

EXPOSURE DRAFT

2013-2014-2015

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

EXPOSURE DRAFT

Superannuation Guarantee Legislation Amendment (Simplification) Bill 2015

No. , 2015

(Treasury)

**A Bill for an Act to amend the law relating to the
Superannuation Guarantee, and for related
purposes**

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedules.....	1
Schedule 1—Amendments		3
Part 1—Salary and wages		3
<i>Superannuation Guarantee (Administration) Act 1992</i>		3
<i>Tax and Superannuation Laws Amendment (Norfolk Island Reforms) Act 2015</i>		4
Part 2—Nominal interest component		6
<i>Superannuation Guarantee (Administration) Act 1992</i>		6
Part 3—Additional superannuation guarantee charge		7
<i>Crimes (Taxation Offences) Act 1980</i>		7
<i>Superannuation Guarantee (Administration) Act 1992</i>		7
<i>Taxation Administration Act 1953</i>		8
Part 4—Application of amendments		10

EXPOSURE DRAFT

1
2 **A Bill for an Act to amend the law relating to the**
3 **Superannuation Guarantee, and for related**
4 **purposes**

5 The Parliament of Australia enacts:

6 **1 Short title**

7 This Act may be cited as the *Superannuation Guarantee*
8 *Legislation Amendment (Simplification) Act 2015*.

9 **2 Commencement**

- 10 (1) Each provision of this Act specified in column 1 of the table
11 commences, or is taken to have commenced, in accordance with
12 column 2 of the table. Any other statement in column 2 has effect
13 according to its terms.
14

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	1 July 2016.	1 July 2016

15 Note: This table relates only to the provisions of this Act as originally
16 enacted. It will not be amended to deal with any later amendments of
17 this Act.

- 18 (2) Any information in column 3 of the table is not part of this Act.
19 Information may be inserted in this column, or information in it
20 may be edited, in any published version of this Act.

21 **3 Schedules**

22 Legislation that is specified in a Schedule to this Act is amended or
23 repealed as set out in the applicable items in the Schedule

EXPOSURE DRAFT

1 concerned, and any other item in a Schedule to this Act has effect
2 according to its terms.

2 *Superannuation Guarantee Legislation Amendment (Simplification)* No. , 2015
Bill 2015

EXPOSURE DRAFT

EXPOSURE DRAFT

Error! Unknown document property. Amendments, Schedule 1
Salary and wages, Part 1

1 Schedule 1—Amendments

2 Part 1—Salary and wages

3 *Superannuation Guarantee (Administration) Act 1992*

4 1 Subsection 6(1)

5 Insert:

6 *maximum contribution base* has the meaning given by section 15.

7 2 Subsection 6(1) (definition of *ordinary time earnings*)

8 Repeal the definition, substitute:

9 *ordinary time earnings* has the meaning given by section 11A.

10 3 After section 11

11 Insert:

12 11A Interpretation—ordinary time earnings

13 (1) An employee's *ordinary time earnings*, for a quarter in respect of
14 an employer, is the lesser of:

15 (a) the total of the salary or wages paid by the employer to the
16 employee in the quarter that are:

17 (i) earnings in respect of ordinary hours of work; or

18 (ii) earnings consisting of over-award payments,
19 shift-loading or commission; and

20 (b) the maximum contribution base for the quarter.

21 (2) Subparagraph (1)(a)(i) does not apply to earnings consisting of a
22 lump sum payment of any of the following kinds made to the
23 employee on the termination of his or her employment:

24 (a) a payment in lieu of unused sick leave;

25 (b) an unused annual leave payment, or unused long service
26 leave payment, within the meaning of the *Income Tax*
27 *Assessment Act 1997*.

EXPOSURE DRAFT

Schedule 1 Amendments

Part 1 Salary and wages

1 **4 Subsection 19(1) (formula)**

2 Repeal the formula, substitute:

$$\begin{array}{c} \text{Ordinary time earnings} \\ \text{of the employee for the quarter} \\ \text{in respect of the employer} \end{array} \times \frac{\begin{array}{c} \text{Charge percentage for} \\ \text{the employer} \\ \text{for the quarter} \end{array}}{100}$$

3

4 **5 Subsection 19(3)**

5 Repeal the subsection.

6 ***Tax and Superannuation Laws Amendment (Norfolk Island***
7 ***Reforms) Act 2015***

8 **6 Paragraph 2(2)(a) of Schedule 2**

9 Repeal the paragraph, substitute:

10 (a) some or all of the ordinary time earnings of the employee for
11 the quarter in respect of the employer consists of Norfolk
12 Island ordinary time earnings; and

13 **7 Subitem 2(2) of Schedule 2**

14 Omit “total salary and wages paid by the employer to the employee for
15 the quarter”, substitute “total ordinary time earnings of the employee for
16 the quarter in respect of the employer”.

17 **8 Subitem 2(2) of Schedule 2 (formula)**

18 Repeal the formula, substitute:

$$\begin{array}{c} \text{Total Norfolk Island ordinary} \\ \text{time earnings of the} \\ \text{employee for the quarter} \\ \text{in respect of the employer} \end{array} \times \frac{\begin{array}{c} \text{Charge} \\ \text{percentage} \end{array} - \begin{array}{c} \text{Norfolk Island} \\ \text{charge percentage} \end{array}}{\begin{array}{c} \text{Charge percentage} \end{array}}$$

19

20 **9 Subitem 2(3) of Schedule 2**

21 Repeal the subitem, substitute:

22 (3) In this item:

EXPOSURE DRAFT

Amendments, Schedule 1
Salary and wages, Part 1

Error! Unknown document property.

1 *Norfolk Island ordinary time earnings* means ordinary time earnings
2 that, if the amendments made by this Part had not been made, would,
3 because of subparagraph 27(1)(b)(ii) or (c)(ii) of the *Superannuation*
4 *Guarantee (Administration) Act 1992*, not have been taken into account
5 for the purpose of making a calculation under section 19 of that Act.

No. , 2015 *Superannuation Guarantee Legislation Amendment (Simplification)* 5
Bill 2015

EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 1 Amendments

Part 2 Nominal interest component

1 **Part 2—Nominal interest component**

2 *Superannuation Guarantee (Administration) Act 1992*

3 **10 Subsection 6(1) (definition of *nominal interest component*)**

4 Omit “and”, substitute “for”.

5 **11 Section 31**

6 Repeal the section, substitute:

7 **31 Nominal interest component**

8 The *nominal interest component*, in relation to an employer for a
9 quarter, is the total of the amounts that would accrue by way of
10 interest on each of the employer’s individual superannuation
11 guarantee shortfalls for the quarter if:

- 12 (a) the interest were calculated at the rate applicable under the
13 regulations for the purposes of this paragraph; and
14 (b) the interest accrued from the 29th day after the end of the
15 quarter; and
16 (c) the interest accrued until the earlier of:
17 (i) the earliest day (if any) on which the total of any
18 contributions made by the employer for the benefit of
19 the employee and to which section 23A applies in
20 relation to the quarter equals or exceeds the employer’s
21 individual superannuation guarantee shortfall for the
22 employee for the quarter; and
23 (ii) the day before the day on which superannuation
24 guarantee charge in relation to the total would be
25 payable under this Act.

EXPOSURE DRAFT

Amendments Schedule 1
Error! Unknown document property. Additional superannuation guarantee charge Part 3

1 **Part 3—Additional superannuation guarantee charge**

2 *Crimes (Taxation Offences) Act 1980*

3 **12 Subsection 3(1) (definition of *superannuation guarantee***
4 ***charge*)**

5 Omit “or Part 7”.

6 *Superannuation Guarantee (Administration) Act 1992*

7 **13 Subsection 6(1) (definition of *assessment*)**

8 Repeal the definition, substitute:

9 *assessment* means the ascertainment of both of the following:

- 10 (a) an employer’s superannuation guarantee shortfall for a
11 quarter;
12 (b) the superannuation guarantee charge payable on the shortfall.

13 **14 Subsection 6(1) (definition of *penalty charge*)**

14 Repeal the definition.

15 **15 Subsection 38(2) (definition of *overpaid amount*)**

16 Omit “or Part 7”.

17 **16 Section 47**

18 Repeal the section.

19 **17 Subsection 49(5)**

20 Repeal the subsection.

21 **18 Section 50**

22 Repeal the section, substitute:

EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 1 Amendments

Part 3 Additional superannuation guarantee charge

1 **50 Order of payments**

2 The Commissioner must apply payments of:

3 (a) superannuation guarantee charge for a quarter; or

4 (b) general interest charge in respect of non-payment of
5 superannuation guarantee charge for a quarter;

6 that are made by or on behalf of an employer so that the
7 employer's liability to pay the nominal interest component for the
8 quarter is discharged before all other amounts.

9 **19 Part 7**

10 Repeal the Part.

11 **20 Subsection 63A(2) (definition of *charge payment*)**

12 Repeal the definition, substitute:

13 *charge payment* means a payment of:

14 (a) superannuation guarantee charge for a quarter; or

15 (b) general interest charge in respect of non-payment of
16 superannuation guarantee charge for a quarter.

17 ***Taxation Administration Act 1953***

18 **21 Subsection 250-10(2) in Schedule 1 (table item 65)**

19 Repeal the item.

20 **22 At the end of Subdivision 284-D in Schedule 1**

21 Add:

22 **284-230 Superannuation guarantee charge offsets to be disregarded**

23 In working out the amount of superannuation guarantee charge
24 payable by an employer for a quarter for the purposes of this
25 Division, disregard the amount of any offset under section 23A of
26 the *Superannuation Guarantee (Administration) Act 1992* (about
27 offsetting late payments against charge).

EXPOSURE DRAFT

Amendments, Schedule 1
Additional superannuation guarantee charge, Part 3
Error! Unknown document property.

- 1 **23 Paragraph 286-75(2)(b) in Schedule 1**
2 Repeal the paragraph.

EXPOSURE DRAFT

EXPOSURE DRAFT

Schedule 1 Amendments

Part 4 Application of amendments

1 **Part 4—Application of amendments**

2 **24 Application of amendments**

3 The amendments made by this Schedule apply in relation to a quarter
4 beginning on or after 1 July 2016.

5