(3) The requirement is not enforceable to the extent that the employer cannot make contributions to the superannuation fund (or to any of those superannuation funds) on behalf of the employee because of section 60F (consequences of 2 consecutive fail assessments).

(4) In this section, the following terms have the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*:

(a) ***Commonwealth industrial award***;

(b) ***employee***;

(c) ***employer***;

(d) ***State industrial award***;

(e) ***Territory industrial award***.

60J Formulas for ranking products

(1) APRA may give the following, in writing, to the Australian Taxation Office in relation to a period or periods:

(a) a description of one or more methods for ranking Part 6A products;

Authorised Version C2026C00335 registered 27/07/2026

(b) information relating to all Part 6A products that allows that method or those methods to be used to rank those Part 6A products.

(2) In giving the description mentioned in paragraph (1)(a), APRA may take into account regulations mentioned in subsection (3).

(3) Regulations made for the purposes of this section may:

(a) specify one or more formulas as a basis for ranking Part 6A products, or classes of Part 6A products, according to relative fee levels, investment returns or any other criterion; and

(b) specify one or more methods for ranking Part 6A products according to that formula or those formulas.

(4) As soon as practicable after receiving the information, the Commissioner of Taxation must ensure that the information, to the extent that it relates to Part 6A products that are MySuper products, is made available on a website maintained by the Commissioner of Taxation.

Note: If the disclosure of information is for the purposes of this Act, subsection 56(3) of the *Australian Prudential Regulation Authority Act 1998* provides an exception to the secrecy offence in subsection 56(2) of that Act.

(5) For the purposes of subsection (4), the information may be made available by:

(a) making it available only in response to a query by a particular person; and

(b) making it available in the form of a ranked list or ranked lists of Part 6A products, or classes of Part 6A products.

(6) Subsection (5) does not limit the ways in which the information may be made available for the purposes of subsection (4).

Authorised Version C2026C00335 registered 27/07/2026

Part 7—Provisions applying only to regulated superannuation funds

61 Object of Part

The object of this Part is to set out special rules which apply only to regulated superannuation funds.

62 Sole purpose test

(1) Each trustee of a regulated superannuation fund must ensure that the fund is maintained solely:

(a) for one or more of the following purposes (the ***core purposes***):

(i) the provision of benefits for each member of the fund on or after the member's retirement from any business, trade, profession, vocation, calling, occupation or employment in which the member was engaged (whether the member's retirement occurred before, or occurred after, the member joined the fund);

(ii) the provision of benefits for each member of the fund on or after the member's attainment of an age not less than the age specified in the regulations;

(iii) the provision of benefits for each member of the fund on or after whichever is the earlier of:

(A) the member's retirement from any business, trade, profession, vocation, calling, occupation or employment in which the member was engaged; or

(B) the member's attainment of an age not less than the age prescribed for the purposes of subparagraph (ii);

(iv) the provision of benefits in respect of each member of the fund on or after the member's death, if:

Authorised Version C2026C00335 registered 27/07/2026

(A) the death occurred before the member's retirement from any business, trade, profession, vocation, calling, occupation or employment in which the member was engaged; and

(B) the benefits are provided to the member's legal personal representative, to any or all of the member's dependants, or to both;

(v) the provision of benefits in respect of each member of the fund on or after the member's death, if:

(A) the death occurred before the member attained the age prescribed for the purposes of subparagraph (ii); and

(B) the benefits are provided to the member's legal personal representative, to any or all of the member's dependants, or to both; or

(b) for one or more of the core purposes and for one or more of the following purposes (the ***ancillary purposes***):

(i) the provision of benefits for each member of the fund on or after the termination of the member's employment with an employer who had, or any of whose associates had, at any time, contributed to the fund in relation to the member;

(ii) the provision of benefits for each member of the fund on or after the member's cessation of work, if the work was for gain or reward in any business, trade, profession, vocation, calling, occupation or employment in which the member was engaged and the cessation is on account of ill-health (whether physical or mental);

(iii) the provision of benefits in respect of each member of the fund on or after the member's death, if:

(A) the death occurred after the member's retirement from any business, trade, profession, vocation, calling, occupation or employment in which the member was engaged (whether the member's retirement occurred before, or occurred after, the member joined the fund); and

Authorised Version C2026C00335 registered 27/07/2026

(B) the benefits are provided to the member's legal personal representative, to any or all of the member's dependants, or to both;

(iv) the provision of benefits in respect of each member of the fund on or after the member's death, if:

(A) the death occurred after the member attained the age prescribed for the purposes of subparagraph (a)(ii); and

(B) the benefits are provided to the member's legal personal representative, to any or all of the member's dependants, or to both;

(v) the provision of such other benefits as the Regulator approves in writing.

(1A) Subsection (1) does not imply that a trustee of a regulated superannuation fund is required to maintain the fund so that the same kind of benefits will be provided:

(a) to each member of the fund; or

(b) in respect of each member of the fund.

(2) Subsection (1) is a civil penalty provision as defined by section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or of being involved in a contravention of, that subsection.

(3) An approval given by the Regulator for the purposes of subsection (1) may be expressed to relate to:

(a) a specified fund; or

(b) a specified class of funds.

62A Self managed superannuation funds—investment in collectables and personal use assets

The regulations may prescribe rules in relation to the trustees of regulated superannuation funds that are self managed superannuation funds making, holding and realising investments involving:

Authorised Version C2026C00335 registered 27/07/2026

(a) artwork (within the meaning of the *Income Tax Assessment Act 1997*); or
(b) jewellery; or
(c) antiques; or
(d) artefacts; or
(e) coins or medallions; or
(f) postage stamps or first day covers; or
(g) rare folios, manuscripts or books; or
(h) memorabilia; or
(i) wine; or
(j) cars; or
(k) recreational boats; or
(l) memberships of sporting or social clubs; or
(m) assets of a particular kind, if assets of that kind are ordinarily used or kept mainly for personal use or enjoyment (not including land).

Note: The regulations may prescribe penalties of not more than 10 penalty units for offences against the regulations. See paragraph 353(1)(d).

63 Certain regulated superannuation funds not to accept employer contributions in certain circumstances

Directions

(1) The Regulator may give a trustee of a regulated superannuation fund a written notice directing the trustee, or the trustees, not to accept any contributions made to the fund by an employer-sponsor.

Pre-1994-95 directions

(2) The Commissioner may only give a direction under this section to the trustee of a fund before the fund's 1994-95 year of income (whether in accordance with section 4 of the *Acts Interpretation Act 1901* or otherwise) if the direction takes effect at the beginning of that year of income and, at a time during the period:

Authorised Version C2026C00335 registered 27/07/2026

(a) beginning on the day on which this Act received the Royal Assent; and

(b) ending immediately before the beginning of that year of income;

when:

(c) the fund was in existence; and

(d) there were in force regulations for the purposes of subsection 7(1) of the *Occupational Superannuation Standards Act 1987* prescribing standards applicable to the fund;

the fund did not comply with any or all of those standards.

Post-1993-94 directions

(3) The Regulator must not give a direction under this section to a trustee of a fund after the beginning of the fund's 1994-95 year of income unless:

(a) a trustee of the fund has contravened one or more of the regulatory provisions (as defined in section 38A) on one or more occasions after the beginning of that year of income; and

(b) the Regulator is satisfied that the seriousness or frequency, or both, of the contraventions warrants the giving of the direction.

Reasons

(4) A direction under this section must be accompanied by, or included in the same document as, a statement giving the reasons for the direction.

Revocation

(5) The Regulator may revoke a direction under this section if the Regulator is satisfied that there is, and is likely to continue to be, substantial compliance by each trustee of the fund with the regulatory provisions (as defined in section 38A) applicable to the fund.

Authorised Version C2026C00335 registered 27/07/2026

Contravention of equal representation rules

(6) For the purposes of subsections (3) and (5), if a fund does not comply with Part 9 (which deals with equal representation), the trustee of the fund is, or the trustees of the fund are, taken to have contravened the applicable provisions of that Part.

Offence of contravening direction

(7) A trustee of a fund must not, without reasonable excuse, contravene a direction under this section.

Penalty: 100 penalty units.

(7A) Subsection (7) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

Additional rule for certain funds not complying with equal representation rules

(7B) An RSE licensee of a fund that is not a public offer superannuation fund must not, while subsection (7D) applies to the fund, accept any contributions made to the fund by an employer-sponsor.

Penalty: 60 penalty units.

(7C) Subsection (7B) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

(7D) This subsection applies to the fund if:

(a) the fund is failing to comply with subsection 92(4) or 93(4) (whichever is applicable); or

(b) having previously failed to comply, the fund does so comply but the RSE licensee has not given to APRA a notice in the approved form that:

Authorised Version C2026C00335 registered 27/07/2026

(i) states that the fund so complies; and

(ii) if the RSE licensee is a group of individual trustees and the compliance is as a result of the appointment of one or more other individual trustees to the group—states the appointee's name or the appointees' names; and

(iii) if the RSE licensee is a body corporate and the compliance is as a result of the appointment of one or more directors to the board of directors of the body corporate—states the appointee's name or the appointees' names.

Refund of contributions

(8) A contravention of subsection (7) or (7B) does not result in the invalidity of a transaction. However, if a contribution is accepted in contravention of either of those subsections, a trustee of the fund concerned must refund the contribution within 28 days or such further period as the Regulator allows.

Notification to employer-sponsors

(9) If a trustee of a fund is given a direction under this section, each trustee of the fund must ensure that all reasonable steps are taken to notify the direction to each employer-sponsor of the fund.

Offence of contravening subsection (8) or (9)

(10) A person who, without reasonable excuse, contravenes subsection (8) or (9) commits an offence punishable on conviction by a fine not exceeding 50 penalty units.

(10A) Subsection (10) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

Authorised Version C2026C00335 registered 27/07/2026

Refunded contributions to be ignored for the purposes of income tax and superannuation guarantee charge

(11) For the purposes of the Income Tax Assessment Act and the *Superannuation Guarantee (Administration) Act 1992*, if a contribution is refunded under this section, the person who made the contribution is taken never to have made the contribution.

Superannuation guarantee charge—shortfall component to be treated as employer contribution

(12) This section has effect as if the payment of a shortfall component to a fund under section 65 of the *Superannuation Guarantee (Administration) Act 1992* were a contribution made to the fund by an employer-sponsor.

OSSA

(13) A reference in this section to subsection 7(1) of the *Occupational Superannuation Standards Act 1987* includes a reference to that subsection as it continues to apply, despite its repeal, because of the *Occupational Superannuation Standards Amendment Act 1993*.

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

Application

(1) This section applies if:

(a) an employer of an employee is authorised (whether by the employee, by force of law or otherwise) to:

(i) deduct an amount from qualifying earnings, or from salary or wages, payable by the employer to the employee; and

(ii) pay to a trustee of a regulated superannuation fund the amount of the deduction for the purposes of making provision for superannuation benefits for, or for dependants of, the employee; and

Authorised Version C2026C00335 registered 27/07/2026

(b) the employer makes such a deduction.

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

Prompt remission

(2) The employer must pay to a trustee of the superannuation fund the amount of the deduction before the end of the 28-day period beginning immediately after the end of the month in which the deduction was made.

(3) The employer commits an offence if the employer contravenes subsection (2).

Penalty: 100 penalty units.

(3A) The employer commits an offence if the employer contravenes subsection (2). This is an offence of strict liability.

Penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

Part-time domestic workers counted

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

Authorised Version C2026C00335 registered 27/07/2026

65 Lending to members of regulated superannuation fund prohibited

Prohibition

(1) A trustee or an investment manager of a regulated superannuation fund must not:

(a) lend money of the fund to:

(i) a member of the fund; or

(ii) a relative of a member of the fund; or

(b) give any other financial assistance using the resources of the fund to:

(i) a member of the fund; or

(ii) a relative of a member of the fund.

Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) by a trustee in relation to a self managed superannuation fund.

Exception—private sector funds

(2) Subsection (1) does not prohibit the lending of money of a private sector fund established before 16 December 1985 to a member if the trustee of the fund, on or before that date:

(a) had express power to lend money to members; or

(b) lent money to members and that lending was not expressly prohibited by the governing rules of the fund.

Exception—public sector funds

(3) Subsection (1) does not prohibit the lending of money of a public sector fund established before 25 May 1988 to a member if the trustee of the fund, on or before that date:

(a) had express power to lend money to members; or

(b) lent money to members and that lending was not expressly prohibited by the governing rules of the fund.

Authorised Version C2026C00335 registered 27/07/2026

Variation of governing rules

(4) If:

(a) subsection (2) or (3) applies to a regulated superannuation fund; and

(b) at the beginning of the fund's 1994-95 year of income, a provision included in the governing rules of the fund authorised the lending of the fund's money to members;

a variation of that provision is void unless the variation:

(c) limits the power to lend the fund's money to members; or

(d) removes the power to lend the fund's money to members.

Civil penalty provision

(5) Subsection (1) is a civil penalty provision as defined by section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or of being involved in a contravention of, that subsection.

Effect of Part 8

(7) Nothing in Part 8 limits the operation of this section.

66 Acquisitions of certain assets from members of regulated superannuation funds prohibited

Prohibition

(1) Subject to subsection (2), a trustee or an investment manager of a regulated superannuation fund must not intentionally acquire an asset from a related party of the fund.

Exception—acquisitions of business real property and listed securities

(2) Subsection (1) does not prohibit a trustee or investment manager acquiring an asset from a related party of the fund if:

(a) the asset is a listed security acquired at market value; or

Authorised Version C2026C00335 registered 27/07/2026

(b) if the fund is a superannuation fund with no more than 6 members—the asset is business real property of the related party acquired at market value; or

(c) the trustee of a regulated superannuation fund acquired the asset under a merger between regulated superannuation funds; or

(d) the asset is an asset of a kind which the Regulator, by legislative instrument, determines may be acquired by:

(i) any fund; or

(ii) a class of funds in which the fund is included.

Exception—certain in-house assets

(2A) Subsection (1) does not prohibit the acquisition of an asset by a trustee or investment manager of a superannuation fund from a related party of the fund if:

(a) the acquisition of the asset constitutes an investment that:

(i) is an in-house asset of the fund within the meaning of subsection 71(1); or

(ii) would be an in-house asset of the fund within the meaning of subsection 71(1) apart from the operation of Subdivision D of Part 8; or

(iii) is a life insurance policy issued by a life insurance company (other than a policy acquired from a member of the fund or from a relative of a member); or

(iv) is referred to in paragraph 71(1)(b), (ba), (c), (d), (e), (f), (h) or (j); and

(b) the asset is acquired at market value; and

(c) the acquisition of the asset would not result in the level of in-house assets of the superannuation fund exceeding the level permitted by Part 8.

Exception—breakdown of relationships

(2B) Subsection (1) does not prohibit a trustee or investment manager acquiring an asset from a related party of the fund (the ***acquiring fund***) if:

Authorised Version C2026C00335 registered 27/07/2026

(a) the asset is acquired:
(i) for the benefit of a particular member of the acquiring fund; and
(ii) from a trustee or investment manager of another regulated superannuation fund (the ***transferring fund***); and
(b) at the time of the acquisition:
(i) the member and his or her spouse or former spouse are separated; and
(ii) there is no reasonable likelihood of cohabitation being resumed; and
(c) the acquisition occurs because of reasons directly connected with the breakdown of the relationship between the spouses or former spouses; and
(d) the asset represents the whole, or a part, of either:
(i) the member's own interests in the transferring fund; or
(ii) the member's entitlements as determined under Part VIIIB or VIIIC of the *Family Law Act 1975* in relation to the interests of the member's spouse, or former spouse, in the transferring fund.

(2C) For the purposes of subsection (2B), the question whether the spouses, or former spouses, have separated is to be determined in the same way as it is for the purposes of section 48 of the *Family Law Act 1975* (as affected by sections 49 and 50 of that Act).

Prohibition of avoidance schemes

(3) A person must not enter into, commence to carry out, or carry out a scheme if the person entered into, commenced to carry out, or carried out the scheme or any part of the scheme with the intention that:
(a) the scheme would result, or be likely to result, in the acquisition of an asset by a trustee or an investment manager of a regulated superannuation fund, where the asset is acquired from a person who has a connection (either direct or

Authorised Version C2026C00335 registered 27/07/2026

indirect through one or more interposed companies, partnerships or trusts) with a related party of the fund; and

(b) that acquisition would avoid the application of subsection (1) to the fund.

Offence

(4) A person who contravenes subsection (1) or (3) commits an offence punishable on conviction by imprisonment for a term not exceeding 1 year.

Definitions

(5) In this section:

acquire an asset does not include accept money.

business includes any profession, trade, employment, vocation or calling carried on for the purposes of profit, including:

(a) the carrying on of primary production; and

(b) the provision of professional services;

but does not include occupation as an employee.

business real property, in relation to an entity, means:

(a) any freehold or leasehold interest of the entity in real property; or

(b) any interest of the entity in Crown land, other than a leasehold interest, being an interest that is capable of assignment or transfer; or

(c) if another class of interest in relation to real property is prescribed by the regulations for the purposes of this paragraph—any interest belonging to that class that is held by the entity;

where the real property is used wholly and exclusively in one or more businesses (whether carried on by the entity or not), but does not include any interest held in the capacity of beneficiary of a trust estate.

Authorised Version C2026C00335 registered 27/07/2026

listed security means a security listed for quotation in the official list of any of the following:

(a) a licensed market within the meaning of the *Corporations Act 2001*; or

(b) an approved stock exchange within the meaning of the *Income Tax Assessment Act 1997*; or

(c) a market exempted under section 791C of the *Corporations Act 2001*.

primary production business has the same meaning as in the *Income Tax Assessment Act 1997*.

scheme means:

(a) any agreement, arrangement, understanding, promise or undertaking:

(i) whether express or implied; or

(ii) whether or not enforceable, or intended to be enforceable, by legal proceedings; and

(b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

Real property used in primary production business

(6) For the purposes of the definition of ***business real property*** in subsection (5), real property used in one or more primary production businesses does not cease to be used wholly and exclusively in that business or those businesses only because:

(a) an area of the real property, not exceeding 2 hectares, contains a dwelling used primarily for domestic or private purposes; and

(b) the area is also used primarily for domestic or private purposes;

provided that the use for domestic or private purposes referred to in paragraphs (a) and (b) is not the predominant use of the real property.

Authorised Version C2026C00335 registered 27/07/2026

67 Borrowing

Prohibition

(1) Subject to this section and section 67A, a trustee of a regulated superannuation fund must not:

(a) borrow money; or

(b) maintain an existing borrowing of money.

Note 1: Section 67A contains an exception for certain limited recourse borrowing arrangements.

Note 2: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

Exception—temporary borrowing to pay beneficiary

(2) Subsection (1) does not prohibit a trustee of a regulated superannuation fund from borrowing money if:

(a) the purpose of the borrowing is to enable the trustee to make a payment to a beneficiary which the trustee is required to make by law or by the governing rules and which, apart from the borrowing, the trustee would not be able to make; and

(b) the period of the borrowing does not exceed 90 days; and

(c) if the borrowing were to take place, the total amount borrowed by the trustee would not exceed 10% of the value of the assets of the fund.

(2A) Subsection (1) does not prohibit a trustee of a regulated superannuation fund from borrowing money if:

(a) the purpose of the borrowing is to enable the trustee to make a payment of surcharge or advance instalment which the trustee is required to make under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* and which, apart from the borrowing, the trustee would not be able to make; and

(b) the period of the borrowing does not exceed 90 days; and

Authorised Version C2026C00335 registered 27/07/2026

(c) if the borrowing were to take place, the total amount borrowed by the trustee would not exceed 10% of the value of the assets of the fund.

Exception—temporary borrowing to cover settlement of securities transactions

(3) Subsection (1) does not prohibit a trustee of a regulated superannuation fund from borrowing money if:

(a) the purpose of the borrowing is to enable the trustee to cover settlement of a transaction for the acquisition of any of the following:

(i) bonds, debentures, stock, bills of exchange or other securities;

(ii) shares in a company;

(iii) units in a unit trust;

(iv) futures contracts;

(v) forward contracts;

(vi) interest rates swap contracts;

(vii) currency swap contracts;

(viii) forward exchange rate contracts;

(ix) forward interest rate contracts;

(x) a right or option in respect of such a security, share, unit, contract or policy;

(xi) any similar financial instrument;

(xii) foreign currency; and

(b) both:

(i) at the time the relevant investment decision was made, it was likely that the borrowing would not be needed; and

(ii) the borrowing is not taken, under a determination made, by legislative instrument, by the Regulator, to be exempt from this paragraph; and

(c) the period of the borrowing does not exceed 7 days; and

(d) if the borrowing were to take place, the total amount borrowed by the trustee would not exceed 10% of the value of the assets of the fund.

Authorised Version C2026C00335 registered 27/07/2026

Exception—private sector funds

(5) Subsection (1) does not prohibit a trustee of a private sector fund from maintaining an existing borrowing of money if:

(a) the trustee had, at a time before 12 June 1986, borrowed the money in circumstances that did not comply with the standard set out in paragraph 16(1)(b) of the Occupational Superannuation Standards Regulations; and

(b) the maintenance occurs before whichever is the earliest of the following:

(i) the day on which the trustee made such arrangements as were necessary to comply with that standard;

(ii) the day on which the trustee makes such arrangements as are necessary to comply with subsection (1);

(iii) 1 July 1995.

Exception—public sector funds

(6) Subsection (1) does not prohibit the trustee of a public sector fund from maintaining an existing borrowing of money if:

(a) the trustee had, at a time before 2 July 1990, borrowed the money in circumstances that did not comply with the standard set out in paragraph 16(1)(b) of the Occupational Superannuation Standards Regulations; and

(b) the maintenance occurs before whichever is the earliest of the following:

(i) the day on which the trustee made such arrangements as were necessary to comply with that standard;

(ii) the day on which the trustee makes such arrangements as are necessary to comply with subsection (1);

(iii) 1 July 2000.

Civil penalty provision

(7) Subsection (1) is a civil penalty provision as defined by section 193, and Part 21 therefore provides for civil and criminal

Authorised Version C2026C00335 registered 27/07/2026

consequences of contravening, or of being involved in a contravention of, that subsection.

67A Limited recourse borrowing arrangements

Exception

(1) Subsection 67(1) does not prohibit a trustee of a regulated superannuation fund (the ***RSF trustee***) from borrowing money, or maintaining a borrowing of money, under an arrangement under which:

(a) the money is or has been applied for the acquisition of a single acquirable asset, including:

(i) expenses incurred in connection with the borrowing or acquisition, or in maintaining or repairing the acquirable asset (but not expenses incurred in improving the acquirable asset); and

Example: Conveyancing fees, stamp duty, brokerage or loan establishment costs.

(ii) money applied to refinance a borrowing (including any accrued interest on a borrowing) to which this subsection applied (including because of section 67B) in relation to the single acquirable asset (and no other acquirable asset); and

(b) the acquirable asset is held on trust so that the RSF trustee acquires a beneficial interest in the acquirable asset; and

(c) the RSF trustee has a right to acquire legal ownership of the acquirable asset by making one or more payments after acquiring the beneficial interest; and

(d) the rights of the lender or any other person against the RSF trustee for, in connection with, or as a result of, (whether directly or indirectly) default on:

(i) the borrowing; or

(ii) the sum of the borrowing and charges related to the borrowing;

are limited to rights relating to the acquirable asset; and

Authorised Version C2026C00335 registered 27/07/2026

Example: Any right of a person to be indemnified by the RSF trustee because of a personal guarantee given by that person in favour of the lender is limited to rights relating to the acquirable asset.

(e) if, under the arrangement, the RSF trustee has a right relating to the acquirable asset (other than a right described in paragraph (c))—the rights of the lender or any other person against the RSF trustee for, in connection with, or as a result of, (whether directly or indirectly) the RSF trustee's exercise of the RSF trustee's right are limited to rights relating to the acquirable asset; and

(f) the acquirable asset is not subject to any charge (including a mortgage, lien or other encumbrance) except as provided for in paragraph (d) or (e).

*Meaning of **acquirable asset***

(2) An asset is an ***acquirable asset*** if:

(a) the asset is not money (whether Australian currency or currency of another country); and

(b) neither this Act nor any other law prohibits the RSF trustee from acquiring the asset.

(3) This section and section 67B apply to a collection of assets in the same way as they apply to a single asset, if:

(a) the assets in the collection have the same market value as each other; and

(b) the assets in the collection are identical to each other.

Example: A collection of shares of the same class in a single company.

(4) For the purposes of this section and section 67B, the regulations may provide that, in prescribed circumstances, an acquirable asset ceases to be that particular acquirable asset.

RSF trustee

(5) Paragraphs (1)(d) and (e) do not apply to a right of:

(a) a member of the regulated superannuation fund; or

(b) another trustee of the regulated superannuation fund;

Authorised Version C2026C00335 registered 27/07/2026

to damages against the RSF trustee for a breach by the RSF trustee of any of the RSF trustee's duties as trustee.

(6) A reference in paragraph (1)(d) or (e) (but not in subsection (5)) to a right of any person against the RSF trustee includes a reference to a right of a person who is the RSF trustee, if the person holds the right in another capacity.

67B Limited recourse borrowing arrangements—replacement assets

(1) Subsection (2) applies to:

(a) a reference in paragraph 67A(1)(b), (c), (d), (e) or (f) to an acquirable asset (the ***original asset***); or

(b) a reference in subsection 71(8) to an acquirable asset (the ***original asset***) mentioned in paragraph 67A(1)(b);

(including a reference resulting from a previous application of subsection (2) of this section).

(2) Treat the reference as being a reference to another single acquirable asset (the ***replacement asset***) if:

(a) the replacement asset replaces the original asset; and

(b) subsection (3), (4), (5), (6), (7) or (8) applies.

(3) This subsection applies if:

(a) the original asset consists of:

(i) a share in a company, or a collection of shares in a company; or

(ii) a unit in a unit trust, or a collection of units in a unit trust; and

(b) the replacement asset consists of:

(i) a share in that company, or a collection of shares in that company; or

(ii) a unit in that unit trust, or a collection of units in that unit trust; and

(c) at the time the replacement occurs, the original asset and the replacement asset have the same market value.

Authorised Version C2026C00335 registered 27/07/2026

(4) This subsection applies if:

(a) the original asset consists of an instalment receipt that confers a beneficial interest in:

(i) a share in a company; or

(ii) a collection of shares in a company; and

(b) the replacement asset consists of that share or collection.

(5) This subsection applies if:

(a) the original asset consists of:

(i) a share in a company, or a collection of shares in a company; or

(ii) a unit in a unit trust, or a collection of units in a unit trust; and

(b) the replacement asset consists of:

(i) a share in another company, or a collection of shares in another company; or

(ii) a unit in another unit trust, or a collection of units in another unit trust; and

(c) the replacement occurs as a result of a takeover, merger, demerger or restructure of the company or unit trust mentioned in paragraph (a).

(6) This subsection applies if:

(a) the original asset consists of a share in a company, or a collection of shares in a company; and

(b) the replacement asset consists of a stapled security, or a collection of stapled securities; and

(c) each of those stapled securities consists of a single share, or a single collection of shares of the same class, stapled together with a single unit, or a single collection of units of the same class, in a unit trust; and

(d) the replacement occurs under a scheme of arrangement of the company.

(7) This subsection applies if:

Authorised Version C2026C00335 registered 27/07/2026

(a) the original asset consists of a unit in a unit trust, or a collection of units in a unit trust; and

(b) the replacement asset consists of a unit in that unit trust, or a collection of units in that unit trust; and

(c) the replacement occurs as a result of an exercise of a discretion granted under the trust deed of that unit trust to the trustee of that unit trust.

(8) This subsection applies in the circumstances (if any) prescribed by the regulations for the purposes of this subsection.

68 Victimisation of trustees etc.

Prohibition

(1) A person must not commit an act of victimisation against:

(a) a trustee of an employer-sponsored fund; or

(b) a responsible officer of a corporate trustee of an employer-sponsored fund.

Penalty: Imprisonment for 2 years.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Act of victimisation against trustee

(2) For the purposes of this section, a person is taken to commit an act of victimisation against a trustee of an employer-sponsored fund if, and only if, the person subjects, or threatens to subject, the trustee to a detriment on the grounds that:

(a) the trustee has fulfilled, is fulfilling, or is proposing to fulfil, an obligation imposed on the trustee; or

(b) the trustee has exercised, is exercising, or is proposing to exercise, the trustee's powers in a particular way.

Authorised Version C2026C00335 registered 27/07/2026

Act of victimisation against officer of corporate trustee

(3) For the purposes of this section, a person is taken to commit an act of victimisation against a responsible officer of a corporate trustee of an employer-sponsored fund if, and only if, the person subjects, or threatens to subject, the responsible officer to a detriment on the grounds that:

(a) the trustee or officer has fulfilled, is fulfilling, or is proposing to fulfil, an obligation imposed on the trustee or officer; or

(b) the trustee or officer has exercised, is exercising, or is proposing to exercise, any of the trustee's powers or the officer's powers, as the case may be, in a particular way.

Employers

(4) For the purposes of this section, an employer is taken to subject an employee to a detriment if the employer:

(a) dismisses the employee; or

(b) injures the employee in his or her employment; or

(c) alters the position of the employee to the employee's prejudice.

However, for the purposes of this section, an employer is taken not to subject an employee to a detriment if the employer:

(a) permanently ceases to be an employer-sponsor of a superannuation fund of which the employee is a member; or

(b) temporarily ceases to contribute to a superannuation fund in respect of a class of members in which the employee is included; or

(c) reduces the level of contributions to a superannuation fund in respect of a class of members in which the employee is included.

Reasons

(5) In civil proceedings arising out of this section:

(a) it is not necessary for the plaintiff to prove the defendant's reason for the alleged action; and

Authorised Version C2026C00335 registered 27/07/2026

(b) it is a defence if the defendant proves that the action was not motivated (whether in whole or in part) by the alleged reason.

Obligations

(6) A reference in this section to an obligation imposed on a trustee or a responsible officer is a reference to an obligation imposed on the trustee or officer by this Act, the regulations or the prudential standards, by the governing rules of the entity concerned or otherwise.

Powers

(7) A reference in this section to the powers of a trustee or a responsible officer is a reference to the powers conferred on the trustee or the officer by this Act, the regulations or the prudential standards, by the governing rules of the entity concerned or otherwise.

Civil liability

(8) If:

(a) a person (the ***defendant***) commits an act of victimisation against:

(i) a trustee of an employer-sponsored fund; or

(ii) a responsible officer of a corporate trustee of an employer-sponsored fund; and

(b) the trustee or officer suffers loss or damage because of the act of victimisation;

the trustee or officer may recover the amount of the loss or damage by action against the defendant.

Authorised Version C2026C00335 registered 27/07/2026

*Special meaning of **employee** and **employer***

(9) The meaning of the expressions ***employee*** and ***employer***, when used in this section, is to be determined as if subsections 12(3) and (8) of the *Superannuation Guarantee (Administration) Act 1992* had not been enacted. (Those subsections deem certain contractors to be employees.)

68AAA Benefits provided by taking out insurance—inactive accounts

(1) Each trustee of a regulated superannuation fund must ensure that a benefit is not provided by the fund to, or in respect of, a member of the fund under a choice product or MySuper product held by the member by taking out or maintaining insurance if:

(a) the member's account is inactive in relation to that product for a continuous period of 16 months; and

(b) the member has not elected under subsection (2) that the benefit will be provided to, or in respect of, the member under the product by taking out or maintaining insurance, even if the member's account is inactive in relation to that product for a continuous period of 16 months.

Note: This section does not apply in relation to regulated superannuation funds with no more than 6 members (see section 68AAD).

(2) Each trustee of the regulated superannuation fund must ensure that each member of the fund who holds a choice product or MySuper product offered by the fund may elect, in writing, that a benefit specified in the election is to be provided to, or in respect of, the member under the product by taking out or maintaining insurance, even if the member's account is inactive in relation to that product for a continuous period of 16 months.

(2A) A member's election:

(a) that:

(i) is given under subsection (2); or

(ii) because of a previous application of this subsection, is taken to have been given under subsection (2);

Authorised Version C2026C00335 registered 27/07/2026

to the trustee of a regulated superannuation fund (the ***original fund***); and

(b) that is in force immediately before the transfer of the benefits of the member from the original fund to another regulated superannuation fund (the ***successor fund***);

continues in force (and may be dealt with) as if it had been given under subsection (2) to the trustee of the successor fund, if:

(c) the successor fund confers on the member equivalent rights to the rights the member had under the original fund in respect of the benefits; and

(d) before the transfer, the trustee of the successor fund had agreed with the trustee of the original fund that the successor fund will confer such equivalent rights on the member.

(3) For the purposes of this section, a member of a regulated superannuation fund has an account that is ***inactive*** in relation to a choice product or MySuper product for a period if the trustee, or trustees of the fund, have not received an amount in respect of the member that relates to that product during that period.

(4) The prohibition in subsection (1) ceases to apply to benefits provided to, or in respect of, a member of the fund under a choice product or MySuper product held by the member if the trustee, or trustees of the fund, receive an amount in respect of the member that relates to that product after the account has been inactive in relation to the product for 16 months.

(5) However, the prohibition in subsection (1) applies again if the member's account is again inactive in relation to the product for a period of 16 months.

(6) This section does not apply to:

(a) a defined benefit member; or

(b) an ADF Super member (within the meaning of the *Australian Defence Force Superannuation Act 2015*) who is:

(i) a member of the Permanent Forces (within the meaning of that Act); or

Authorised Version C2026C00335 registered 27/07/2026

(ii) a continuous full-time Reservist (within the meaning of that Act); or

(c) a person who would be an ADF Super member covered by paragraph (b) of this subsection apart from the fact that the regulated superannuation fund is or was, for the purposes of Part 3A of the *Superannuation Guarantee (Administration) Act 1992*, a chosen fund for contributions for the person's superannuation by the Commonwealth; or

(d) a member to whom the employer-sponsor contribution exception applies (see section 68AAE).

(7) Nothing in this section affects a right of a member of a regulated superannuation fund if:

(a) the right relates to insurance cover; and

(b) in compliance with this section, an insurance premium in relation to the member for that insurance cover ceases to be paid; and

(c) the right exists because of insurance premiums paid in relation to the member before insurance premiums cease to be paid as mentioned in paragraph (b).

(8) Nothing in this section affects a right of a member of a regulated superannuation fund if:

(a) the right is a right to insurance cover for a fixed term, subject only to the payment of insurance premiums; and

(b) that fixed term begins before the time at which a trustee of the fund is required under subsection (1) to ensure that a benefit is not provided to, or in respect of, the member under a choice product or MySuper product held by the member by taking out or maintaining insurance.

68AAB Benefits provided by taking out insurance—low-balance accounts

(1) Each trustee of a regulated superannuation fund must ensure that a benefit is not provided by the fund to, or in respect of, a member of the fund under a choice product or MySuper product held by the member by taking out or maintaining insurance if:

Authorised Version C2026C00335 registered 27/07/2026

(a) the member has an account balance with the fund that relates to the product that is less than $6,000; and

(b) on or after 1 November 2019, the member has not had an account balance with the fund that relates to the product that was equal to or greater than $6,000; and

(c) the member has not elected under subsection (2) that the benefit will be provided to, or in respect of, the member under the product by taking out or maintaining insurance, even if the member has an account balance with the fund that relates to the product that is less than $6,000.

Note: This section does not apply in relation to regulated superannuation funds with no more than 6 members (see section 68AAD).

(2) Each trustee of the regulated superannuation fund must ensure that each member of the fund who holds a choice product or MySuper product offered by the fund may elect, in writing, that a benefit specified in the election is to be provided to, or in respect of, the member under the product by taking out or maintaining insurance, even if the member has an account balance with the fund that relates to the product that is less than $6,000.

(3) The member is taken to have made an election under subsection (2) if the member makes an election under subsection 68AAC(2).

(3A) A member's election:

(a) that:

(i) is given under subsection (2); or

(ii) because of a previous application of this subsection, is taken to have been given under subsection (2);

to the trustee of a regulated superannuation fund (the ***original fund***); and

(b) that is in force immediately before the transfer of the benefits of the member from the original fund to another regulated superannuation fund (the ***successor fund***);

continues in force (and may be dealt with) as if it had been given under subsection (2) to the trustee of the successor fund, if:

Authorised Version C2026C00335 registered 27/07/2026

(c) the successor fund confers on the member equivalent rights to the rights the member had under the original fund in respect of the benefits; and

(d) before the transfer, the trustee of the successor fund had agreed with the trustee of the original fund that the successor fund will confer such equivalent rights on the member.

(3B) Subsection (3C) applies if:

(a) the benefits of a member of a regulated superannuation fund (the ***original fund***) are transferred from the original fund to another regulated superannuation fund (the ***successor fund***); and

(b) the successor fund confers on the member equivalent rights to the rights the member had under the original fund in respect of the benefits.

(3C) Subsection (1) does not apply in relation to the successor fund providing a benefit to, or in respect of, the member if, immediately before the transfer:

(a) the original fund provided a benefit to, or in respect of, the member under a choice product or MySuper product held by the member by taking out or maintaining insurance; and

(b) subsection (1):

(i) did not apply in relation to the original fund providing that benefit to, or in respect of, the member; but

(ii) would have applied if paragraphs (1)(a) and (b) were disregarded.

(4) This section does not apply to:

(a) a defined benefit member; or

(b) an ADF Super member (within the meaning of the *Australian Defence Force Superannuation Act 2015*) who is:

(i) a member of the Permanent Forces (within the meaning of that Act); or

(ii) a continuous full-time Reservist (within the meaning of that Act); or

Authorised Version C2026C00335 registered 27/07/2026

(c) a person who would be an ADF Super member covered by paragraph (b) of this subsection apart from the fact that the regulated superannuation fund is or was, for the purposes of Part 3A of the *Superannuation Guarantee (Administration) Act 1992*, a chosen fund for contributions for the person's superannuation by the Commonwealth; or

(d) a member to whom the employer-sponsor contribution exception applies (see section 68AAE); or

(e) a member to whom the dangerous occupation exception applies (see section 68AAF).

(5) Nothing in this section affects a right of a member of a regulated superannuation fund if:

(a) the right relates to insurance cover; and

(b) in compliance with this section, an insurance premium in relation to the member for that insurance cover ceases to be paid; and

(c) the right exists because of insurance premiums paid in relation to the member before insurance premiums cease to be paid as mentioned in paragraph (b).

(6) Nothing in this section affects a right of a member of a regulated superannuation fund if:

(a) the right is a right to insurance cover for a fixed term, subject only to the payment of insurance premiums; and

(b) that fixed term begins before the time at which a trustee of the fund is required under subsection (1) to ensure that a benefit is not provided to, or in respect of, the member under a choice product or MySuper product held by the member by taking out or maintaining insurance.

68AAC Benefits provided by taking out insurance—members under 25 years old

(1) Each trustee of a regulated superannuation fund must ensure that a benefit is not provided by the fund to, or in respect of, a member of the fund under a choice product or MySuper product held by the member by taking out or maintaining insurance if:

Authorised Version C2026C00335 registered 27/07/2026

(a) the member is under the age of 25 years; and

(b) the member has not elected under subsection (2) that the benefit will be provided to, or in respect of, the member under the product by taking out or maintaining insurance, even if the member is under the age of 25 years.

Note: This section does not apply in relation to regulated superannuation funds with no more than 6 members (see section 68AAD).

(2) Each trustee of the regulated superannuation fund must ensure that each member of the fund who holds a choice product or MySuper product offered by the fund and who is under the age of 25 years may elect, in writing, that a benefit specified in the election is to be provided to, or in respect of, the member under the product by taking out or maintaining insurance, even if the member is under the age of 25 years.

(3) The member is taken to have made an election under subsection (2) if the member makes an election under subsection 68AAB(2).

(3A) A member's election:

(a) that:

(i) is given under subsection (2); or

(ii) because of a previous application of this subsection, is taken to have been given under subsection (2);

to the trustee of a regulated superannuation fund (the ***original fund***); and

(b) that is in force immediately before the transfer of the benefits of the member from the original fund to another regulated superannuation fund (the ***successor fund***);

continues in force (and may be dealt with) as if it had been given under subsection (2) to the trustee of the successor fund, if:

(c) the successor fund confers on the member equivalent rights to the rights the member had under the original fund in respect of the benefits; and

(d) before the transfer, the trustee of the successor fund had agreed with the trustee of the original fund that the successor fund will confer such equivalent rights on the member.

Authorised Version C2026C00335 registered 27/07/2026

(3B) Subsection (3C) applies if:

(a) the benefits of a member of a regulated superannuation fund (the ***original fund***) are transferred from the original fund to another regulated superannuation fund (the ***successor fund***); and

(b) the successor fund confers on the member equivalent rights to the rights the member had under the original fund in respect of the benefits.

(3C) Subsection (1) does not apply in relation to the successor fund providing a benefit to, or in respect of, the member if, immediately before the transfer:

(a) the original fund provided a benefit to, or in respect of, the member under a choice product or MySuper product held by the member by taking out or maintaining insurance; and

(b) subsection (1):

(i) did not apply in relation to the original fund providing that benefit to, or in respect of, the member; but

(ii) would have applied if paragraph (1)(a) were disregarded.

(4) This section does not apply to:

(a) a defined benefit member; or

(b) an ADF Super member (within the meaning of the *Australian Defence Force Superannuation Act 2015*) who is:

(i) a member of the Permanent Forces (within the meaning of that Act); or

(ii) a continuous full-time Reservist (within the meaning of that Act); or

(c) a person who would be an ADF Super member covered by paragraph (b) of this subsection apart from the fact that the regulated superannuation fund is or was, for the purposes of Part 3A of the *Superannuation Guarantee (Administration) Act 1992*, a chosen fund for contributions for the person's superannuation by the Commonwealth; or

(d) a member to whom the employer-sponsor contribution exception applies (see section 68AAE); or

Authorised Version C2026C00335 registered 27/07/2026

(e) a member to whom the dangerous occupation exception applies (see section 68AAF).

68AAD Sections 68AAA, 68AAB and 68AAC do not apply to funds with no more than 6 members

Sections 68AAA, 68AAB and 68AAC do not apply in relation to regulated superannuation funds with no more than 6 members.

68AAE Employer-sponsor contribution exception

(1) The ***employer-sponsor contribution exception*** applies for a QE day to a member of regulated superannuation fund to, or in respect of, whom a benefit is provided by the fund under a choice product or MySuper product held by the member by taking out or maintaining insurance if:

(a) an employer-sponsor notifies the trustee of the fund in writing that the employer-sponsor will pay insurance fees relating to the benefit for the member; and

(b) the member is:

(i) an employee of the employer-sponsor, or an associate of the employer-sponsor; or

(ii) the relative or dependant of such an employee; and

(c) the QE day is after the employer-sponsor notifies the trustee under paragraph (a); and

(d) the amount the employer-sponsor contributes to the fund for the QE day exceeds the amount that the employer-sponsor would need to contribute to avoid an individual base superannuation guarantee shortfall that is greater than nil for the member and the QE day; and

(e) that excess is equal to or greater than the insurance fees relating to the benefit for the QE day.

(2) In this section:

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

Authorised Version C2026C00335 registered 27/07/2026

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

68AAF Dangerous occupation exception

(1) The ***dangerous occupation exception*** applies to a member of a regulated superannuation fund to, or in respect of, whom a benefit is provided by the fund under a choice product or MySuper product held by the member by taking out or maintaining insurance if:

(a) the trustee or trustees of the fund make an election under this section that members holding that product will be covered by a dangerous occupation exception if they are employed in an occupation specified in the election; and

(b) the election is in force; and

(c) the member is employed in an occupation specified in the election; and

(d) it is reasonable to expect that some or all of the contributions paid into the product will be paid in respect of that employment.

(2) The trustee, or trustees, of a regulated superannuation fund may elect that members holding a choice product or MySuper product specified in the election are covered by a dangerous occupation exception if they are employed in an occupation specified in the election and either:

(a) a Fellow of the Institute of Actuaries of Australia has certified that:

(i) based on rates of death, or death and total and permanent disability; and

(ii) using information from the most recent 5 years in relation to Australian occupations;

the occupation is in the riskiest quintile of Australian occupations; or

(b) the occupation is as an emergency services worker (as defined for the purposes of the *Work Health and Safety Act 2011*).

Authorised Version C2026C00335 registered 27/07/2026

(3) The election must be made in writing.

(4) The election is ***in force*** during the period:

(a) beginning on the day on which a copy of the election is given to APRA; and

(b) ending on the day on which the trustee, or the trustees, of the fund give APRA notice in writing that the election is withdrawn.

(5) As soon as practicable after the election is made, a copy of the election must be:

(a) published on the trustee's, or each trustee's, website; and

(b) given to APRA.

(6) Within 28 days of the dangerous occupation exception applying to a member of the fund, the trustee or trustees must give the member:

(a) a notice in writing stating that the trustee or trustees have elected to treat the member's occupation as a dangerous occupation, and are providing the benefit under the choice product or MySuper product by taking out or maintaining insurance; and

(b) details of the annual cost to the member of providing the benefit under the choice product or MySuper product by taking out or maintaining insurance; and

(c) details of how the member may elect to have the benefit cease.

(7) To avoid doubt, nothing in this section affects the obligations of a trustee under the covenants referred to in section 52, or of a director of a corporate trustee under the covenants referred to in section 52A.

Note: For example, under paragraph 52(7)(c) each trustee is subject to a covenant to only offer or acquire insurance of a particular kind, or at a particular level, if the cost of the insurance does not inappropriately erode the retirement income of beneficiaries.

Authorised Version C2026C00335 registered 27/07/2026

68AA Benefits for permanent incapacity and death—MySuper members

Requirement to provide permanent incapacity benefit and death benefit by taking out insurance

(1) Each trustee of a regulated superannuation fund must ensure the following:

(a) that the fund provides permanent incapacity benefit to each MySuper member of the fund;

(b) that the fund provides death benefit in respect of each MySuper member of the fund;

(c) that the benefits referred to in paragraphs (a) and (b) are provided by taking out insurance.

Note: A failure to comply with subsection (1) is a breach of a condition of the RSE licence (see paragraph 29E(1)(a)).

(2) The trustees of a regulated superannuation fund are not required to provide permanent incapacity benefit or death benefit if the conditions determined under subsection (3) in relation to the benefit are not met.

(3) The trustees of a regulated superannuation fund may determine reasonable conditions to which the provision of:

(a) permanent incapacity benefit; or

(b) death benefit;

is subject.

(4) Without limiting subsection (3), conditions determined under subsection (3) in relation to a benefit are reasonable if they are the same as the terms and conditions of the policy of insurance taken out to provide the benefit.

Authorised Version C2026C00335 registered 27/07/2026

Requirement to allow MySuper members to elect not to receive permanent incapacity benefit or death benefit

(5) Each trustee of a regulated superannuation fund must ensure that each MySuper member of the fund may elect either or both of the following:

(a) that permanent incapacity benefit will not be provided to the member by the fund;

(b) that death benefit will not be provided in respect of the member by the fund.

Note: A failure to comply with subsection (5) is a breach of a condition of the RSE licence (see paragraph 29E(1)(a)).

(6) The trustees of a regulated superannuation fund may require that MySuper members who wish to make an election in accordance with subsection (5):

(a) must make the election in relation to both permanent incapacity benefit and death benefit; or

(b) must make the election in relation to death benefit if they make the election in relation to permanent incapacity benefit.

(7) Subsection (5) does not apply to a MySuper member of a regulated superannuation fund if the circumstances prescribed by the regulations for the purposes of this subsection are met.

(8) If a MySuper member of a regulated superannuation fund makes an election in accordance with subsection (5) in relation to a benefit, subsection (1) does not apply in relation to the member and the benefit.

Inactive accounts, low-balance accounts and members under the age of 25 years

(8A) This section does not require the provision of death benefit in respect of a MySuper member of a regulated superannuation fund, if death benefit is not to be provided in respect of the MySuper member by taking out or maintaining insurance because of section 68AAA, 68AAB or 68AAC.

Authorised Version C2026C00335 registered 27/07/2026

(8B) This section does not require the provision of permanent incapacity benefit to a MySuper member of a regulated superannuation fund, if permanent incapacity benefit is not to be provided in respect of the MySuper member by taking out or maintaining insurance because of section 68AAA, 68AAB or 68AAC.

(9) This section does not apply to:

(a) a defined benefit member; or

(b) an ADF Super member (within the meaning of the *Australian Defence Force Superannuation Act 2015*) who is:

(i) a member of the Permanent Forces (within the meaning of that Act); or

(ii) a continuous full-time Reservist (within the meaning of that Act); or

(c) a person who would be an ADF Super member covered by paragraph (b) of this subsection apart from the fact that the regulated superannuation fund is or was, for the purposes of Part 3A of the *Superannuation Guarantee (Administration) Act 1992*, a chosen fund for contributions for the person's superannuation by the Commonwealth.

Death benefit and permanent incapacity benefit

(10) For the purposes of this Act:

death benefit means a benefit provided in respect of a member of a regulated superannuation fund in, and only in, the event of the death of the member.

permanent incapacity benefit means a benefit provided to a member of a regulated superannuation fund if, and only if, the member is suffering permanent incapacity.

Authorised Version C2026C00335 registered 27/07/2026

68A Trustees must not use goods or services to influence employers

(1) A trustee of a regulated superannuation fund, or an associate of a trustee of a regulated superannuation fund, must not:

(a) supply, or offer to supply, goods or services to a person, or a relative or associate of a person; or

(b) supply, or offer to supply, goods or services to a person, or a relative or associate of a person, at a particular price; or

(c) give or allow, or offer to give or allow, a discount, allowance, rebate or credit in relation to the supply, or the proposed supply, of goods or services to a person, or a relative or associate of a person;

if that action could reasonably be expected to:

(d) influence the choice of the fund into which the person pays superannuation contributions for employees of the person who have no chosen fund; or

(e) influence the person to encourage one or more of the person's employees to remain, or apply or agree to be, a member of the fund.

Note: Under the *Superannuation Guarantee (Administration) Act 1992*, employers will need to pay contributions for an employee who has no chosen fund into a fund chosen by the employer, in order to meet the choice of fund requirement and so avoid a choice loading for the employee. There are other limits on the fund that may be chosen by the employer (see Part 3A of that Act).

(2) However, subsection (1) does not apply in relation to a supply of a kind prescribed in the regulations for the purposes of this subsection.

(3) A trustee of a regulated superannuation fund, or an associate of a trustee of a regulated superannuation fund, must not refuse to:

(a) supply, or offer to supply, goods or services to a person, or a relative or associate of a person; or

(b) supply, or offer to supply, goods or services to a person, or a relative or associate of a person, at a particular price; or

(c) give or allow, or offer to give or allow, a discount, allowance, rebate or credit in relation to the supply, or the

Authorised Version C2026C00335 registered 27/07/2026

proposed supply, of goods or services to a person, or a relative or associate of a person;

if it is reasonable to conclude that the refusal is given because:

(d) the person has not chosen the fund as the fund into which the person pays superannuation contributions for employees of the person who have no chosen fund; or

(e) the person has not encouraged one or more of the person's employees to remain, or apply or agree to be, a member of the fund.

Note: Under the *Superannuation Guarantee (Administration) Act 1992*, employers will need to pay contributions for an employee who has no chosen fund into a fund chosen by the employer, in order to meet the choice of fund requirement and so avoid a choice loading for the employee. There are other limits on the fund that may be chosen by the employer (see Part 3A of that Act).

(4) However, subsection (3) does not apply in relation to a supply of a kind prescribed in the regulations for the purposes of this subsection.

Civil penalty provisions

(4A) Subsections (1) and (3) are civil penalty provisions as defined in section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or being involved in a contravention of, those subsections.

Civil liability

(5) If:

(a) a person (the ***offender***) contravenes subsection (1) or (3); and

(b) another person (the ***victim***) suffers loss or damage because of the contravention;

the victim may recover the amount of the loss or damage by action against the offender.

(6) The action must be begun within 6 years after the day on which the cause of action arose.

Authorised Version C2026C00335 registered 27/07/2026

(7) This section does not affect any liability that the offender or another person has under any other provision of this Act or under any other law.

68B Promotion of illegal early release schemes

(1) A person must not promote a scheme that has resulted, or is likely to result, in a payment being made from a regulated superannuation fund otherwise than in accordance with payment standards prescribed under subsection 31(1).

(2) Subsection (1) is a civil penalty provision as defined by section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or being involved in a contravention of, that subsection.

(3) In this section:

promote, in relation to a scheme, includes the following:

(a) enter into the scheme;

(b) induce another person to enter into the scheme;

(c) carry out the scheme;

(d) commence to carry out the scheme;

(e) facilitate entry into, or the carrying out of, the scheme.

scheme means:

(a) any agreement, arrangement, understanding, promise or undertaking:

(i) whether express or implied; or

(ii) whether or not enforceable, or intended to be enforceable, by legal proceedings; or

(b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

Authorised Version C2026C00335 registered 27/07/2026

68C Voting by a director of a corporate trustee—governing rules

(1) This section applies to a regulated superannuation fund, other than a self managed superannuation fund, of which the trustee is a body corporate.

(2) A provision in the governing rules of the fund is void to the extent that it purports to preclude a director of the trustee from voting on a matter relating to the fund.

Exception

(3) Subsection (2) does not apply to a provision in the governing rules of the fund to the extent that the provision:

(a) precludes a director of the trustee of the fund from voting on a matter in which the director has a material personal interest; or

(b) otherwise relates to voting by a director of the trustee of the fund on a matter in which the director has a material personal interest; or

(c) precludes a director of the trustee of the fund from voting where there is a conflict of a kind described in paragraph 52(2)(d) or 52A(2)(d); or

(d) otherwise relates to voting by a director of the trustee of the fund where there is a conflict of a kind described in paragraph 52(2)(d) or 52A(2)(d); or

(e) precludes a director of the trustee of the fund from exercising a casting vote; or

(f) ensures compliance by the trustee of the fund, or a director of the trustee of the fund, with a prudential standard that deals with conflicts of interest or duty.

68D Voting by an individual trustee—governing rules

(1) This section applies to a regulated superannuation fund, other than a self managed superannuation fund, of which the trustee, or each of the trustees, is an individual.

Authorised Version C2026C00335 registered 27/07/2026

(2) A provision in the governing rules in the fund is void to the extent that it purports to preclude a trustee of the fund from voting on a matter relating to the fund.

Exception

(3) Subsection (2) does not apply to a provision in the governing rules of the fund to the extent that the provision:

(a) precludes a trustee of the fund from voting on a matter in which the trustee has a material personal interest; or

(b) otherwise relates to voting by a trustee of the fund on a matter in which the trustee has a material personal interest; or

(c) precludes a trustee of the fund from voting where there is a conflict of a kind described in paragraph 52(2)(d); or

(d) otherwise relates to voting by a trustee of the fund where there is a conflict of a kind described in paragraph 52(2)(d); or

(e) precludes a trustee of the fund from exercising a casting vote; or

(f) ensures compliance by a trustee of the fund with a prudential standard that deals with conflicts of interest or duty.

Authorised Version C2026C00335 registered 27/07/2026

Part 8—In-house asset rules applying to regulated superannuation funds

Division 1—Object and interpretation

Subdivision A—General

69 Object of Part

The object of this Part is to set out rules about the level of the in-house assets of regulated superannuation funds.

69A Sub-funds to be treated as funds

A sub-fund within a regulated superannuation fund is taken for the purposes of this Part to be a regulated superannuation fund if the sub-fund satisfies the following conditions:

(a) the sub-fund has separately identifiable assets and separately identifiable beneficiaries; and

(b) the interest of each beneficiary of the sub-fund is determined by reference only to the conditions governing that sub-fund.

70A The Regulator may determine a person to be a standard employer-sponsor

(1) For the purposes of this Part, the Regulator may determine in writing that a person, who is not a standard employer-sponsor of a regulated superannuation fund within the meaning of subsection 16(2), is taken to be a standard employer-sponsor of the fund.

(2) If the Regulator makes a determination under subsection (1) or revokes a determination so made, the Regulator must as soon as practicable after making or revoking the determination, inform a trustee of the regulated superannuation fund concerned, in writing, of the making or revocation of the determination.

Authorised Version C2026C00335 registered 27/07/2026

Subdivision B—Part 8 associates

70B Part 8 associates of individuals

For the purposes of this Part, each of the following is a ***Part 8 associate*** of an individual (the ***primary entity***), whether or not the primary entity is in the capacity of trustee:

(a) a relative of the primary entity;

(b) if the primary entity is a member of a superannuation fund with no more than 6 members:

(i) each other member of the fund; and

(ii) if the fund is a single member self managed superannuation fund whose trustee is a company—each director of that company; and

(iii) if the fund is a single member self managed superannuation fund whose trustees are individuals—those individuals;

(c) a partner of the primary entity or a partnership in which the primary entity is a partner;

(d) if a partner of the primary entity is an individual—the spouse or a child of that individual;

(e) a trustee of a trust (in the capacity of trustee of that trust), where the primary entity controls the trust;

(f) a company that is sufficiently influenced by, or in which a majority voting interest is held by:

(i) the primary entity; or

(ii) another entity that is a Part 8 associate of the primary entity because of another paragraph of this section or because of another application of this paragraph; or

(iii) 2 or more entities covered by the preceding subparagraphs.

Authorised Version C2026C00335 registered 27/07/2026

70C Part 8 associates of companies

For the purposes of this Part, each of the following is a ***Part 8 associate*** of a company (the ***primary entity***), whether or not the primary entity is in the capacity of trustee:

(a) a partner of the primary entity or a partnership in which the primary entity is a partner;

(b) if a partner of the primary entity is an individual—the spouse or a child of that individual;

(c) a trustee of a trust (in the capacity of trustee of that trust), where the primary entity controls the trust;

(d) another entity (in this paragraph called the ***controlling entity***) where the primary entity is sufficiently influenced by, or a majority voting interest in the primary entity is held by:

(i) the controlling entity; or

(ii) another entity that is a Part 8 associate of the controlling entity because of section 70B or 70D, another paragraph of this section or another application of this paragraph; or

(iii) 2 or more entities covered by the preceding subparagraphs;

(e) another company (in this paragraph called the ***controlled company***) where the controlled company is sufficiently influenced by, or where a majority voting interest in the controlled company is held by:

(i) the primary entity; or

(ii) another entity that is a Part 8 associate of the primary entity because of another paragraph of this section or because of another application of this paragraph; or

(iii) 2 or more entities covered by the preceding subparagraphs;

(f) if a third entity is a Part 8 associate of the primary entity because of paragraph (d) of this subsection—an entity that is a Part 8 associate of that third entity because of section 70B or 70D or because of another paragraph of this section.

Authorised Version C2026C00335 registered 27/07/2026

70D Part 8 associates of partnerships

For the purposes of this Part, each of the following is a ***Part 8 associate*** of a partnership (the ***primary entity***):

(a) a partner in the partnership;

(b) if a partner in the partnership is an individual—any entity that is a Part 8 associate of that individual because of section 70B;

(c) if a partner in the partnership is a company—any entity that is a Part 8 associate of that company because of section 70C.

70E Meanings of terms used in sections 70B, 70C and 70D

Sufficient influence/majority voting interest

(1) For the purposes of sections 70B, 70C and 70D:

(a) a company is sufficiently influenced by an entity or entities if the company, or a majority of its directors, is accustomed or under an obligation (whether formal or informal), or might reasonably be expected, to act in accordance with the directions, instructions or wishes of the entity or entities (whether those directions, instructions or wishes are, or might reasonably be expected to be, communicated directly or through interposed companies, partnerships or trusts); and

(b) an entity or entities hold a majority voting interest in a company if the entity or entities are in a position to cast, or control the casting of, more than 50% of the maximum number of votes that might be cast at a general meeting of the company.

Control of trust

(2) For the purposes of sections 70B, 70C and 70D, an entity ***controls*** a trust if:

(a) a group in relation to the entity has a fixed entitlement to more than 50% of the capital or income of the trust; or

(b) the trustee of the trust, or a majority of the trustees of the trust, is accustomed or under an obligation (whether formal

Authorised Version C2026C00335 registered 27/07/2026

or informal), or might reasonably be expected, to act in accordance with the directions, instructions or wishes of a group in relation to the entity (whether those directions, instructions or wishes are, or might reasonably be expected to be, communicated directly or through interposed companies, partnerships or trusts); or

(c) a group in relation to the entity is able to remove or appoint the trustee, or a majority of the trustees, of the trust.

Group in relation to an entity

(3) For the purposes of subsection (2):

group, in relation to an entity, means:

(a) the entity acting alone; or

(b) a Part 8 associate of the entity acting alone; or

(c) the entity and one or more Part 8 associates of the entity acting together; or

(d) 2 or more Part 8 associates of the entity acting together.

Definitions

(4) For the purposes of sections 70B, 70C and 70D:

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

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

Subdivision C—In-house assets

71 Meaning of *in-house asset*

Basic meaning

(1) For the purposes of this Part, an in-house asset of a superannuation fund is an asset of the fund that is a loan to, or an investment in, a related party of the fund, an investment in a related trust of the

Authorised Version C2026C00335 registered 27/07/2026

fund, or an asset of the fund subject to a lease or lease arrangement between a trustee of the fund and a related party of the fund, but does not include:

(a) a life policy issued by a life insurance company; or

(b) a deposit with an ADI; or

(c) an investment in a pooled superannuation trust, where a trustee of the fund and the trustee of the pooled superannuation trust acted at arm's length in relation to the making of that investment; or

(d) an asset of a public sector fund, where the asset consists of an investment in securities issued under the authority of:

(i) the Commonwealth or a government of a State or a Territory; or

(ii) a public authority constituted by or under a law of the Commonwealth, a State or a Territory, where the public authority is neither a standard employer-sponsor, nor an associate of a standard employer-sponsor, of the fund; or

(e) an asset which the Regulator, by written notice given to a trustee of the fund, determines is not an in-house asset of the fund; or

(f) an asset which the Regulator, by legislative instrument, determines is not an in-house asset of:

(i) any fund; or

(ii) a class of funds in which the fund is included; or

(g) if the superannuation fund has no more than 6 members—real property subject to a lease, or to a lease arrangement enforceable by legal proceedings, between a trustee of the fund and a related party of the fund, if, throughout the term of the lease or lease arrangement, the property is business real property (within the meaning of subsection 66(5)) of the fund; or

(h) an investment in a widely held unit trust; or

(i) property owned by the superannuation fund and a related party as tenants in common, other than property subject to a

Authorised Version C2026C00335 registered 27/07/2026

lease or lease arrangement between a trustee of the fund and a related party; or

(j) an asset included in a class of assets specified in the regulations:

(i) not to be in-house assets of any fund; or

(ii) not to be in-house assets of a class of funds to which the fund belongs.

For this purpose, a class of assets may consist of, but is not limited to, assets that are investments in entities that undertake, or do not undertake, specified activities.

Widely held trust

(1A) For the purposes of paragraph (1)(h), a trust is a ***widely held unit trust*** if:

(a) it is a unit trust in which entities have fixed entitlements to all of the income and capital of the trust; and

(b) it is not a trust in which fewer than 20 entities between them have:

(i) fixed entitlements to 75% or more of the income of the trust; or

(ii) fixed entitlements to 75% or more of the capital of the trust.

For this purpose, an entity and the Part 8 associates of the entity are taken to be a single entity.

Agreements

(2) If:

(a) apart from this subsection, an asset of a fund consists of a loan, an investment or an asset that is subject to a lease or lease arrangement, other than an in-house asset; and

(b) the loan, investment, lease or lease arrangement was made as a result of entering into or carrying out an agreement; and

(c) any of the persons who entered into or carried out the agreement was aware that the result of carrying out the agreement would be that:

Authorised Version C2026C00335 registered 27/07/2026

(i) a loan would be made to, an investment would be made in, or an asset would be subject to a lease or lease arrangement with, a related party of the fund; or

(ii) an investment would be made in a related trust of the fund;

then the asset is taken, for the purposes of this Part, to be a loan to, an investment in, or an asset subject to a lease or lease arrangement with, that related party or related trust, as the case requires.

Definition

(2A) In subsection (2):

agreement includes any arrangement, understanding, promise or undertaking whether express or implied, and whether or not enforceable, or intended to be enforceable, by legal proceedings.

Exceptions

(2B) Subsection (2) does not apply to an investment referred to in paragraph 71(1)(a), (b), (c) or (h).

2 or more persons

(3) Subsection (2) does not stop the same asset from being treated as if it were a loan to, an investment in, or an asset subject to a lease or lease arrangement with, 2 or more persons.

The Regulator's determination

(4) If:

(a) apart from this subsection, an asset of a fund consists of a loan, an investment, or an asset subject to a lease or lease arrangement, other than an in-house asset; and

(b) the Regulator, by written notice given to a trustee of the fund, determines that the asset is to be treated, with effect from the day on which the notice is given, as if the asset were a loan to, an investment in, or an asset subject to a lease or lease arrangement with, a specified related party or related trust of

Authorised Version C2026C00335 registered 27/07/2026

the fund, including a person taken to be a standard employer-sponsor of the fund under section 70A;

then, despite paragraphs (1)(a) to (j), the asset is taken, for the purposes of this Part, to be a loan to or an investment in the related party or related trust, or an asset subject to a lease or lease agreement between a trustee of the fund and the related party.

Paragraph (1)(e) determinations or paragraph (1)(j) regulations may be retrospective

(5) A determination under paragraph (1)(e) or regulations under paragraph (1)(j) may be expressed to have taken effect at a time earlier than the time when the determination or regulations were made.

Public sector superannuation funds

(7) For the purposes of applying this section to determine what is an in-house asset of a public sector superannuation fund, a reference to a Part 8 associate of an employer-sponsor of the fund is a reference to a body corporate in respect of which either of the following conditions is satisfied:

(a) the body corporate is sufficiently influenced by, or a majority voting interest in the body corporate is held by, the employer-sponsor;

(b) the employer-sponsor is sufficiently influenced by, or a majority voting interest in the employer-sponsor is held by, the body corporate.

Limit on when investments in related trusts are in-house assets

(8) If, at a time:

(a) an asset (the ***investment asset***) of a superannuation fund is an investment in a related trust of the fund; and

(b) the related trust is one described in paragraph 67A(1)(b) in connection with a borrowing, by the trustee of the fund, that is covered by subsection 67A(1); and

Authorised Version C2026C00335 registered 27/07/2026

(c) the only property of the related trust is the acquirable asset mentioned in that paragraph;

the investment asset is an in-house asset of the fund at the time only if the acquirable asset mentioned in that paragraph would be an in-house asset of the fund if it were an asset of the fund at the time.

(9) Subsections (1), (2) and (4) have effect subject to subsection (8).

Subdivision D—Transitional arrangements in relation to in-house assets

71A Exceptions—pre-11 August 1999 investments and loans

(1) If:

(a) at any time (the ***post-test time***) after the test time, an asset of a superannuation fund consists of:

(i) a loan or an investment made before the test time, or made after the test time under a contract entered into before the test time; or

(ii) a share or unit in a unit trust, if the share, or the unit, as the case requires, was acquired before the test time or under a contract entered into before the test time (notwithstanding any payments on the share or unit made to the issuer of the share or unit after the test time and before 1 July 2009); and

(b) if the asset was an asset of the fund immediately before the test time—it was not an in-house asset of the fund; and

(c) if the asset was not an asset of the fund immediately before the test time—it would not have been an in-house asset if it had been an asset of the fund immediately before the test time; and

(d) apart from this Subdivision, the asset would be an in-house asset of the fund at the post-test time;

the asset is not an in-house asset of the fund at the post-test time.

Authorised Version C2026C00335 registered 27/07/2026

Payments on partly paid shares and units after 30 June 2009

(2) However, if:

(a) the post-test time is after 30 June 2009; and

(b) the asset consists of a share or a unit in a unit trust; and

(c) one or more payments on the share or unit to the issuer of the share or unit has been made since 30 June 2009;

then:

(d) the asset is an in-house asset of the fund at the post-test time; and

(e) subsection (3) applies to the share or unit.

Reduced value for the purposes of working out value of in-house assets

(3) For the purposes of working out the formula component ***Number of whole dollars in value of in-house assets of the fund*** under section 75 at the post-test time, the value of the share or unit at the post-test time is taken to be the number of whole dollars in the amount worked out as follows:

$$\text{Market value of share or unit} \times \frac{\text{Excess amount}}{\text{Total amount}}$$

where:

excess amount means the total of the amounts that, as at the post-test time, had been paid after 30 June 2009 on the share or unit to the issuer of the share or unit.

market value of share or unit means the market value of the share or unit as at the post-test time.

total amount means the total of the amounts that, as at the post-test time had been paid (whether before or after 30 June 2009) on the share or unit to the issuer of the share or unit.

Authorised Version C2026C00335 registered 27/07/2026

71B Exceptions—pre-11 August 1999 leases and lease arrangements

(1) If:

(a) at any time (the ***post-test time***) after the test time, an asset of a superannuation fund consists of an asset subject to a lease, or a lease arrangement, between a trustee of the fund and a related party of the fund; and

(b) the asset was subject to a lease or lease arrangement, or any uninterrupted sequence of leases and lease arrangements, between a trustee of the fund and a related party, throughout the period beginning immediately before the test time and ending at the post-test time; and

(c) apart from this section, the asset would be an in-house asset of the fund at the post-test time;

the asset is not an in-house asset of the fund at the post-test time.

(2) For the purposes of subsection (1), if:

(a) before the test time, a lease or a lease arrangement enforceable by legal proceedings, in respect of an asset, was entered into between a trustee of a superannuation fund and a related party of the fund; and

(b) the lease or lease arrangement came into force after the test time;

the asset is taken to have been subject to a lease or a lease arrangement, between a trustee of the fund and that related party, immediately before the test time.

71C Exceptions—transition period

Investments and loans

(1) If:

(a) at any time (the ***pre-1 July 2001 time***) during the period after the test time but before 1 July 2001, an asset of a superannuation fund consists of a loan or an investment made during the transition period, other than under a contract entered into before the beginning of that period; and

Authorised Version C2026C00335 registered 27/07/2026

(b) if the asset had been an asset of the fund immediately before the test time—the asset would not have been an in-house asset of the fund; and

(c) apart from this section, the asset would be an in-house asset of the fund at the pre-1 July 2001 time;

the asset is not an in-house asset of the fund at the pre-1 July 2001 time. For this purpose, a loan or an investment is not made during the transition period merely because a contract is entered into during that period for the purpose of gaining interest, income, profit or gain.

Leases and lease arrangements

(2) If:

(a) at any time (the ***pre-1 July 2001 time***) during the period after the test time but before 1 July 2001, an asset of a superannuation fund consists of an asset subject to a lease, or a lease arrangement, between a trustee of the fund and a related party of the fund; and

(b) section 71B does not apply to the asset at the pre-1 July 2001 time; and

(c) the asset became subject to a lease or lease arrangement between a trustee of the fund and a related party at a time (the ***transition time***) during the transition period; and

(d) the asset was subject to a lease or a lease arrangement, or any uninterrupted sequence of leases and lease arrangements, between a trustee of the fund and a related party, throughout the period beginning at the transition time and ending at the pre-1 July 2001 time; and

(e) apart from this section, the asset would be an in-house asset of the fund at the post-test time;

the asset is not an in-house asset of the fund at the pre-1 July 2001 time.

71D Exception—reinvestments

If:

Authorised Version C2026C00335 registered 27/07/2026

(a) at any time (the ***post-test time***) after the test time, an asset of a superannuation fund consists of an investment (the ***post-test time investment***) in an entity (the ***original entity***) made during the period:

(i) beginning at the test time; and

(ii) ending at the end of 30 June 2009; and

(b) the post-test time investment is not covered by section 71A; and

(c) if the fund had made the post-test time investment immediately before the test time, it would not have been an in-house asset of the fund; and

(d) the sum of the purchase price of the post-test time investment and any previous investment to which this section applies does not, at the post-test time, exceed the sum of the following amounts:

(i) the sum of the amounts of all dividends or trust distributions received after the test time, but before the end of 30 June 2009, by the superannuation fund from the original entity, which were derived from an investment in the original entity made by the fund before the test time;

(ii) the sum of the amounts of all dividends or trust distributions received after the test time, but before the end of 30 June 2009, by the superannuation fund, which were derived from investments of dividends and trust distributions taken into account under subparagraph (i) or this subparagraph;

the asset is not an in-house asset of the fund at the post-test time.

71E Exception—certain geared investments

(1) If:

(a) at any time (the ***post-test time***) after the test time, an asset of a superannuation fund that has no more than 6 members consists of an investment (the ***post-test time investment***) in a unit trust or a company (the ***first entity***) made during the period:

Authorised Version C2026C00335 registered 27/07/2026

(i) beginning at the test time; and

(ii) ending at the end of 30 June 2009; and

(b) immediately before the test time, another asset (other than an in-house asset) of the superannuation fund consisted of an investment (the ***prior investment***) in the first entity; and

(c) immediately before the test time, an amount (the ***principal***) consisting of the principal of a loan was owed by the first entity to any entity other than the superannuation fund; and

(d) apart from this Subdivision, the post-test time investment would be an in-house asset of the fund at the post-test time; and

(e) the trustee, or the trustees, of the fund makes a written election, within:

(i) the period of 12 months beginning on the day on which this section commenced; or

(ii) such later period as is prescribed by the regulations;

that section 71E is to apply to all post-test time investments of the fund in that entity;

Note: Under subsection 103(2A), the trustee, or the trustees, of the fund must keep the election, or a copy of it, for 10 years after it is made.

then subsection (2) or (3), as the case requires, applies, and is taken always to have applied, to the post-test time investment.

Sum of purchase prices of post-test time investments does not exceed the principal—investment not an in-house asset

(2) The post-test time investment is not an in-house asset of the fund at the post-test time if the sum of the following amounts does not exceed the amount of the principal:

(a) the purchase price of the post-test time investment;

(b) the purchase price of any previous post-test time investment in the first entity by the fund.

Authorised Version C2026C00335 registered 27/07/2026

Sum of purchase prices of post-test time investments exceeds the principal—formula to be applied

(3) If the sum of the following:

(a) the purchase price of the post-test time investment;

(b) the purchase price of any previous post-test time investment in the first entity by the fund;

exceeds the amount of the principal, then:

(c) the post-test time investment is an in-house asset of the fund at the post-test time; and

(d) if the post-test time investment is the first post-test time investment in respect of which the sum of the amounts referred to in paragraphs (a) and (b) exceeds the amount of the principal—subsection (4) applies to the investment.

Reduced value for the purposes of working out value of in-house assets

(4) For the purposes of working out the formula component ***Number of whole dollars in value of in-house assets of the fund*** under section 75 at the post-test time, the value of the post-test time investment at the post-test time is taken to be the number of whole dollars in the amount worked out as follows:

$$\text{Market value of post-test time investment} \times \frac{\text{Excess amount}}{\text{Purchase price of post-test time investment}}$$

where:

excess amount means the amount of the excess under subsection (3).

market value of post-test time investment means the market value of the post-test time investment as at the post-test time.

purchase price of post-test time investment means the purchase price of the post-test time investment.

Authorised Version C2026C00335 registered 27/07/2026

Effect of election

(5) If the trustee, or the trustees, of a fund make an election under paragraph (1)(e) in respect of the post-test time investments of the fund in an entity, then:

(a) sections 71A and 71D do not apply, and are taken never to have applied, to any post-test time investment by the fund in that entity; and

(b) this section applies, and is taken always to have applied, to any post-test time investment of the fund in that entity.

Note: This means that if a fund makes an election, this section would apply to all investments in the entity after the test time and before 1 July 2009, and sections 71A and 71D would not apply to such investments.

Application of section to loans

(6) A reference in this section to an investment in a trust or company is taken to include a reference to a loan to a trust or company. For this purpose, the purchase price of the loan is taken to be the principal of the loan at the time at which the loan was made.

71EA Relationship breakdowns

Scope

(1) This section applies if:

(a) a trustee or an investment manager of a regulated superannuation fund (the ***acquiring fund***) acquires an asset:

(i) for the benefit of a particular member of the acquiring fund; and

(ii) from a trustee or investment manager of another regulated superannuation fund (the ***transferring fund***); and

(b) at the time of the acquisition:

(i) the member and his or her spouse or former spouse are separated; and

(ii) there is no reasonable likelihood of cohabitation being resumed; and

Authorised Version C2026C00335 registered 27/07/2026

(c) the acquisition occurs because of reasons directly connected with the breakdown of the relationship between the spouses or former spouses; and

(d) the asset represents the whole, or a part, of either:

(i) the member's own interests in the transferring fund; or

(ii) the member's entitlements as determined under Part VIIIB or VIIIC of the *Family Law Act 1975* in relation to the interests of the member's spouse, or former spouse, in the transferring fund.

(2) For the purposes of subsection (1), the question whether the spouses, or former spouses, have separated is to be determined in the same way as it is for the purposes of section 48 of the *Family Law Act 1975* (as affected by sections 49 and 50 of that Act).

Acquiring fund taken to have always held asset

(3) For the purposes of applying this Subdivision to the asset at or after the time (the ***acquisition time***) the trustee or investment manager of the acquiring fund acquires the asset, treat:

(a) the acquisition as having occurred at the time the trustee or investment manager of the transferring fund acquired the asset; and

(b) anything done by, for or in relation to the transferring fund in relation to the asset before the acquisition time as having been done by, for or in relation to the acquiring fund; and

(c) anything done by, for or in relation to the trustee or investment manager of the transferring fund in relation to the asset before the acquisition time as having been done by, for or in relation to the trustee or investment manager of the acquiring fund.

Section 71E elections

(4) In addition to their effect apart from this subsection, subsection 103(2A) (duty to keep record of election) and subsection 103(3), to the extent that it relates to

Authorised Version C2026C00335 registered 27/07/2026

subsection 103(2A), also have the effect they would have if subsection (3) of this section applied to them.

Note: This means that the trustees of both the transferring fund and the acquiring fund must retain, in accordance with subsection 103(2A), any election made under section 71E in relation to the transferring fund before the transfer of the asset.

(5) A person commits an offence if:

(a) the person is a trustee of the transferring fund; and

(b) just before the acquisition time, the trustee had a duty under subsection 103(2A) to retain an election, or a copy of an election, under section 71E in relation to the transferring fund; and

(c) the trustee does not, within 14 days after the acquisition time, give the election or copy to a trustee or investment manager of the acquiring fund.

Penalty: 50 penalty units.

Note: If the trustee gives the election to the acquiring fund, he or she must retain a copy of the election: see subsection (4).

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

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

71F Meaning of certain terms used in Subdivision D

In this Subdivision:

test time means the end of 11 August 1999.

transition period means the period:

(a) beginning at the test time; and

(b) ending on the day on which this section commenced.

Authorised Version C2026C00335 registered 27/07/2026

Subdivision E—Other provisions in relation to in-house assets

72 How this Part applies if there are 2 or more employer-sponsors of whom at least one is an unrelated employer-sponsor

(1) For the purposes of this section:

(a) a standard employer-sponsor (the ***first employer-sponsor***) of a superannuation fund is an unrelated employer-sponsor of the fund if, and only if, there is no other standard employer-sponsor of the fund who is a Part 8 associate of the first employer-sponsor; and

(b) 2 or more standard employer-sponsors of a superannuation fund are related to each other if they are Part 8 associates.

(2) For the purposes of this section:

(a) the class of the in-house assets of a fund that corresponds to a particular unrelated employer-sponsor is the class of in-house assets that consists of:

(i) loans to, investments in, or assets subject to leases or lease arrangements with, the employer-sponsor or a Part 8 associate of the employer-sponsor; or

(ii) loans to, investments in, or assets subject to leases or lease arrangements with, a standard employer-sponsored member of the fund, in respect of whom the employer-sponsor contributes to the fund, or a Part 8 associate of such a member; or

(iii) investments in a trust that is controlled by an entity referred to in subparagraph (i) or (ii); and

(b) the class of the in-house assets of a fund that corresponds to 2 or more employer-sponsors who are related to each other is the class of in-house assets that consists of:

(i) loans to, investments in, or assets subject to leases or lease arrangements with, any of them or a Part 8 associate of any of them; or

(ii) loans to, investments in, or assets subject to leases or lease arrangements with, a standard employer-sponsored member of the fund, in respect of whom any of them

Authorised Version C2026C00335 registered 27/07/2026

contributes to the fund, or a Part 8 associate of such a member; or

(iii) investments in a trust that is controlled by an entity referred to in subparagraph (i) or (ii).

(3) Subsections (4) and (5) apply if:

(a) there are 2 or more unrelated employer-sponsors of a superannuation fund (whether or not there are also any employer-sponsors of the fund who are related to each other); or

(b) there are 2 or more employer-sponsors of a superannuation fund who are related to each other and there are also one or more unrelated employer-sponsors of the fund.

(4) This Part does not apply in relation to the fund in relation to the in-house assets of the fund as a whole.

(5) However, this Part applies in relation to the fund separately in relation to each of the corresponding classes of in-house assets of the fund.

(6) This section does not apply to a self managed superannuation fund.

73 Cost of in-house asset

(1) For the purposes of this Part, if:

(a) an asset of a superannuation fund was acquired:

(i) without consideration; or

(ii) for consideration other than the arm's length value of the asset when it was acquired; or

(b) the whole or a part of the consideration for which an asset of a superannuation fund was acquired was not money;

the cost of the asset is taken to be the arm's length value of the asset when it was acquired.

(2) In this section:

arm's length value, in relation to an asset, means the amount that the acquirer of the asset could reasonably be expected to have been

Authorised Version C2026C00335 registered 27/07/2026

required to pay to acquire the asset under a transaction where the parties to the transaction are dealing with each other at arm's length in relation to the transaction.

74 Historical cost ratio of fund's in-house assets

For the purposes of this Part, the historical cost ratio of a fund's in-house assets is the percentage worked out using the formula:

$$\frac{\text{Number of whole dollars in cost of in-house assets of the fund}}{\text{Number of whole dollars in cost of all the assets of the fund}} \times 100$$

75 Market value ratio of fund's in-house assets

(1) For the purposes of this Part, the market value ratio of a fund's in-house assets is the percentage worked out using the formula:

$$\frac{\text{Number of whole dollars in value of in - house assets of the fund}}{\text{Number of whole dollars in value of all the assets of the fund}} \times 100$$

(2) Where, because of subsections 72(4) and (5), this Part applies separately to each of the corresponding classes of in-house assets of a superannuation fund, the market value ratio of the in-house assets of each corresponding class is a percentage worked out using the formula:

$$\frac{\text{Number of whole dollars in value of in-house assets of corresponding class} + \text{Number of whole dollars in value of in-house assets that do not correspond to one or more employer-sponsors of the fund}}{\text{Number of whole dollars in value of all the assets of the fund}} \times 100$$

Authorised Version C2026C00335 registered 27/07/2026

Division 2—Historical cost ratio of fund's in-house assets

76 Private sector funds established on or after 12 March 1985—historical cost ratio for the 1994-95 year of income

(1) This section applies to a regulated superannuation fund, if the fund is a private sector fund established on or after 12 March 1985.

(2) At all times during the fund's 1994-95 year of income when the fund was in existence, the historical cost ratio of the fund's in-house assets must not exceed 10%.

77 Private sector funds established before 12 March 1985—historical cost ratio for the 1994-95 year of income

(1) This section applies to a regulated superannuation fund, if the fund is a private sector fund established before 12 March 1985.

(2) At all times during the fund's 1994-95 year of income when the fund was in existence, the historical cost ratio of the fund's in-house assets must not exceed whichever is the greater of the following percentages:

(a) whichever is the lesser of the following percentages:

(i) the percentage equal to the historical cost ratio of the fund's in-house assets as at the end of 11 March 1985;

(ii) 70%;

(b) 10%.

(3) Section 72 is to be ignored in working out the percentage mentioned in subparagraph (2)(a)(i).

78 Public sector funds established on or after 1 July 1990—historical cost ratio for the 1994-95 year of income

(1) This section applies to a regulated superannuation fund, if the fund is a public sector fund established on or after 1 July 1990.

Authorised Version C2026C00335 registered 27/07/2026

(2) At all times during the fund's 1994-95 year of income when the fund was in existence, the historical cost ratio of the fund's in-house assets must not exceed 10%.

79 Public sector funds established before 1 July 1990—historical cost ratio for the 1994-95 year of income

(1) This section applies to a regulated superannuation fund, if the fund is a public sector fund established before 1 July 1990.

(2) At all times during the fund's 1994-95 year of income when the fund was in existence, the historical cost ratio of the fund's in-house assets must not exceed whichever is the greater of the following percentages:

(a) the percentage equal to the historical cost ratio of the fund's in-house assets as at the end of 1 July 1990;

(b) 10%.

(3) Section 72 is to be ignored in working out the percentage mentioned in paragraph (2)(a).

80 All funds—historical cost ratio for the 1995-96 year of income, the 1996-97 year of income and the 1997-98 year of income

(1) This section applies to a regulated superannuation fund.

(2) At all times during the period:

(a) beginning at the beginning of the fund's 1995-96 year of income; and

(b) ending at the end of the fund's 1997-98 year of income;

when the fund was in existence, the historical cost ratio of the fund's in-house assets must not exceed 10%.

Authorised Version C2026C00335 registered 27/07/2026

Division 3—Market value ratio of fund's in-house assets

80A Division not applicable to certain funds

A superannuation fund is taken not to have been required to comply with this Division in respect of a year of income if:

(a) Division 3A applied to the fund in respect of that year of income; and

(b) an actuary has certified that the fund complied with that Division in respect of that year of income.

81 All funds—market value ratio for the 1998-99 year of income and the 1999-2000 year of income

(1) This section applies to a regulated superannuation fund.

(2) The market value ratio of the fund's in-house assets as at the end of:

(a) the fund's 1998-99 year of income; or

(b) the fund's 1999-2000 year of income;

must not exceed 10%.

82 All funds—market value ratio for the 2000-2001 year of income and later years of income

(1) This section applies to a regulated superannuation fund.

(2) If the market value ratio of the fund's in-house assets as at the end of:

(a) the fund's 2000-2001 year of income; or

(b) a later year of income;

exceeds 5%, the trustee of the fund, or, if the fund has a group of individual trustees, the trustees of the fund, must prepare a written plan.

Authorised Version C2026C00335 registered 27/07/2026

(3) The plan must specify the amount (the ***excess amount***) worked out using the formula:

$$\left[\begin{array}{c}\text{Market value ratio of fund's}\\ \text{in-house assets as at the end of}\\ \text{that year of income}\end{array} - 5\%\right] \times \begin{array}{c}\text{Value of fund's}\\ \text{assets as at the end of that}\\ \text{year of income}\end{array}$$

(4) The plan must set out the steps which the trustee proposes, or, if the fund has a group of individual trustees, the trustees propose, to take in order to ensure that:

(a) one or more of the fund's in-house assets held at the end of that year of income are disposed of during the next following year of income; and

(b) the value of the assets so disposed of is equal to or more than the excess amount.

(5) The plan must be prepared before the end of the next following year of income.

(6) Each trustee of the fund must ensure that the steps in the plan are carried out.

83 Certain new in-house asset investments prohibited

(1) This section applies to a regulated superannuation fund.

(2) If the market value ratio of the fund's in-house assets exceeds 5%, a trustee of the fund must not acquire an in-house asset.

(3) If the market value ratio of the fund's in-house assets does not exceed 5%, a trustee of the fund must not acquire an in-house asset if the acquisition would result in the market value ratio of the fund's in-house assets exceeding 5%.

(4) For the avoidance of doubt, a reference in this section to acquiring an in-house asset includes a reference to making an investment or a loan, or entering into a lease or a lease arrangement, if the resulting loan or investment, or the asset subject to the lease or the lease arrangement, would be an in-house asset.

Authorised Version C2026C00335 registered 27/07/2026

Division 3A—Limit on in-house assets of certain defined benefit funds

83A Definitions

In this Division, unless the contrary intention appears:

base amount, in relation to a defined benefit fund at a particular time, means 120% of:

(a) the fund's liabilities in respect of vested benefits; or

(b) the fund's accrued actuarial liabilities;

at that time, whichever is the greater.

defined benefit fund means:

(a) a public sector superannuation scheme that:

(i) is a regulated superannuation fund; and

(ii) has at least one defined benefit member; or

(b) a regulated superannuation fund (other than a public sector superannuation scheme):

(i) that has at least one defined benefit member; and

(ii) some or all of the contributions to which (being contributions out of which, together with earnings on those contributions, the benefits are to be paid) are not paid into a fund, or accumulated in a fund, in respect of any individual member but are paid into and accumulated in a fund in the form of an aggregate amount.

defined benefit member means a member entitled, on retirement or termination of his or her employment, to be paid a benefit defined, wholly or in part, by reference to either or both of the following:

(a) the amount of:

(i) the member's salary at a particular date, being the date of the termination of the member's employment or of the member's retirement or an earlier date; or

Authorised Version C2026C00335 registered 27/07/2026

(ii) the member's salary averaged over a period before retirement;

(b) a specified amount.

fund's accrued actuarial liabilities, at a particular time, means the total value, as certified by an actuary, of the future benefit entitlements of members of the fund in respect of membership up to that time based on assumptions about future economic conditions and the future of matters affecting membership of the fund, being assumptions made in accordance with applicable professional actuarial standards (if any).

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

listed public company means a company any of the shares in the capital of which are listed for quotation in the official list of a stock exchange in Australia or elsewhere.

maximum permitted amount, in relation to a defined benefit fund at a particular time, means the sum of:

(a) an amount equal to the prescribed percentage of the base amount in relation to the fund at that time; and

(b) the amount (if any) by which the market value of the fund's assets at that time exceeds that base amount.

prescribed percentage means:

(a) where the expression is used in relation to a time that occurs during the 1998-99 year of income or the 1999-2000 year of income—10%; or

(b) where the expression is used in relation to a time that occurs during a later year of income—5%.

voting share has the same meaning as in the *Corporations Act 2001*.

Authorised Version C2026C00335 registered 27/07/2026

83B Application of Division

(1) This Division applies to a superannuation fund in respect of the fund's 1998-99 year of income or a later year of income if, and only if:

(a) the fund is a defined benefit fund; and

(b) at the end of that year of income the employer-sponsor was a listed public company or an associate of a listed public company; and

(c) the market value of the fund's assets at the end of that year of income was not less than the base amount in relation to the fund at that time; and

(d) the trustee, or the trustees, of the fund have decided that this Division is to apply to the fund in respect of that year of income.

(2) If the trustee, or the trustees, of the fund make a decision referred to in paragraph (1)(d), each trustee must ensure that the decision is recorded in writing.

83C Maximum permitted market value of in-house assets

The market value of the fund's in-house assets at the end of a year of income must not exceed the maximum permitted amount in relation to the fund at that time.

83D Limit on in-house assets

(1) The market value of the fund's in-house assets (other than shares in the capital of listed public companies) at the end of a year of income must not exceed the prescribed percentage of the base amount in relation to the fund at that time.

(2) The fund's in-house assets at the end of a year of income must not include more than 5% of the voting shares in any listed public company that is the employer-sponsor or is an associate of the employer-sponsor.

Authorised Version C2026C00335 registered 27/07/2026

83E Acquisition of in-house assets prohibited in certain circumstances

If the market value of the fund's in-house assets at the end of a year of income exceeds the prescribed percentage of the base amount in relation to the fund at that time, a trustee of the fund must not buy, or enter into any contract to buy, on behalf of the fund any in-house assets until the time when an actuary certifies that the market value of the fund's in-house assets has ceased to exceed the prescribed percentage of the base amount in relation to the fund.

Authorised Version C2026C00335 registered 27/07/2026

Division 4—Enforcement

84 In-house asset rules must be complied with

(1) Each trustee of a regulated superannuation fund must take all reasonable steps to ensure that the provisions of Division 2, and either Division 3 or 3A (whichever is applicable), are complied with.

Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

(2) Subsection (1) is a civil penalty provision as defined by section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or of being involved in a contravention of, that subsection.

(3) A contravention of subsection (1) does not affect the validity of a transaction.

Authorised Version C2026C00335 registered 27/07/2026

Division 5—Anti-avoidance

85 Prohibition of avoidance schemes

Prohibition

(1) A person must not enter into, commence to carry out, or carry out, a scheme if the person entered into, commenced to carry out, or carried out the scheme or any part of the scheme with the intention that:

(a) the scheme would result, or be likely to result, in an artificial reduction in the market value ratio of the fund's in-house assets; and

(b) that artificial reduction would avoid the application of any provision of this Part to the fund.

Civil penalty provision

(2) Subsection (1) is a civil penalty provision as defined by section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or being involved in a contravention of, that subsection.

Validity of transaction not affected by contravention of subsection (1)

(3) A contravention of subsection (1) does not affect the validity of a transaction.

Scheme

(4) In this section:

scheme means:

(a) any agreement, arrangement, understanding, promise or undertaking:

(i) whether express or implied; or

Authorised Version C2026C00335 registered 27/07/2026

(ii) whether or not enforceable, or intended to be enforceable, by legal proceedings; and

(b) any scheme, plan, proposal, action, course of action or course of conduct, whether unilateral or otherwise.

Authorised Version C2026C00335 registered 27/07/2026

Part 9—Equal representation of employers and members—employer-sponsored funds

86 Object of Part

The object of this Part is to set out rules about the representation of employers and members in relation to the management and control of standard employer-sponsored funds.

87 Consequences of non-compliance with this Part

It is not an offence to contravene this Part and a failure to comply with this Part does not result in the invalidity of a transaction. However, a contravention of this Part may result in a fund being directed under section 63 not to accept any contributions made to the fund by an employer-sponsor (see subsection 63(6)).

88 This Part does not apply if acting trustee appointed under Part 17

This Part does not apply to a fund if the fund has an acting trustee appointed under Part 17.

89 Basic equal representation rules

Basic rule

(1) For the purposes of this Part, a fund complies with the basic equal representation rules if:

(a) both:

(i) the fund has a group of individual trustees;

(ii) the group of trustees consists of equal numbers of employer representatives and member representatives; or

(b) both:

Authorised Version C2026C00335 registered 27/07/2026

(i) the fund has a single corporate trustee;
(ii) the board of the corporate trustee consists of equal numbers of employer representatives and member representatives.

Additional independent trustee or additional independent director

(2) For the purposes of the application of the basic equal representation rules to a fund, a group of trustees, or the board of a corporate trustee, is taken to consist of equal numbers of employer representatives and member representatives if:
(a) the group or board includes an additional independent trustee or an additional independent director, as the case may be; and
(b) the additional independent trustee or additional independent director, as the case may be, is appointed at the request of the employer representatives, or the member representatives, who are the members of the group or board; and
(c) provision is made in the governing rules for the appointment of the independent additional trustee or additional independent director, as the case may be; and
(d) the governing rules do not allow the additional independent trustee or additional independent director, as the case may be, to exercise a casting vote in any proceedings of the group or board concerned.

Vacancy

(3) For the purposes of the application of the basic equal representation rules to a fund, if:
(a) a vacancy occurs in the membership of a group of trustees or of the board of a corporate trustee; and
(b) immediately before the vacancy occurred, the fund complied with the basic equal representation rules; and
(c) the vacancy is filled within 90 days after it occurred; and
(d) immediately after the vacancy is filled, the fund complies with the basic equal representation rules;

Authorised Version C2026C00335 registered 27/07/2026

the fund is taken to have complied with the basic equal representation rules at all times during the period of the vacancy.

90 Pre-1 July 1995 rules—funds with fewer than 200 members

Application

(1) This section applies to a standard employer-sponsored fund (other than a public offer superannuation fund) with fewer than 200 members, where:

(a) the fund is a private sector fund established on or after 16 December 1985; or

(b) the fund is a public sector fund established on or after 25 May 1988; or

(c) if there are 2 or more standard employer-sponsors of the fund—any one of those employer-sponsors is not an associate of any other of those employer-sponsors.

Pre-1 July 1995

(2) This section does not apply on or after 1 July 1995.

Rules

(3) The fund must comply with:

(a) the basic equal representation rules; or

(b) the alternative agreed representation rule set out in subsection (4).

Alternative agreed representation rule

(4) For the purposes of this section, a fund complies with the alternative agreed representation rule if any of the trustees of the fund are appointed following nomination by agreement between:

(a) either:

(i) the members of the fund; or

(ii) a trade union, or other organisation, representing the interests of those members; and

Authorised Version C2026C00335 registered 27/07/2026

(b) either:
(i) the employer or employers of those members; or
(ii) an organisation representing the interests of that employer or those employers.

91 Pre-1 July 1995 rules—funds with 200 or more members

Application

(1) This section applies to a standard employer-sponsored fund with 200 or more members, where:
(a) the fund is a private sector fund established on or after 16 December 1985; or
(b) the fund is a public sector fund established on or after 25 May 1988; or
(c) if there are 2 or more standard employer-sponsors of the fund—any one of those employer-sponsors is not an associate of any other of those employer-sponsors.

Pre-1 July 1995

(2) This section does not apply on or after 1 July 1995.

Public offer funds

(3) If the fund is a public offer superannuation fund:
(a) either:
(i) the trustee of the fund must be an independent trustee; or
(ii) the fund must comply with the basic equal representation rules; and
(b) if the regulations provide that the fund is subject to rules about the existence, number and functions of policy committees (***prescribed policy committees***)—the fund must comply with those rules; and

Authorised Version C2026C00335 registered 27/07/2026

(c) each prescribed policy committee must consist of equal numbers of employer representatives and member representatives.

Non-public offer funds

(4) If the fund is not a public offer superannuation fund, the fund must comply with the basic equal representation rules.

Transitional

(5) If, at a particular time, the number of members of a fund increases from a number less than 200 to 200 or more:

(a) the trustee of the fund must make such arrangements (if any) as are necessary to enable the fund to comply with this section; and

(b) the fund does not have to comply with this section during the period:

(i) beginning at that time; and

(ii) ending at whichever is the earlier of the following times:

(A) the time at which such arrangements are made;

(B) the end of 90 days.

92 Post-30 June 1995 rules—funds with more than 6, but fewer than 50, members

Application

(1) This section applies to a standard employer-sponsored fund with more than 6, but fewer than 50, members.

Post-30 June 1995

(2) This section applies on and after 1 July 1995.

Authorised Version C2026C00335 registered 27/07/2026

Public offer funds

(3) If the fund is a public offer superannuation fund:

(a) either:

(i) the trustee of the fund must be an independent trustee; or

(ii) the fund must comply with the basic equal representation rules; and

(b) if the regulations provide that the fund is subject to rules about the existence, number and functions of policy committees (***prescribed policy committees***)—the fund must comply with those rules; and

(c) each prescribed policy committee must consist of equal numbers of employer representatives and member representatives.

Non-public offer funds

(4) If the fund is not a public offer superannuation fund, the fund must comply with:

(a) the basic equal representation rules; or

(b) the alternative agreed representation rule set out in subsection (5); or

(c) an arrangement in relation to the management and control of the fund that:

(i) has been agreed to between a majority of the members of the fund and the employer, or employers, of those members; and

(ii) is approved by APRA in writing.

Arrangement approval

(4A) When deciding whether or not to approve an arrangement under subparagraph (4)(c)(ii), APRA must have regard to any written guidelines determined by APRA under this subsection.

(4B) The approval of the arrangement given under subparagraph (4)(c)(ii) (the ***arrangement approval***):

Authorised Version C2026C00335 registered 27/07/2026

(a) is subject to the conditions set out in the approval (if any); and

(b) may be revoked by APRA by written notice given to a trustee of the fund.

(4C) Without limiting paragraph (4B)(b), APRA may revoke an arrangement approval if:

(a) APRA is satisfied that there has been a contravention of a condition to which the approval is subject; or

(b) a trustee of the fund applies in writing for its revocation.

(4D) APRA may vary or revoke the conditions of the arrangement approval by written notice given to a trustee of the fund.

Alternative agreed representation rule

(5) For the purposes of this section, a fund complies with the alternative agreed representation rule if:

(a) there is a single trustee of the fund who is a constitutional corporation; and

(b) the trustee is appointed following nomination by agreement between:

(i) a majority of the members of the fund; and

(ii) the employer or employers of those members; and

(c) the trustee is an RSE licensee; and

(ca) a condition imposed under section 29EA on the RSE licensee's RSE licence requires the RSE licensee to ensure that the fund, or a class of funds to which the fund belongs, complies with the alternative agreed representation rule whenever this section applies to the fund; and

(d) the trustee is not an associate of a standard employer-sponsor of the fund.

Transitional

(13) If, at a particular time, the number of members of a fund increases from a number less than 7 to 7 or more, but less than 50:

Authorised Version C2026C00335 registered 27/07/2026

(a) the trustee of the fund must make such arrangements (if any) as are necessary to enable the fund to comply with this section; and

(b) the fund does not have to comply with this section during the period beginning at that time and ending:

(i) at the time at which such arrangements are made; or

(ii) 90 days after that time;

whichever is the earlier.

93 Post-30 June 1995 rules—funds with more than 49 members

Application

(1) This section applies to a standard employer-sponsored fund with more than 49 members.

Post-30 June 1995

(2) This section applies on and after 1 July 1995.

Public offer funds

(3) If the fund is a public offer superannuation fund:

(a) either:

(i) the trustee of the fund must be an independent trustee; or

(ii) the fund must comply with the basic equal representation rules; and

(b) if the regulations provide that the fund is subject to rules about the existence, number and functions of policy committees (***prescribed policy committees***)—the fund must comply with those rules; and

(c) each prescribed policy committee must consist of equal numbers of employer representatives and member representatives.

Authorised Version C2026C00335 registered 27/07/2026

Non-public offer funds

(4) If the fund is not a public offer superannuation fund, the fund must comply with the basic equal representation rules.

Transitional

(5) If, at a particular time, the number of members of a fund increases:
  (a) from a number less than 7 to 50 or more; or
  (b) from a number greater than 6, but less than 50, to 50 or more (a ***paragraph (b) fund***);

then:
  (c) the trustee of the fund must make such arrangements (if any) as are necessary to enable the fund to comply with this section; and
  (d) the fund does not have to comply with this section during the period beginning at that time and ending:
    (i) at the time at which such arrangements are made; or
    (ii) 90 days after that time;

  whichever is the earlier; and
  (e) for a paragraph (b) fund—despite subsection 92(1), the fund must comply with subsection 92(3) or (4) during the period of time referred to in paragraph (d).

93A A trustee who is an employer-sponsor of a fund may still be an independent trustee

(1) For the purposes of subparagraphs 92(3)(a)(i) and 93(3)(a)(i), the trustee of a public offer superannuation fund who is an employer-sponsor of the fund will be an independent trustee of the fund:
  (a) if the trustee satisfies all the requirements of the definition of ***independent trustee*** in section 10; or
  (b) if:
    (i) the trustee together with any other employer-sponsors of the fund who are associates of the trustee are

Authorised Version C2026C00335 registered 27/07/2026

employer-sponsors of not more than the allowable percentage of the members of the fund; and

(ii) the value of the accrued benefits of those members of the fund who have as an employer-sponsor either the trustee or an associate of the trustee is not more than the allowable percentage of the value of the assets of the fund; and

(iii) the trustee satisfies the requirements in paragraphs (a), (c), (d) and (e) of the definition of ***independent trustee*** in section 10.

(2) The allowable percentage of the members of the fund is 10% or such higher percentage as is approved by APRA by notice in writing given to the trustee.

(3) The allowable percentage of the value of the assets of the fund is 10% or such higher percentage as is approved by APRA by notice in writing given to the trustee.

(4) If APRA approves a higher percentage under subsection (2) or (3), the approval may be subject to such conditions (if any) as are specified in the notice.

(5) An approval, including any conditions to which the approval is subject, may be varied at any time by APRA by notice in writing given to the trustee.

(6) APRA may only exercise the power conferred under subsection (2) or (3) after considering:

(a) the effect that the approval of a higher percentage will have on the likelihood of the trustee performing its functions independently and impartially; and

(b) all other relevant circumstances.

Authorised Version C2026C00335 registered 27/07/2026

Part 10—Provisions applying only to approved deposit funds

94 Object of Part

The object of this Part is to set out rules about borrowing by the trustees of approved deposit funds.

95 Borrowing

(1) Except with the approval of APRA under subsection (2) or except as provided by subsection (3), the trustee of an approved deposit fund must not borrow money.

(2) APRA may approve a borrowing by the trustee of an approved deposit fund if the trustee satisfies APRA that special circumstances exist that justify the borrowing.

(3) Subsection (1) does not prohibit the trustee of an approved deposit fund from borrowing money if:

(a) the purpose of the borrowing is to enable the trustee to cover settlement of a transaction for the acquisition of any of the following:

(i) bonds, debentures, stock, bills of exchange or other securities;

(ii) shares in a company;

(iii) units in a unit trust;

(iv) futures contracts;

(v) forward contracts;

(vi) interest rates swap contracts;

(vii) currency swap contracts;

(viii) forward exchange rate contracts;

(ix) forward interest rate contracts;

Authorised Version C2026C00335 registered 27/07/2026

(x) a right or option in respect of such a security, share, unit, contract or policy;

(xi) any similar financial instrument;

(xii) foreign currency; and

(b) both:

(i) at the time the relevant investment decision was made, it was likely that the borrowing would not be needed; and

(ii) the borrowing is not taken, under a determination made, by legislative instrument, by APRA, to be exempt from this paragraph; and

(c) the period of the borrowing does not exceed 7 days; and

(d) if the borrowing were to take place, the total amount borrowed by the trustee would not exceed 10% of the value of the assets of the fund.

(5) Subsection (1) is a civil penalty provision as defined by section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or of being involved in a contravention of, that subsection.

Authorised Version C2026C00335 registered 27/07/2026

Part 11—Provisions applying only to pooled superannuation trusts

96 Object of Part

The object of this Part is to set out special rules applying only to pooled superannuation trusts.

97 Borrowing

(1) Subject to subsection (2), the trustee of a pooled superannuation trust must not borrow money.

(2) Subsection (1) does not prohibit the trustee of a pooled superannuation trust from borrowing money if:

(a) the purpose of the borrowing is to enable the trustee to make a payment to a beneficiary in the trust which the trustee is required to make by law or by the governing rules and which, apart from the borrowing, the trustee would not be able to make; and

(b) the period of the borrowing does not exceed 90 days; and

(c) if the borrowing were to take place, the total amount borrowed by the trustee would not exceed 10% of the value of the assets of the trust.

(3) Subsection (1) does not prohibit the trustee of a pooled superannuation trust from borrowing money if:

(a) the purpose of the borrowing is to enable the trustee to cover settlement of a transaction for the acquisition of any of the following:

(i) bonds, debentures, stock, bills of exchange or other securities;

(ii) shares in a company;

(iii) units in a unit trust;

(iv) futures contracts;

Authorised Version C2026C00335 registered 27/07/2026

(v) forward contracts;
(vi) interest rates swap contracts;
(vii) currency swap contracts;
(viii) forward exchange rate contracts;
(ix) forward interest rate contracts;
(x) a right or option in respect of such a security, share, unit, contract or policy;
(xi) any similar financial instrument;
(xii) foreign currency; and

(b) both:
(i) at the time the relevant investment decision was made, it was likely that the borrowing would not be needed; and
(ii) the borrowing is not taken, under a determination made, by legislative instrument, by APRA, to be exempt from this paragraph; and

(c) the period of the borrowing does not exceed 7 days; and

(d) if the borrowing were to take place, the total amount borrowed by the trustee would not exceed 10% of the value of the assets of the trust.

98 Lending to unit-holders prohibited

The trustee or an investment manager of a pooled superannuation trust must not:

(a) lend money of the trust to a beneficiary of the trust; or

(b) give any other financial assistance using the resources of the trust to a beneficiary of the trust.

99 Civil penalty provisions

Subsection 97(1) and section 98 are civil penalty provisions as defined by section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or of being involved in a contravention of, either of them.

Authorised Version C2026C00335 registered 27/07/2026

Part 11A—General fees rules

99A Application

The rules set out in this Part do not apply to self managed superannuation funds.

99B No entry fees

(1) The trustee, or the trustees, of a regulated superannuation fund or an approved deposit fund must not charge entry fees.

(2) An ***entry fee*** is a fee, other than a buy-sell spread, that relates, directly or indirectly, to the issuing of a beneficial interest in a superannuation entity to a person who is not already a member of the entity.

99BA No exit fees

(1) The trustee, or the trustees, of a regulated superannuation fund or an approved deposit fund must not charge exit fees, except in circumstances prescribed by the regulations.

(2) An ***exit fee*** is a fee, other than a buy-sell spread, that relates to the disposal of all or part of a member's interests in a superannuation entity.

99C Buy-sell spreads and switching fees to be charged on a cost recovery basis

(1) If the trustee, or the trustees, of a regulated superannuation fund or an approved deposit fund charge a buy-sell spread or a switching fee, the fee must be no more than it would be if it were charged on a cost recovery basis.

(2) The regulations may prescribe the way in which a buy-sell spread or a switching fee charged on a cost recovery basis is to be worked out.

Authorised Version C2026C00335 registered 27/07/2026

99D Cost of advice to employers not to be borne by members

The trustee, or the trustees, of a regulated superannuation fund or an approved deposit fund must not include in any fee charged to any member of the fund an amount that relates to costs incurred by any person, directly or indirectly, in relation to personal advice provided by any person to an employer of one or more members of the fund.

99E Fair and reasonable attribution of costs between classes of beneficial interest in a regulated superannuation fund

If there is more than one class of beneficial interest in a regulated superannuation fund, the trustee, or the trustees, of the fund must attribute the costs of the fund between the classes fairly and reasonably.

99F Cost of financial product advice—collectively charged fees

(1) The trustee or the trustees of a regulated superannuation fund must not directly or indirectly pass the cost of providing financial product advice in relation to a member of the fund (the ***subject member***) on to any other member of the fund, to the extent that:

(a) the advice is provided by:

(i) a trustee of the fund; or

(ii) another person acting as an employee of, or under an arrangement with, a trustee or trustees of the fund; and

(b) the advice is personal advice; and

(c) the advice is provided in any of the following circumstances:

(i) the subject member has not yet acquired a beneficial interest in the fund when the advice is given, and the advice relates to whether the subject member should acquire such an interest;

(ii) the advice relates to a financial product that is not a beneficial interest in the fund, a related pension fund for the member and the fund, a related insurance product

Authorised Version C2026C00335 registered 27/07/2026

for the member and the fund or a cash management facility within the fund;

(iii) the advice relates to whether the subject member should consolidate that member's beneficial interests in 2 or more superannuation entities into a beneficial interest in a single superannuation entity;

(iv) at the time the advice is provided, the subject member reasonably expects that a person mentioned in subparagraph (a)(i) or (ii) will periodically review the advice, provide further personal advice or monitor whether recommendations in the original or any later advice are implemented and the results of that implementation;

(v) other prescribed circumstances.

(2) If:

(a) under the governing rules of a regulated superannuation fund (the ***first fund***):

(i) a member of another regulated superannuation fund (the ***second fund***) is entitled to become a member of the first fund on the satisfaction of a condition of release of benefits specified in a standard made under paragraph 31(2)(h); and

(ii) on becoming a member of the first fund, a pension would be payable out of the assets of the first fund to the member; and

(b) the RSE licensee for the first fund is, or is an associate of, the RSE licensee of the second fund;

then the first fund is a ***related pension fund*** of the second fund for a member of the second fund in relation to whom paragraph (a) is satisfied.

(3) If:

(a) the trustee, or the trustees, of a regulated superannuation fund provide a benefit to members of the fund who hold a particular class of beneficial interest in the fund by taking out insurance; and

Authorised Version C2026C00335 registered 27/07/2026

(b) a person holds a beneficial interest of that class in the fund, or is considering acquiring a beneficial interest of that class in the fund;

a life policy or contract of insurance by which that benefit is or would be provided is a ***related insurance product*** for the person and the fund.

(4) In this section:

cash management facility has the same meaning as it has for the purposes of subsection 946B(1) of the *Corporations Act 2001*.

life policy has the same meaning as in the *Life Insurance Act 1995*.

99FA Cost of financial product advice—fees charged to member concerned

(1) The trustee or the trustees of a regulated superannuation fund must not charge against a member's interest in the fund the cost of financial product advice provided to the member unless:

(a) the financial product advice is personal advice; and

(c) the trustee or trustees charge the cost in accordance with the terms of a written request or written consent of the member; and

(d) if the arrangement under which the advice is provided is an ongoing fee arrangement—any applicable requirements of Division 3 of Part 7.7A of the *Corporations Act 2001* are met in relation to the arrangement and, if relevant, the deduction of ongoing fees; and

(e) if the arrangement under which the advice is provided is not an ongoing fee arrangement—the request or consent satisfies the requirements in subsection (2); and

(f) the trustee or trustees have the request or consent, or a copy of it.

Note 1: The other obligations under this Act, including to act in the best financial interests of the beneficiaries (see paragraph 52(2)(c)) and to comply with the sole purpose test (see section 62), continue to apply to trustees.

Authorised Version C2026C00335 registered 27/07/2026

Note 2: See also Division 5 of Part 2C of this Act for fee rules for MySuper products.

Payment of advice fees under an arrangement other than an ongoing fee arrangement

(2) For the purposes of paragraph (1)(e), the written request or written consent must include the following:

(a) the name and contact details of the member;

(b) the name and contact details of the provider of the financial product advice;

(c) the name of the fund from which the cost of the advice is requested to be paid;

(d) a brief description of the services the member is entitled to receive under the arrangement;

(e) a request from, or consent by, the member for the cost of the advice to be paid by the trustee and charged against the member's interest in the fund;

(f) either:

(i) the amount to be paid for the advice; or

(ii) if the amount to be paid for the advice cannot be determined at the time the request is made, or the consent is given, a reasonable estimate of that amount and an explanation of the method used to work out the estimate;

(g) either:

(i) the amount to be charged against the member's interest in the fund; or

(ii) if the amount to be charged against the member's interest in the fund cannot be determined at the time the request is made, or the consent is given, a reasonable estimate of that amount and an explanation of the method used to work out the estimate;

(h) the member's signature;

(i) the date the request is made;

(j) any other information prescribed by the regulations.

Authorised Version C2026C00335 registered 27/07/2026

(3) For the purposes of paragraph (2)(e), the Minister may, in writing, approve a form.

(4) If the Minister has approved a form under subsection (3), a request or consent for the purposes of paragraph (2)(e) must be in the approved form.

Collectively charged fees not covered

(5) Subsection (1) does not apply if the cost of providing financial product advice is shared between the member mentioned in subsection (1) and other members of the fund.

Note: For rules on collectively charged fees for the provision of financial product advice, see section 99F.

99G Fee cap on low balances

Application

(1) This section applies if:

(a) the trustee, or trustees, of a regulated superannuation fund offer a choice product or MySuper product; and

(b) a member of the fund:

(i) holds the product on the last day of a year of income of the fund and, on that day, has an account balance with the fund that relates to the product that is less than $6,000; or

(ii) holds the product on one or more days during a year of income of the fund and, on the last of those days, has an account balance with the fund that relates to the product that is less than $6,000.

Fee cap for a member who holds the product for the whole year

(2) If the member holds the product for the whole year, the trustee or trustees of the fund must not charge capped fees and costs to the member in relation to the product for the year the total combined amount of which exceeds the amount worked out as follows:

Authorised Version C2026C00335 registered 27/07/2026

$$\text{Fee cap percentage} \times \text{Member's account balance for the product on the last day of the year}$$

where:

fee cap percentage means the percentage prescribed under subsection (4).

member's account balance for the product on the last day of the year means so much of the member's account balance with the fund on that day as relates to the product.

Capped fees and costs

(3) For the purposes of this section, the following are ***capped fees and costs*** charged to the member in relation to the product for the year:

(a) administration fees charged to the member in relation to the product for the year;

(b) investment fees charged to the member in relation to the product for the year;

(c) an amount worked out in accordance with the regulations (if any) that:

(i) is not charged to the member as a fee; and

(ii) is incurred by the trustee or the trustees of the fund in relation to the year; and

(iii) relates to the administration of the fund or the investment of the assets of the fund.

Fee cap percentage

(4) The regulations may prescribe, for the purposes of this section, a ***fee cap percentage*** of no more than 3%.

Fee cap for member who holds the product for part of the year

(5) If the member holds the product for only part of the year, the trustee or trustees of the fund must not charge capped fees and costs to the member in relation to the product for the year the total

Authorised Version C2026C00335 registered 27/07/2026

combined amount of which exceeds the amount worked out as follows:

$$\text{Fee cap for the whole year} \times \frac{\text{Number of days during the year on which member held the product}}{365}$$

where:

fee cap for the whole year means the total combined amount of capped fees and costs that could be charged to the member in relation to the product for the year under subsection (2), if:

(a) the member held the product for the whole of the year; and

(b) so much of the member's account balance with the fund on the last day on which the member held the product during the year as relates to the product were the member's account balance for the product on the last day of the year.

Refund of excess

(6) The trustee or trustees of the regulated superannuation fund are taken to have complied with this section if any amount by which the total combined amount of capped fees and costs charged to the member in relation to the product for the year exceeds the maximum permitted under subsection (2) or (5) is refunded to the member within 3 months after the end of the year.

No breach of section 99E

(7) To avoid doubt, the trustee or trustees of the regulated superannuation fund do not breach section 99E by complying with this section.

Authorised Version C2026C00335 registered 27/07/2026

Part 12—Duties of trustees and investment managers of superannuation entities

100 Object of Part

The object of this Part is to impose special duties on the trustees and investment managers of superannuation entities.

101 Dispute resolution systems

(1) Each trustee of a regulated superannuation fund other than a self managed superannuation fund or of an exempt public sector superannuation scheme that has elected to join the AFCA scheme, or of an approved deposit fund:

(a) must be a member of the AFCA scheme; and

(b) must have an internal dispute resolution procedure that complies with the standards, and requirements, mentioned in subparagraph 912A(2)(a)(i) of the *Corporations Act 2001* in relation to financial services licensees; and

(c) must give to ASIC the same information as the trustee would be required to give under subparagraph 912A(1)(g)(ii) of the *Corporations Act 2001* if the trustee were a financial services licensee; and

(d) must ensure that written reasons are given, in accordance with requirements specified under subsection (1B) of this section, for any decision of the trustee (or failure by the trustee to make a decision) relating to a complaint.

Note: Part 7.10A of the *Corporations Act 2001* deals with situations where complaints are not resolved by the trustee.

(1A) However, paragraphs (1)(a) to (c) do not apply to a trustee if the trustee is required under the *Corporations Act 2001* to have a dispute resolution system complying with subsection 912A(2) or 1017G(2) of that Act.

Authorised Version C2026C00335 registered 27/07/2026

(1B) ASIC may, by legislative instrument, specify for the purposes of paragraph (1)(d) any or all of the following:

(a) the persons who must be given written reasons;

(b) the matters that must be included in those reasons;

(c) the times by which those reasons must be given;

(d) the circumstances that constitute a failure to make a decision.

(2) A person who intentionally or recklessly contravenes subsection (1) commits an offence punishable on conviction by a fine not exceeding 100 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

102 Duty to seek information from investment manager

(1) If the trustee of a superannuation entity, or if a superannuation entity has a group of individual trustees, the trustees of the entity, enter into an agreement with an investment manager under which money of the entity will be placed under the control of the investment manager, the trustee, or the trustees, must:

(a) ensure that the agreement contains adequate provision to enable the trustee, or the trustees, of the entity to require the investment manager from time to time:

(i) to provide appropriate information as to the making of, and return on, the investments; and

(ii) to provide such information as is necessary to enable the trustee, or the trustees, of the entity to assess the capability of the investment manager to manage the investments of the entity; and

(b) whenever it is necessary or desirable to do so, require the investment manager to provide the information.

(2) If:

(a) the trustee of a superannuation entity, or if a superannuation entity has a group of individual trustees, the trustees of the entity, entered into an agreement before the commencement of this section with an investment manager under which

Authorised Version C2026C00335 registered 27/07/2026

money of the entity would be placed under the control of the investment manager; and

(b) the agreement does not contain a provision of a kind mentioned in paragraph (1)(a);

the trustee, or the trustees, of the entity must as soon as practicable ensure that:

(c) the agreement is amended so as to contain such a provision; or

(d) if the investment manager refuses to agree to such an amendment—the agreement is terminated.

(3) The trustee of a superannuation entity, or if a superannuation entity has a group of individual trustees, the trustees of the superannuation entity:

(a) may terminate an agreement under paragraph (2)(d) despite anything in the agreement; and

(b) are not under any liability to the investment manager because of the termination.

(4) A person who intentionally or recklessly contravenes subsection (1) or (2) commits an offence punishable on conviction by a fine not exceeding 100 penalty units.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

103 Duty to keep minutes and records

(1) If a superannuation entity has a group of individual trustees, the trustees must keep, and retain for at least 10 years, minutes of all meetings of the trustees at which matters affecting the entity were considered.

(2) If there is only one trustee of a superannuation entity:

(a) if the trustee is a corporate trustee—the directors of the trustee must keep, and retain for at least 10 years, minutes of all meetings of the directors at which matters affecting the entity were considered; or

Authorised Version C2026C00335 registered 27/07/2026

(b) if the trustee is an individual—the trustee must keep, and retain for at least 10 years, a record of all decisions made by the trustee in respect of matters affecting the entity.

(2A) The trustee or trustees must also retain for at least 10 years an election, or a copy of an election, under section 71E.

(3) A person commits an offence if the person contravenes subsection (1), (2) or (2A). This is an offence of strict liability.

Penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

Note 3: Section 166 imposes an administrative penalty for a contravention of subsection (1), (2) or (2A) in relation to a self managed superannuation fund.

104 Duty to keep records of changes of trustees

(1) Each trustee of a superannuation entity must ensure that up-to-date records of:

(a) all changes of trustees of the entity; and

(b) all changes of directors of any corporate trustee of the entity; and

(c) all consents given under section 118;

are kept and retained for at least 10 years.

Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

(2) A trustee commits an offence if the trustee contravenes subsection (1). This is an offence of strict liability.

Penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

Authorised Version C2026C00335 registered 27/07/2026

104A Trustees etc. of self managed superannuation fund—recognition of obligations and responsibilities

(1) This section applies to a person if:

(a) he or she becomes, after 30 June 2007:

(i) the trustee of a self managed superannuation fund; or

(ii) a director of a body corporate that is the trustee of a self managed superannuation fund; or

(b) he or she is a trustee of such a fund or a director of such a body corporate, and another person becomes, after 30 June 2007, a trustee of the fund or a director of the body corporate; or

(c) he or she is a trustee of such a fund or a director of such a body corporate and undertakes a course of education in compliance with an education direction.

(2) The person must:

(a) if paragraph (1)(a) applies—sign a declaration in the approved form that he or she understands his or her duties as trustee of a self managed superannuation fund (or as director of a body corporate that is such a trustee), no later than 21 days after becoming such a trustee or director; and

(b) if paragraph (1)(b) applies—ensure that the other person signs a declaration in the approved form that he or she understands his or her duties as trustee of a self managed superannuation fund (or as director of a body corporate that is such a trustee), within 21 days after becoming such a trustee or director; and

(ba) if paragraph (1)(c) applies—sign a declaration in the approved form that he or she understands his or her duties as trustee of a self managed superannuation fund, or as director of a body corporate that is such a trustee (as appropriate), no later than 21 days after completing the course of education; and

(c) ensure that the declaration is retained so long as it is relevant, and in any case for at least 10 years; and

Authorised Version C2026C00335 registered 27/07/2026

(d) make the declaration available for inspection by a member of the staff of the Regulator if requested to do so by a member of that staff.

Note: Section 166 imposes an administrative penalty for a contravention of subsection (2).

(3) A person commits an offence if the person contravenes subsection (2). This is an offence of strict liability.

Penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

105 Duty to keep reports

(1) Each trustee of a regulated superannuation fund or of an approved deposit fund must ensure that:

(a) copies of all member or beneficiary reports are kept, and retained so long as they are relevant and in any event for at least 10 years; and

(b) those copies are made available for inspection by a member of the staff of the Regulator if requested to do so by a member of that staff.

Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

(2) A trustee commits an offence if the trustee contravenes subsection (1). This is an offence of strict liability.

Penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

Authorised Version C2026C00335 registered 27/07/2026

(3) In this section:

member or beneficiary report means a report:

(a) given under this Act, the *Superannuation (Self Managed Superannuation Funds) Taxation Act 1987* or the governing rules; and

(b) given in the same form (apart from differences relating to the names and addresses of the persons to whom the notices were given):

(i) in the case of a regulated superannuation fund—to all members of the fund, or to all members included in a particular class of members; or

(ii) in the case of an approved deposit fund—to all beneficiaries in the fund, or to all beneficiaries included in a particular class of beneficiaries.

106 Duty to notify the Regulator of significant adverse events

(1) If a trustee of a superannuation entity becomes aware of the occurrence of an event having a significant adverse effect on the financial position of the entity, the trustee must ensure that a trustee of the entity immediately notifies the Regulator in writing of the event.

Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

(1A) Subsection (2) applies if a trustee of a superannuation entity is required by regulations made for the purposes of paragraph 1017DA(1)(a) of the *Corporations Act 2001* to provide fund information (within the meaning of regulations made for the purposes of this subsection) to holders of interests in the entity.

(2) An event has a significant adverse effect on the financial position of the entity if:

(a) the event occurs before that fund information is provided; and

(b) as a result of the event, a trustee of the entity will not, or may not, be able, at a time occurring before the entity gives the

Authorised Version C2026C00335 registered 27/07/2026

fund information, to make payments to beneficiaries as and when the obligation to make those payments arises.

(3) Subsection (1) is a civil penalty provision as defined by section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or of being involved in a contravention of, that subsection.

106A Duty to notify Commissioner of Taxation of change in status of entity

Trustee's duty to notify Commissioner of Taxation

(1) If a trustee of a superannuation entity:

(a) has knowledge that the superannuation entity has ceased to be a self managed superannuation fund; or

(b) has knowledge that the superannuation entity has become a self managed superannuation fund since first becoming a superannuation entity;

the trustee must ensure that a written notice is given to the Commissioner of Taxation.

Note 1: A trustee of a fund that was already a self managed superannuation fund when a trustee, or the trustees, of the fund made an election under section 19 does not have to ensure that a notice is given to the Commissioner of Taxation at that time, because the fund became a self managed superannuation fund before (not since) becoming a superannuation entity.

Note 2: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

Timing of notice

(2) A notice under subsection (1) must be given as soon as practicable, and not later than 21 days, after the trustee first has knowledge that the superannuation fund has ceased to be, or has become, a self managed superannuation fund.

Authorised Version C2026C00335 registered 27/07/2026

Offence

(3) A person who contravenes subsection (1) commits an offence punishable on conviction by a fine not exceeding 100 penalty units.

107 Duty of trustee of employer-sponsored fund to establish procedure for appointing member representatives

(1) This section applies if the trustee, or the trustees, of a standard employer-sponsored fund (other than a superannuation fund with no more than 6 members) are required by law:

(a) if the trustee is a single corporate trustee—to have member representatives on the board of directors of the trustee; or

(b) if there is a group of individual trustees—to have member representatives included in the group; or

(c) in any other case—to have member representatives on a policy committee of the fund.

(2) Each trustee of the fund must ensure that:

(a) rules are established (whether by inclusion in the governing rules or otherwise):

(i) setting out a procedure for appointing the member representatives; and

(ii) ensuring that member representatives so appointed can only be removed by the same procedure as that by which they were appointed, except in the event of:

(A) death; or

(B) mental or physical incapacity; or

(C) retirement; or

(D) termination of employment; or

(DA) the member representative no longer meeting one or more of the criteria for fitness and propriety relevant to the member representative set out in the prudential standards; or

(E) the member representative becoming a disqualified person within the meaning of Part 15; or

Authorised Version C2026C00335 registered 27/07/2026

(F) suspension or removal under Part 17; or

(G) other prescribed circumstances; and

(b) those rules are published in such a way as will make members of the fund aware of the procedure for appointment and removal of member representatives.

(3) A trustee is guilty of an offence if the trustee contravenes subsection (2).

Penalty: 100 penalty units.

(4) A trustee is guilty of an offence if the trustee contravenes subsection (2). This is an offence of strict liability.

Penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

108 Duty of trustee of employer-sponsored fund to establish procedure for appointing independent trustee or independent member of board of directors of corporate trustee

(1) This section applies if a standard employer-sponsored fund (other than a self managed superannuation fund) relies on subsection 89(2) in order to comply with the basic equal representation rules. (That subsection deals with an additional independent trustee or an additional independent director of a corporate trustee.)

(2) Each trustee of the fund must ensure that:

(a) rules are established (whether by inclusion in the governing rules or otherwise) ensuring that the additional independent trustee or additional independent director, as the case may be, can only be removed by the same procedure as that by which the additional independent trustee or additional independent director was appointed, except in the event of:

Authorised Version C2026C00335 registered 27/07/2026

(i) death; or

(ii) mental or physical incapacity; or

(iia) the additional independent trustee or additional independent director no longer meeting one or more of the criteria for fitness and propriety relevant to the independent trustee or independent director set out in the prudential standards; or

(iii) the additional independent trustee or additional independent director, as the case may be, becoming a disqualified person within the meaning of Part 15; or

(iv) suspension or removal under Part 17; or

(v) other prescribed circumstances; and

(b) those rules are published in such a way as will make members of the fund aware of the procedure for removal of the additional independent trustee or additional independent director, as the case may be.

(3) A trustee is guilty of an offence if the trustee contravenes subsection (2).

Penalty: 100 penalty units.

(4) A trustee is guilty of an offence if the trustee contravenes subsection (2). This is an offence of strict liability.

Penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

108A Trustee's duty to identify etc. multiple superannuation accounts of members

(1) Each trustee of a superannuation entity (other than the trustee of a pooled superannuation trust or a self managed superannuation fund) must ensure that rules are established, which:

Authorised Version C2026C00335 registered 27/07/2026

(a) set out a procedure for identifying when a member of the superannuation entity has more than one superannuation account in the superannuation entity; and

(b) require the trustee to carry out the procedure to identify such members at least once each financial year; and

(c) if the member has 2 or more superannuation accounts in the superannuation entity—require the trustee to merge the accounts so that the member has only one account balance in respect of those accounts, if the trustee reasonably believes that it is in the best interests of the member to do so; and

(d) provide that fees are not payable (other than a buy-sell spread) for any merger of superannuation accounts that occurs as a result of paragraphs (a) to (c).

(2) The requirement in paragraph (1)(c) does not apply if:

(a) it is not practicable in the circumstances to merge the member's superannuation accounts; or

(b) one or more of the superannuation accounts is a defined benefit interest or income stream.

(3) A ***superannuation account*** is a record of the member's benefits, in relation to a superannuation entity in which the member has an interest, which is recorded separately:

(a) from other benefits of the member in relation to the entity (if any); and

(b) from other benefits of any other member in relation to the entity.

(4) In determining, for the purpose of paragraph (1)(c), whether it is in the best interests of a member to merge his or her superannuation accounts, the trustee must consider the total amount of fees and charges payable by the member in respect of all of his or her accounts in the superannuation entity (including any fees and charges payable by the member for insurance provided in respect of all of his or her accounts).

(5) A trustee commits an offence if the trustee contravenes subsection (1). This is an offence of strict liability.

Authorised Version C2026C00335 registered 27/07/2026

Penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For strict liability, see section 6.1 of the *Criminal Code*.

109 Investments of superannuation entity to be made and maintained on arm's length basis

(1) A trustee or investment manager of a superannuation entity must not invest in that capacity unless:

(a) the trustee or investment manager, as the case may be, and the other party to the relevant transaction are dealing with each other at arm's length in respect of the transaction; or

(b) both:

(i) the trustee or investment manager, as the case may be, and the other party to the relevant transaction are not dealing with each other at arm's length in respect of the transaction; and

(ii) the terms and conditions of the transaction are no more favourable to the other party than those which it is reasonable to expect would apply if the trustee or investment manager, as the case may be, were dealing with the other party at arm's length in the same circumstances.

(1A) If:

(a) a trustee or investment manager of a superannuation entity invests in that capacity; and

(b) at any time during the term of the investment the trustee or investment manager is required to deal in respect of the investment with another party that is not at arm's length with the trustee or investment manager;

the trustee or investment manager must deal with the other party in the same manner as if the other party were at arm's length with the trustee or investment manager.

Authorised Version C2026C00335 registered 27/07/2026

(2) Subsections (1) and (1A) are civil penalty provisions as defined by section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or of being involved in a contravention of, those subsections.

(3) A contravention of subsection (1) or (1A) does not affect the validity of a transaction.

Authorised Version C2026C00335 registered 27/07/2026

Part 14—Other provisions applying to superannuation entities

114 Object of Part

The object of this Part is to set out various rules applying to superannuation entities.

115 Trustee of superannuation entity may maintain reserves

(1) The trustee of a superannuation entity may maintain a reserve of the entity for a particular purpose, unless the governing rules of the entity prohibit the maintenance of a reserve for that purpose.

Governing rules of an RSE must not prohibit reserves to cover operational risk

(2) The governing rules of a registrable superannuation entity must not prohibit the maintenance of a reserve to cover the operational risk relating to the entity.

(3) If the governing rules of a registrable superannuation entity are inconsistent with subsection (2):
  (a) subsection (2) prevails; and
  (b) the governing rules are invalid, to the extent of the inconsistency.

116 Agreement between trustee and investment manager

Despite anything in the governing rules of a superannuation entity, any provision of an agreement between a trustee of the entity and an investment manager that purports to exempt the investment manager from liability for negligence, or to limit that liability, is void.

Authorised Version C2026C00335 registered 27/07/2026

117 Circumstances in which amounts may be paid out of an employer-sponsored fund to an employer-sponsor

Excluded superannuation funds

(2) This section does not apply to an excluded superannuation fund during the period:

(a) beginning on 21 October 1992; and

(b) ending immediately before the day on which subsection (2A) commenced.

Self managed superannuation funds

(2A) This section does not apply to a self managed superannuation fund if, at all times after the day on which this subsection commenced when the fund was in existence, the fund was a self managed superannuation fund.

Basic prohibition

(3) Except as provided by this section, a trustee of a standard employer-sponsored fund must not pay an amount, or permit an amount to be paid, out of the fund to a standard employer-sponsor.

(3A) Subsection (3) does not apply in circumstances where:

(a) its application would result in the acquisition of property from a person otherwise than on just terms; and

(b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution.

Exception—management services

(4) A reasonable amount may be paid out of any standard employer-sponsored fund to a standard employer-sponsor for services rendered in connection with the management or operation of the fund.

Authorised Version C2026C00335 registered 27/07/2026

Exception—special procedures followed

(5) An amount may be paid out of a standard employer-sponsored fund to a standard employer-sponsor if the following requirements are fulfilled:

(a) apart from this section, the governing rules would require or permit the amount to be paid to the employer-sponsor;

(b) whichever of the following subparagraphs is applicable has been complied with:

(i) if the fund has a single corporate trustee:

(A) the directors of the trustee have, by resolution, declared their intention to pay the amount out of the fund to the employer-sponsor; and

(B) when that resolution was passed, the board of the corporate trustee complied with the basic equal representation rules under Part 9;

(ii) if the fund has a group of individual trustees:

(A) the trustees have, by resolution, declared their intention to pay the amount out of the fund to the employer-sponsor; and

(B) when that resolution was passed, the group of trustees complied with the basic equal representation rules under Part 9;

(iii) in any other case—the trustee has declared his or her intention to pay the amount out of the fund to the employer-sponsor;

(c) before the resolution referred to in subparagraph (b)(i) or (ii), was passed or before the declaration referred to in subparagraph (b)(iii) was made:

(i) an actuary had given a written certificate to the trustee, or the trustees, of the fund stating that, if the amount were paid, the fund would remain in a satisfactory financial position; and

(ii) the trustee, or the trustees, were satisfied that the payment of the amount and the making of the changes (if any) to the governing rules were reasonable having

Authorised Version C2026C00335 registered 27/07/2026

regard to the interests of the employer-sponsor and of the beneficiaries in the fund;

(d) a trustee of the fund gave notice in accordance with the governing rules to all members of the fund:

(i) stating the intention to pay the amount to the employer-sponsor; and

(ii) stating that an actuary has given a certificate to the trustee, or the trustees, of the fund as required by subparagraph (c)(i); and

(iii) setting out particulars of any changes to the governing rules that were proposed to be made if the amount were paid to the employer-sponsor;

(e) at the end of 3 months after the notice mentioned in paragraph (d) was given to members, the provisions of whichever of the following subparagraphs is applicable were complied with:

(i) if the fund has a single corporate trustee—the directors of the corporate trustee passed a resolution agreeing to pay the amount out of the fund to the employer-sponsor;

(ii) if the fund has a group of individual trustees—the trustees passed a resolution agreeing to pay the amount out of the fund to the employer-sponsor;

(iii) in any other case—the trustee decided to make the payment;

(f) any other requirements made by the regulations.

(5A) The requirement in paragraph (5)(d) is taken not to have been fulfilled unless the notice is given in a way that enables each trustee of the fund to be reasonably satisfied that the notice came to the attention of all the members of the fund other than members who are ***lost members*** within the meaning of the regulations.

APRA may waive requirements

(6) APRA may waive any or all of the requirements specified in subsection (5) in relation to a matter occurring on or after the date of commencement of this section.

Authorised Version C2026C00335 registered 27/07/2026

Civil penalty provision

(7) Subsection (3) is a civil penalty provision as defined by section 193, and Part 21 therefore provides for civil and criminal consequences of contravening, or of being involved in a contravention of, that subsection.

This section does not apply to loans to, or investments in, a standard employer-sponsor

(8) A reference in this section to the payment of an amount out of a standard employer-sponsored fund to a standard employer-sponsor does not include a reference to the payment of an amount by way of the making of a loan to, or an investment in, the standard employer-sponsor.

Definitions

(10) In this section:

standard employer-sponsor, in relation to a standard employer-sponsored fund, includes:

(a) if a standard employer-sponsor is a body corporate—another body corporate that is related to the employer-sponsor; or

(b) if a standard employer-sponsor is an individual—an associate of the employer-sponsor.

(11) For the purposes of this section:

(a) a reference to a standard employer-sponsored fund includes a reference to a former standard employer-sponsored fund; and

(b) a reference to a standard employer-sponsor includes a reference to a former standard employer-sponsor.

118 Consents to appointments

A person is not eligible for appointment as a trustee of a superannuation entity, or as a director of a corporate trustee of a superannuation entity, unless the person has consented in writing to the appointment.

Authorised Version C2026C00335 registered 27/07/2026

Part 15—Standards for trustees, custodians and investment managers of superannuation entities

Division 1—Object of Part and definition of disqualified person

119 Object of Part

The object of this Part is to set out rules about the eligibility of trustees, custodians and investment managers of superannuation entities.

120 Disqualified persons

Individuals

(1) For the purposes of this Part, an individual is a disqualified person if:

(a) at any time (including a time before the commencement of this section):

(i) the individual was convicted of an offence against or arising out of a law of the Commonwealth, a State, a Territory or a foreign country, being an offence in respect of dishonest conduct; or

(ii) a civil penalty order was made in relation to the person; or

(b) the person is an insolvent under administration; or

(c) either:

(i) to the extent that the Regulator is the Commissioner of Taxation—the Regulator has disqualified the individual under section 126A; or

Authorised Version C2026C00335 registered 27/07/2026

(ii) to the extent that the Regulator is APRA—the Federal Court of Australia has disqualified the individual under section 126H; or

(d) the person is a trustee of a self managed superannuation fund or a director of a corporate trustee of a self managed superannuation fund that:

(i) has contravened section 139-135 in Schedule 1 to the *Taxation Administration Act 1953*; or

(ii) has contravened subsection 139-145(2) in Schedule 1 to the *Taxation Administration Act 1953* by failing to notify the Commissioner of Taxation that the trustee was not required to comply with a release authority because of subsection 139-135(3) or (4) of that Schedule.

Bodies corporate

(2) For the purposes of this Part, a body corporate is a disqualified person if:

(a) the body corporate knows, or has reasonable grounds to suspect, that a person who is, or is acting as, a responsible officer of the body corporate is:

(i) for a person who is a disqualified person only because he or she was disqualified under section 126H—disqualified from being or acting as a responsible officer of the body corporate; or

(ii) otherwise—a disqualified person; or

(b) a receiver, or a receiver and manager, has been appointed in respect of property beneficially owned by the body; or

(c) an administrator has been appointed in respect of the body; or

(ca) a restructuring practitioner (within the meaning of the *Corporations Act 2001*) has been appointed in respect of the body; or

(d) a provisional liquidator has been appointed in respect of the body; or

(e) the body has begun to be wound up.

Authorised Version C2026C00335 registered 27/07/2026

Convictions

(3) A reference in this section to a person who has been convicted of an offence includes a reference to a person in respect of whom an order has been made under section 19B of the *Crimes Act 1914*, or under a corresponding provision of a law of a State, a Territory or a foreign country, in relation to the offence.

Law on spent convictions does not apply

(4) Division 3 of Part VIIC of the *Crimes Act 1914* does not apply in relation to the disclosure of information about a conviction of the kind mentioned in paragraph (1)(a), if the disclosure is for the purposes of this Part.

Authorised Version C2026C00335 registered 27/07/2026

Division 2—Requirements for custodians and investment managers

122 Investment manager must not appoint or engage custodian without the trustee's consent

(1) An investment manager of a superannuation entity must not appoint or engage a custodian of the entity without the written consent of the trustee, or the trustees, of the entity.

(2) The investment manager commits an offence if the investment manager contravenes subsection (1). This is an offence of strict liability.

Penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

123 Persons who may be appointed to be custodians of superannuation entities

(1) A person must not intentionally be the custodian of a superannuation entity (other than a self managed superannuation fund) unless:

(a) the person is a body corporate; and

(b) any of the following subparagraphs applies:

(i) the value of the net tangible assets of the body corporate is not less than the amount prescribed by the regulations;

(ii) a trustee of the entity is entitled to the benefit, in respect of the due performance of the body corporate's duties as custodian of the entity, of an approved guarantee of an amount that is not less than the amount prescribed by the regulations;

Authorised Version C2026C00335 registered 27/07/2026

(iii) both the conditions specified in subsection (1A) are satisfied.

Penalty: 600 penalty units.

Note: A defendant bears an evidential burden in relation to the matters in paragraphs (1)(a) and (b) (see subsection 13.3(3) of the *Criminal Code*).

(1A) For the purposes of subparagraph (1)(b)(iii), the following conditions are specified:

(a) a trustee of the entity is entitled to the benefit, in respect of the due performance of the body corporate's duties as custodian of the entity, of an approved guarantee;

(b) the sum of the amount of the approved guarantee and the value of the net tangible assets of the body corporate is not less than the amount prescribed by the regulations.

(2) Subsection (1) does not prohibit a person from being a custodian of a superannuation entity if:

(a) the person immediately tells a trustee of the entity and APRA in writing that paragraph (1)(b) does not, or has ceased to, apply; and

(b) the person is the custodian of the entity during:

(i) the 28-day period beginning at whichever is the later of the following times:

(A) the time when paragraph (1)(b) ceased to apply to the custodian;

(B) the beginning of the entity's 1994-95 year of income; or

(ii) such longer period as APRA allows; and

(c) the trustee, or the trustees, of the entity have made or propose to make, arrangements for the orderly dismissal of the person as the custodian; and

(d) the person is taking, or is willing to take, all reasonable steps to assist the trustee in carrying out those arrangements.

Authorised Version C2026C00335 registered 27/07/2026

(3) If paragraph (1)(b) does not, or ceases to, apply to the custodian of a superannuation entity:

(a) the custodian must immediately tell a trustee of the entity and APRA in writing; and

(b) the trustee, or the trustees, must make arrangements for the orderly dismissal of the custodian; and

(c) the trustee, or the trustees, must make those arrangements before the end of:

(i) the 28-day period beginning at whichever is the later of the following times:

(A) the time when paragraph (1)(b) ceased to apply to the custodian;

(B) the beginning of the entity's 1994-95 year of income; or

(ii) such longer period as APRA allows.

(4) A person who contravenes subsection (3) because of paragraph (a) of that subsection commits an offence punishable on conviction by a fine not exceeding 50 penalty units.

(5) A person who contravenes subsection (3) because of paragraph (b) or (c) of that subsection commits an offence punishable on conviction by a fine not exceeding 100 penalty units.

(6) Subsections (4) and (5) are offences of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

124 Investment managers must be appointed in writing

(1) A trustee of a superannuation entity must not make a non-written appointment of an investment manager of the entity.

Note: Section 166 imposes an administrative penalty for a contravention of subsection (1) in relation to a self managed superannuation fund.

Authorised Version C2026C00335 registered 27/07/2026

(2) A trustee commits an offence if the trustee contravenes subsection (1). This is an offence of strict liability.

Penalty: 50 penalty units.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

125 Individuals not to be investment managers of superannuation entities

A person must not intentionally be, or act as, an investment manager of a superannuation entity (other than a self managed superannuation fund) if the person is not a body corporate.

Penalty: Imprisonment for 2 years.

Authorised Version C2026C00335 registered 27/07/2026

Division 3—Disqualified persons

Subdivision A—Disqualification by the Commissioner of Taxation

126 Application of this Subdivision

This Subdivision applies to the extent that the Regulator is the Commissioner of Taxation.

126A The Regulator may disqualify individuals

(1) The Regulator may disqualify an individual if satisfied that:

(a) the person has contravened this Act or the *Financial Sector (Collection of Data) Act 2001* on one or more occasions; and

(b) the nature or seriousness of the contravention or contraventions, or the number of contraventions, provides grounds for disqualifying the individual.

Note: For offences relating to disqualified persons, see Subdivision C.

(2) The Regulator may disqualify an individual who is, or was, a responsible officer of a trustee, investment manager or custodian (the ***body corporate***) if satisfied that:

(a) the body corporate has contravened this Act or the *Financial Sector (Collection of Data) Act 2001* on one or more occasions; and

(b) at the time of one or more of the contraventions, the individual was a responsible officer of the body corporate; and

(c) in respect of the contravention or contraventions that occurred while the individual was a responsible officer of the body corporate—the nature or seriousness of it or them, or the number of them, provides grounds for the disqualification of the individual.

Authorised Version C2026C00335 registered 27/07/2026

(3) The Regulator may disqualify an individual if satisfied that the individual is otherwise not a fit and proper person to be a trustee, investment manager or custodian, or a responsible officer of a body corporate that is a trustee, investment manager or custodian.

(4) A disqualification takes effect on the day on which it is made.

(5) The Regulator may revoke a disqualification on application by the disqualified individual or on its own initiative. A revocation takes effect on the day on which it is made.

(6) The Regulator must give the individual written notice of a disqualification, revocation of a disqualification or a refusal to revoke a disqualification.

(7) As soon as practicable after the Regulator gives a notice under:
  (a) subsection (6) of this section; or
  (b) subsection 344(6) (result of internal review);
the Regulator must, by notifiable instrument, publish particulars of the notice.

126B Application for waiver of disqualified status

(1) An individual may apply to the Regulator for a declaration under section 126D waiving his or her status as a disqualified person for the purposes of this Part only if:
  (a) he or she is a disqualified person solely because of the operation of subparagraph 120(1)(a)(i); and
  (b) the offence leading to him or her being a disqualified person is not an offence involving serious dishonest conduct as described in subsection (2).

(2) For the purposes of paragraph (1)(b), an offence involves serious dishonest conduct if the penalty actually imposed for the offence is:
  (a) a term of imprisonment of at least 2 years or such longer period (if any) as is specified in the regulations; or

Authorised Version C2026C00335 registered 27/07/2026

(b) a fine of at least 120 penalty units or such larger fine, if any, as is specified in the regulations.

(3) An application must:
(a) be in writing; and
(b) be made within 14 days after the commencement of this subsection or the person's conviction, whichever is the later; and
(c) identify the offence to which the application relates; and
(d) to the extent that the court documents relating to the offence exist—be accompanied by a copy, certified to be a true copy by the Clerk or Registrar of the court, of those documents; and
(e) give consent to the Regulator making inquiries in relation to the applicant of any law enforcement agency, regulatory agency or court that the Regulator believes on reasonable grounds has in its possession or control information directly relevant to the Regulator's consideration of the application; and
(f) be signed by the applicant.

(4) The Regulator may accept an application meeting conditions referred to in subsection (3) other than paragraph (3)(b) after the end of the period referred to in that paragraph only if the Regulator is satisfied that there are exceptional circumstances that prevented the application from being made within that period.

(5) The court documents are:
(a) the information or indictment against the applicant; and
(b) the transcript of the proceedings; and
(c) witness statements and affidavits; and
(d) the court's judgment and orders; and
(e) the court's reasons for judgment.

(6) If an individual is not reasonably able to obtain some or all of the court documents referred to in subsection (5), he or she:

Authorised Version C2026C00335 registered 27/07/2026

(a) may make an application that is not accompanied by those documents; and

(b) must give the Regulator those documents as soon as practicable after making the application.

(7) The Regulator must notify the applicant of any police force, agency or court of which the Regulator intends to make inquiries.

(8) Such notification should if possible be given to the applicant as soon as practicable after a decision has been made to approach that police force, agency or court.

126C Application must be decided within a period of time

(1) Subject to this section, the Regulator must decide an application made under section 126B within 60 days after receiving it.

(2) If the Regulator thinks that it will take longer than 60 days to decide the application, the Regulator may extend the period for deciding it by no more than 60 days.

(3) The extension must be notified in writing to the applicant within 60 days after the Regulator receives the application.

(4) If the Regulator makes an extension, the Regulator must decide the application within the extended period.

(5) If the Regulator has not decided the application by the end of the day by which the Regulator is required to decide it, the Regulator is taken to have decided, at the end of that day, to refuse the application under subsection 126D(3).

126D Notifying of the outcome of an application

(1A) If, having regard to any of the following:

(a) the offence to which the application relates;

(b) the time that has passed since the applicant committed the offence;

Authorised Version C2026C00335 registered 27/07/2026

(c) the applicant's age when the applicant committed the offence;
(d) the orders made by the court in relation to the offence;
(e) any other relevant matter;

the Regulator is satisfied that the applicant is highly unlikely to:

(f) contravene this Act; and
(g) do anything that would result in a self managed superannuation fund not complying with this Act;

the Regulator must, by notice in writing given to the applicant, make a declaration waiving the applicant's status as a disqualified person for the purposes of this Part.

(2) Despite any declaration waiving an applicant's status as a disqualified person for the purposes of this Part, the applicant will still be a disqualified person if:

(a) the applicant had been convicted of an offence involving dishonest conduct that the applicant did not include in the application; or
(b) a civil penalty order has been made against the applicant; or
(c) the applicant is insolvent under administration.

(3) If the Regulator decides not to make a declaration waiving the applicant's status as a disqualified person for the purposes of this Part, the Regulator must:

(a) by notice in writing, record that it has so decided; and
(b) give the applicant a statement, to which a copy of the notice referred to in paragraph (a) is attached, telling the applicant:
(i) that the Regulator has so decided and of the reasons for that decision; and
(ii) that the applicant must resign immediately and confirm that resignation, in writing, to the Regulator; and
(iii) that if the applicant fails so to resign and is the responsible officer of a body corporate that is a trustee, investment manager or custodian of a superannuation entity the Regulator will tell the body corporate of the applicant's status as a disqualified person.

Authorised Version C2026C00335 registered 27/07/2026

(4) If the Regulator becomes aware that the responsible officer of a body corporate that is a trustee, investment manager or custodian of a superannuation entity has failed to resign in accordance with the requirements of a statement under paragraph (3)(b) the Regulator must tell the body corporate that the applicant is a disqualified person.

126E The effect of seeking a waiver of disqualified person status

(1) If:

(a) a person is a disqualified person; and

(b) the person is eligible to make application for a declaration waiving his or her status as a disqualified person; and

(c) the person makes application for such a declaration under subsection 126B(3) within the application period specified in that subsection;

the person is treated, for the purposes of this Act, (other than the purpose of the application for the declaration) as not being, and as never having been, a disqualified person until that application is decided.

(2) On deciding an application for a declaration waiving the disqualified person status of a person to whom paragraphs 1(a), (b) and (c) apply:

(a) if the Regulator decides to make the declaration, the Act applies as if the person had never been disqualified; and

(b) if the Regulator decides not to make the declaration, the person again becomes a disqualified person from the date of the decision.

(3) If:

(a) a person is a disqualified person; and

(b) the person is eligible to make application for a declaration waiving his or her status as a disqualified person; and

(c) the person makes application for such a declaration under subsection 126B(4);

Authorised Version C2026C00335 registered 27/07/2026

then:

(d) pending the decision of the application the person continues to be a disqualified person for the purposes of this Act; but

(e) if the Regulator decides to make a declaration waiving the person's status as a disqualified person, the person is treated, for the purposes of this Act, as if the person had never been a disqualified person.

126F The Regulator's powers to seek further material

(1) If, to decide an application under subsection 126B(1), the Regulator needs:

(a) further information; or

(b) the applicant's consent to the Regulator making inquiries about the applicant from another person;

the Regulator may ask an applicant to provide information or consent.

(2) The Regulator may, by notice in writing, require a person who has made an application under subsection 126B(1) to pay to the Regulator an amount equal to the amount of any fees charged to the Regulator by any law enforcement agency, regulatory agency or court for answering any inquiry by the Regulator about the applicant if the fees:

(a) are of a kind prescribed for the purposes of this subsection; and

(b) exceed an amount prescribed for the purposes of this subsection, or exceed, in total, such an amount.

(3) The Regulator may, on the application of a person who has made an application under subsection 126B(1), waive in whole or in part, the requirement to pay an amount under subsection (2) if the Regulator is satisfied that there are special circumstances making it unfair to require the applicant to pay that amount or that part of that amount.

(4) If the applicant fails to comply with the request, the Regulator must treat the application as having been withdrawn.

Authorised Version C2026C00335 registered 27/07/2026

(5) Nothing in this section or in section 126B prevents the Regulator from deciding an application before some or all of the requirements in subsection 126B(3) have been complied with.

Subdivision B—Disqualification by the Federal Court of Australia

126G Application of this Subdivision

This Subdivision applies to the extent that the Regulator is APRA.

126H Court power of disqualification

(1) On application by the Regulator, the Federal Court of Australia may, by order, disqualify an individual from being or acting as a person referred to in subsection (2), for a period that the Court considers appropriate, if the Court is satisfied:
  (a) as mentioned in subsection (3), (4) or (5); and
  (b) that the disqualification is justified.

Note: For offences relating to disqualified persons, see Subdivision C.

(2) For the purposes of subsection (1), the Court may disqualify an individual from being or acting as:
  (a) a trustee of:
    (i) a particular superannuation entity; or
    (ii) a class of superannuation entities; or
    (iii) any superannuation entity; or
  (b) a responsible officer of:
    (i) a particular body corporate that is a trustee, an investment manager or a custodian of a superannuation entity; or
    (ii) a class of bodies corporate that are trustees, investment managers or custodians of superannuation entities; or
    (iii) any body corporate that is a trustee, investment manager or custodian of a superannuation entity.

Authorised Version C2026C00335 registered 27/07/2026

(3) The Court may disqualify an individual, in accordance with subsection (1), if satisfied:

(a) that the individual has contravened this Act, the *Financial Sector (Collection of Data) Act 2001* or the *Financial Accountability Regime Act 2023* on one or more occasions; and

(b) that the nature or seriousness of the contravention or contraventions, or the number of contraventions, provides grounds for disqualifying the individual.

(4) The Court may disqualify an individual, in accordance with subsection (1), who is, or was, a responsible officer of a trustee, investment manager or custodian (the ***body corporate***) if satisfied that:

(a) the body corporate has contravened this Act or the *Financial Sector (Collection of Data) Act 2001* on one or more occasions; and

(b) at the time of one or more of the contraventions, the individual was a responsible officer of the body corporate; and

(c) in respect of the contravention or contraventions that occurred while the individual was a responsible officer of the body corporate—the nature or seriousness of it or them, or the number of them, provides grounds for the disqualification of the individual.

(5) The Court may disqualify an individual, in accordance with subsection (1), if satisfied that the individual is otherwise not a fit and proper person to be a person referred to in subsection (2).

(6) In deciding whether it is satisfied as mentioned in subsection (3), (4) or (5), the Court may take into account:

(a) any matters specified in the regulations for the purposes of this paragraph; and

(b) any other matters the Court considers relevant.

(6A) In deciding whether it is satisfied as mentioned in subsection (5), the Court may also take into account any criteria for fitness and

Authorised Version C2026C00335 registered 27/07/2026

propriety that are relevant to the trustee or responsible officer set out in the prudential standards.

(7) In deciding whether the disqualification is justified as mentioned in paragraph (1)(b), the Court may have regard to:
  (a) the individual's conduct in relation to the management, business or property of any corporation; and
  (b) any other matters the Court considers relevant.

(8) As soon as practicable after the Court disqualifies an individual under this section, the Regulator must:
  (a) give particulars of the disqualification:
    (i) if the individual is, or is acting as, a trustee of a superannuation entity—to the entity concerned; or
    (ii) if the individual is, or is acting as, a responsible officer of a body corporate that is a trustee, an investment manager or a custodian of a superannuation entity—to the body corporate concerned; and
  (b) by notifiable instrument, publish particulars of the disqualification.

126J Court power to revoke or vary a disqualification etc.

(1) A disqualified person, or the Regulator, may apply to the Federal Court of Australia for:
  (a) if an individual is a disqualified person only because he or she was disqualified under section 126H—a variation or a revocation of the order made under that section; or
  (b) otherwise—an order that the person is not a disqualified person.

(2) If the Court revokes an order under paragraph (1)(a) or makes an order under paragraph (1)(b), then, despite section 120, the person is not a ***disqualified person***.

(3) At least 21 days before commencing the proceedings, written notice of the application must be lodged:

Authorised Version C2026C00335 registered 27/07/2026

(a) if the disqualified person makes the application—by the person with the Regulator; or
(b) if the Regulator makes the application—by the Regulator with the disqualified person.

(4) An order under paragraph (1)(b) may be expressed to be subject to exceptions and conditions determined by the Court.

Subdivision C—Other matters relating to disqualification

126K Disqualified persons not to be trustees, investment managers or custodians of superannuation entities

(1) A person commits an offence if:
(a) the person is a disqualified person; and
(b) the person knows he or she is a disqualified person; and
(c) the person is or acts as a trustee, investment manager or custodian of a superannuation entity; and
(d) for a person who is an individual and who is a disqualified person only because he or she was disqualified under section 126H—the person is disqualified from being or acting as a trustee of that superannuation entity.

Penalty: Imprisonment for 2 years.

(2) A person commits an offence if:
(a) the person is a disqualified person; and
(b) the person knows he or she is a disqualified person; and
(c) the person is or acts as a trustee, investment manager or custodian of a superannuation entity; and
(d) for a person who is an individual and who is a disqualified person only because he or she was disqualified under section 126H—the person is disqualified from being or acting as a trustee of that superannuation entity.

Penalty: 60 penalty units.

(3) Subsection (2) is an offence of strict liability.

Authorised Version C2026C00335 registered 27/07/2026

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

(4) A person commits an offence if:

(a) the person is a disqualified person; and

(b) the person knows he or she is a disqualified person; and

(c) the person is or acts as a responsible officer of a body corporate that is a trustee, investment manager or custodian of a superannuation entity; and

(d) for a person who is an individual and who is a disqualified person only because he or she was disqualified under section 126H—the person is disqualified from being or acting as that responsible officer.

Penalty: Imprisonment for 2 years.

(5) A person commits an offence if:

(a) the person is a disqualified person; and

(b) the person knows he or she is a disqualified person; and

(c) the person is or acts as a responsible officer of a body corporate that is a trustee, investment manager or custodian of a superannuation entity; and

(d) for a person who is an individual and who is a disqualified person only because he or she was disqualified under section 126H—the person is disqualified from being or acting as that responsible officer.

Penalty: 60 penalty units.

(6) Subsection (5) is an offence of strict liability.

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

(7) A person commits an offence if:

(a) the person is a trustee of a superannuation entity; and

(b) the person is or becomes a disqualified person; and

(c) the person does not tell the Regulator in writing immediately.

Penalty: 50 penalty units.

Authorised Version C2026C00335 registered 27/07/2026

(8) Subsection (7) is an offence of strict liability.

Note 1: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Note 2: For ***strict liability***, see section 6.1 of the *Criminal Code*.

126L Privilege against exposure to penalty—disqualification under section 126A, 126H, 130D or 130EA

Proceedings

(1) In the case of any proceeding under, or arising out of, this Act, a person is not entitled to refuse or fail to comply with a requirement:

(a) to answer a question or give information; or

(b) to produce books; or

(c) to do any other act;

on the ground that the answer or information, production of the books, or doing that other act, as the case may be, might tend to make the person liable to a penalty by way of a disqualification under section 126A, 126H or 130D or tend to make a firm or company liable to disqualification under section 130EA.

(2) Subsection (1) applies whether or not the person is a defendant in, or a party to, the proceeding or any other proceeding.

Statutory requirements

(3) A person is not entitled to refuse or fail to comply with a requirement under this Act:

(a) to answer a question or give information; or

(b) to produce books; or

(c) to do any other act;

on the ground that the answer or information, production of the books, or doing that other act, as the case may be, might tend to make the person liable to a penalty by way of a disqualification under section 126A, 126H or 130D or tend to make a firm or company liable to disqualification under section 130EA.

Authorised Version C2026C00335 registered 27/07/2026

Admissibility

(4) Subsections 130B(2), 287(3), 290(2) and 336F(2) do not apply to a proceeding for the imposition of a penalty by way of a disqualification under section 126A, 126H or 130D or a proceeding under section 130EA.

Other provisions

(5) Subsections (1) and (3) of this section have effect despite anything in:
  (a) section 199; or
  (b) any other provision of this Act; or
  (c) the *Administrative Review Tribunal Act 2024*.

Definition

(6) In this section:

penalty includes forfeiture.

Authorised Version C2026C00335 registered 27/07/2026

Division 4—Non-compliance not to invalidate appointment or transaction

127 Non-compliance not to invalidate appointment or transaction

A failure to comply with a provision of this Part does not affect the validity of an appointment or transaction.

Authorised Version C2026C00335 registered 27/07/2026