2022‑2023

The Parliament of the

Commonwealth of Australia

HOUSE OF REPRESENTATIVES/THE SENATE

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| **EXPOSURE DRAFT** |

Superannuation (Objective) Bill 2023

No. , 2023

(Treasury)

A Bill for an Act relating to the objective of superannuation, and for related purposes

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A Bill for an Act relating to the objective of superannuation, and for related purposes

The Parliament of Australia enacts:

1 Short title

 This Act is the *Superannuation (Objective) Act 2023*.

2 Commencement

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

| Commencement information |
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| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this Act | The 28th day after this Act receives the Royal Assent. |  |

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Simplified outline of this Act

A statement of compatibility is required for Bills and regulations relating to superannuation, unless an exception applies.

The statement of compatibility must include an assessment of whether the Bill is, or the regulations are, compatible with the objective of superannuation.

4 Definitions

 In this Act:

***excepted matter*** means a matter that relates to any of the following:

 (a) a public sector superannuation scheme (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) established by or under a law of the Commonwealth;

 (b) the Australian Defence Force Superannuation Scheme (within the meaning of the *Australian Defence Force Superannuation Act 2015*);

 (c) the superannuation scheme established under the *Military Superannuation and Benefits Act 1991*;

 (d) the retirement scheme constituted by the *Parliamentary Contributory Superannuation Act 1948*;

 (e) the parliamentary superannuation scheme established by the *Parliamentary Superannuation Act 2004*;

 (f) the scheme for the provision of retirement and other benefits to and in respect of Judges under the *Judges’ Pensions Act 1968*;

 (g) a Commonwealth superannuation contribution (within the meaning of the *Federal Circuit and Family Court of Australia Act 2021*) payable to a Judge (within the meaning of that Act);

 (h) the allocation of a superannuation interest (within the meaning of the *Family Law Act 1975*) between:

 (i) the parties to a marriage; or

 (ii) the parties to a de facto relationship;

 whether the allocation is dealt with under that Act or any other law of the Commonwealth.

***objective of superannuation***means the objective set out in subsection 5(1).

***rule‑maker*** has the same meaning as in the *Legislation Act 2003*.

***statement of compatibility*** has the meaning given by subsection 6(1) or 7(1).

5 The objective of superannuation

 (1) The objective of superannuationis to preserve savings to deliver income for a dignified retirement, alongside government support, in an equitable and sustainable way.

 (2) This section does not affect:

 (a) the operation of any law of the Commonwealth (other than this Act or regulations made under this Act); or

 (b) the operation of the governing rules (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) of any superannuation entity (within the meaning of that Act); or

 (c) any power, duty, right or liability of the trustee (within the meaning of that Act) of such an entity in its capacity as trustee.

6 Statements of compatibility—Bills relating to superannuation

Requirement for statement of compatibility

 (1) Subject to subsection (4), a member of Parliament who proposes to introduce a Bill for an Act into a House of the Parliament must, if the Bill relates to superannuation, cause a statement (a ***statement of compatibility***) to be prepared in respect of the Bill.

 (2) Subject to subsection (4), a member of Parliament who introduces a Bill for an Act into a House of the Parliament, or another member acting on the first member’s behalf, must, if the Bill relates to superannuation, cause the statement of compatibility prepared under subsection (1) to be presented to the House.

Content of statement of compatibility

 (3) A statement of compatibility must include an assessment of whether the Bill is compatible with the objective of superannuation.

Exceptions

 (4) This section does not apply in relation to a Bill to the extent that the Bill:

 (a) deals with a matter other than superannuation; or

 (b) deals with a matter that:

 (i) relates to superannuation; and

 (ii) is of a minor or technical nature; or

 (c) deals with an excepted matter; or

 (d) amends or repeals, or relates to an amendment or repeal of, an Act, or a provision of an Act, prescribed by regulations made for the purposes of this paragraph.

7 Statements of compatibility—regulations relating to superannuation

Requirement for statement of compatibility

 (1) Subject to subsections (3) and (4), the rule‑maker for regulations made under an Act must, if the regulations relate to superannuation, cause a statement (a ***statement of compatibility***) to be prepared in respect of the regulations.

Note: The statement of compatibility must be included in the explanatory statement relating to the regulations (see section 15J of the *Legislation Act 2003*).

Content of statement of compatibility

 (2) A statement of compatibility must include an assessment of whether the regulations are compatible with the objective of superannuation.

Exceptions

 (3) This section does not apply in relation to regulations to the extent that the regulations:

 (a) deal with a matter other than superannuation; or

 (b) deal with a matter that:

 (i) relates to superannuation; and

 (ii) is of a minor or technical nature; or

 (c) deal with an excepted matter; or

 (d) amend or repeal, or relate to an amendment or repeal of, regulations made:

 (i) under an Act prescribed by regulations made for the purposes of paragraph 6(4)(d); or

 (ii) under or for the purposes of a provision prescribed by regulations made for the purposes of that paragraph; or

 (e) amend or repeal, or relate to an amendment or repeal of, regulations, or a provision of regulations, prescribed by regulations made for the purposes of this paragraph.

 (4) This section does not apply in relation to regulations if the rule‑maker for the regulations is satisfied that:

 (a) the regulations (the ***new regulations***) are made because other regulations have been, or will be, repealed by an Act (for example, by section 50 of the *Legislation Act 2003*); and

 (b) the new regulations do not involve a substantial change in policy in the law relating to superannuation.

Note: Section 50 of the *Legislation Act 2003* deals with the sunsetting of legislative instruments.

8 Act does not create enforceable rights or duties etc.

 (1) Nothing in this Act creates rights or duties that are enforceable in judicial or other proceedings.

 (2) A failure to comply with section 6 in relation to a Bill that becomes an Act does not affect the validity, operation or enforcement of the Act or any other provision of a law of the Commonwealth.

 (3) A failure to comply with section 7 in relation to regulations does not affect the validity, operation or enforcement of the regulations or any other provision of a law of the Commonwealth.

 (4) A statement of compatibility prepared under this Act is not binding on any court or tribunal.

9 Regulations

 The Governor‑General may make regulations prescribing matters:

 (a) required or permitted by this Act to be prescribed by the regulations; or

 (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.