

## **EXPLANATORY STATEMENT**

### **Select Legislative Instrument 2012 No. 329**

Issued by the authority of the Minister for Financial Services and Superannuation

Subject - *Superannuation Auditor Registration Imposition Act 2012*

*Superannuation Auditor Registration Imposition Regulation 2012*

Section 5 of the *Superannuation Auditor Registration Imposition Act 2012* prescribes that the Governor-General may make regulations for the purposes of prescribing fees payable in accordance with section 128L of the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

Subsection 4(1) of the *Superannuation Auditor Registration Imposition Act 2012* provides that the amounts of those fees are prescribed by the regulations. Subsection 4(2) provides that the regulations may prescribe such a fee by prescribing an amount (not exceeding \$1,000) as the fee or by prescribing a method for calculating the amount (not exceeding \$1,000) of the fee. Subsection 4(3) provides that the regulations may prescribe different amounts for different kinds of matters for which fees are payable.

The purpose of the Regulation is to prescribe amounts for matters mentioned in an item in column 1 of the table in subsection 128L(1) of the SIS Act.

Under the SIS Act, from 31 January 2013 auditors of self managed superannuation funds (SMSFs) will be subject to a new registration regime. SMSF auditor registration forms a key part of the Government's Stronger Super reforms and is intended to ensure that auditors of SMSFs have a minimum standard of competency and knowledge of relevant laws.

The Regulation specifies when fees must be paid and the amount that must be paid. Fees are payable for applying for registration, undertaking a competency exam and submitting an SMSF auditor annual statement to the Australian and Securities and Investments Commission (ASIC) as the Regulator. Additionally, approved SMSF auditors may be liable for additional fees if they do not submit their annual statement on time, fail to notify ASIC of certain matters, such as a change in contact details, on time and fees are payable for certain searches of a register kept by ASIC under the SIS Act.

Details of the Regulation are provided in the Attachment.

The *Superannuation Auditor Registration Imposition Act 2012* specifies no conditions to be satisfied before the power to make the Regulation may be exercised.

The Regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Regulation commences on 31 January 2013 and fees are payable from this time.

Extensive consultation has been undertaken on SMSF auditor registration. As part of Stronger Super, the Government established the Stronger Super Peak Consultative Group, comprising of representatives from peak industry, employer, employee and

consumer groups to provide broad, high level advice on the design and implementation of the Stronger Super reforms. In addition, the Government established the SMSF working group to provide technical input on the SMSF reforms. The working papers presented and discussed at the SMSF working group meetings were published on the Stronger Super website and public submissions were invited.

Public consultation was also undertaken between 15 October and 26 October 2012 when an exposure draft of the Regulation was released. Eight submissions were received in response to this consultation, seven of which were public submissions and one was confidential. The public submissions are available on the Treasury website.

Authority: Section 5 of the  
*Superannuation Auditor  
Registration Imposition Act 2012*

## **ATTACHMENT**

### **Details of the Superannuation Auditor Registration Imposition Regulation 2012**

**Section 1** specifies that the name of the Regulation is the *Superannuation Auditor Registration Imposition Regulation 2012*.

**Section 2** provides that the Regulation commences on 31 January 2013.

**Section 3** provides that in this Regulation, Act means the *Superannuation Auditor Registration Imposition Act 2012* and SIS Act means the *Superannuation Industry (Supervision) Act 1993*.

**Section 4** prescribes fee amounts for the matters for which fees are due and payable under section 128L of the SIS Act.

Fee amounts are outlined in the following table.

<i>Item</i>	<i>Fee payable for...</i>	<i>Fee (\$)</i>
1	Applying for registration as an approved SMSF auditor	100
2	Undertaking a competency examination in accordance with section 128C of the SIS Act	100
3	Giving ASIC a statement under section 128G of the SIS Act	50
4	Giving ASIC a statement under section 128G of the SIS Act within 1 month after it fell due	Nil
5	Giving ASIC a statement under section 128G of the SIS Act more than 1 month after it fell due	Nil
6	Giving ASIC particulars under section 128H of the SIS Act within 1 month after they fell due	Nil
7	Giving ASIC particulars under section 128H of the SIS Act more than 1 month after they fell due	Nil
8	Inspecting or searching a register that the Regulator keeps under Division 1A of the SIS Act for a current extract	Nil
9	Inspecting or searching a register that the Regulator keeps under Division 1A of the SIS Act for a historical extract	18
10	Inspecting or searching an extract given to or issued by the Regulator under Division 1A of the SIS Act (other than an order made under s130F(2) of the SIS Act) for 10 pages or less	18
11	Inspecting or searching an extract given to or issued by the Regulator under Division 1A of the SIS Act (other than an order made under s130F(2) of the SIS Act) that is more than 10 pages	36

**Section 5** prescribes a method for calculating fees in financial years subsequent to the financial year starting on 1 July 2013 or 1 July 2014, depending on what the fee is payable for, to allow for increases in the consumer price index.

Some fees (items 4 to 11) are subject to increases in the consumer price index starting from 1 July 2013 to ensure they align and remain consistent with other fees administered by ASIC for similar matters. The remaining fees (items 1 to 3) are subject to increases in the consumer price index starting from 1 July 2014.

## **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

### **Superannuation Auditor Registration Imposition Regulation 2012**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

#### ***Overview of the Legislative Instrument***

The purpose of the Legislative Instrument is to prescribe amounts for fees payable in accordance with section 128L of the *Superannuation Industry (Supervision) Act 1993*, relating to auditors of self managed superannuation funds.

#### ***Human rights implications***

This Legislative Instrument does not engage any of the applicable rights or freedoms.

#### ***Conclusion***

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.