

EXPOSURE DRAFT

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Inserts for

Treasury Laws Amendment Instrument 2025: SG reforms to address unpaid super

Commencement information

Column 1

Column 2

Column 3

Provisions

Commencement

Date/Details

1.

2. Schedule #

At the same time as the *Superannuation
Guarantee Charge Amendment Act 2025*
commences.

3.

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Schedule #—Superannuation guarantee reforms to address unpaid superannuation

Part 1—Administrative uplift amounts for superannuation guarantee shortfalls

Superannuation Guarantee (Administration) Regulations 2018

1 Section 5 (after paragraph (a) of the note)

Insert:

(aa) assessment;

2 Section 5

Insert:

Commissioner-initiated assessment has the meaning given by subsection 13C(3).

3 Part 4

Repeal the Part, substitute:

Part 4—Liability of employers to superannuation guarantee charge

Division 1—Exclusions

Division 2—Administrative uplift amounts for superannuation guarantee shortfalls

13A Simplified outline of this Division

An employer's administrative uplift amount for a QE day is 60% of the sum of the totals of its individual final superannuation guarantee shortfalls, and individual notional earnings components, for the QE day.

However, this 60% can be reduced by this Division in 2 ways and can be reduced to 0%.

The first way can reduce the percentage to 40% if the Commissioner has not initiated an assessment of superannuation guarantee charge for the employer during the past 24 months.

The second way can reduce the percentage if the employer lodges a voluntary disclosure statement for the QE day:

- (a) in the approved form; and
- (b) before the day an assessment is made for the employer and the QE day.

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13B Reducing an employer's administrative uplift amount

- (1) This Division sets out how an employer's administrative uplift amount for a QE day can be reduced.
- (2) This amount is reduced (but not below nil) if either or both of sections 13C or 13D apply to reduce the percentage in subsection 19C(1) of the Act.

Note: That percentage is 60% of the sum of the totals of the employer's individual final superannuation guarantee shortfalls, and individual notional earnings components, for the QE day (see subsection 19C(1) of the Act).

13C Reduction if no Commissioner-initiated assessment in the past 24 months

- (1) This section applies to reduce the percentage for the QE day by 20% if no Commissioner-initiated assessment has been made for the employer during the 24-month period ending on the QE day.

Note: This means the 60% in subsection 19C(1) of the Act is reduced to 40%.

- (2) However, if the QE day is between 1 July 2026 and 30 June 2028 (inclusive), then treat the period mentioned in subsection (1) as if it started on 1 July 2026.
- (3) A *Commissioner-initiated assessment*, for the employer, is an assessment, under subsection 36(1) of the Act for the employer and a QE day, that:
 - (a) was made on the Commissioner's own initiative; or
 - (b) was made because a statement purportedly lodged by the employer under section 33 of the Act is not a voluntary disclosure statement.

Note: To be a voluntary disclosure statement, the statement will need to be lodged in the approved form (see subsection 33(2) of the Act). A statement that is inaccurate or incomplete may not be in the approved form due to it not containing the information required by the form (see paragraph 388-50(1)(c) in Schedule 1 to the *Taxation Administration Act 1953*).

13D Reduction if a superannuation guarantee statement is lodged for the QE day

- (1) This section applies to reduce the percentage for the QE day by the percentage in column 1 of an item of the following table if the employer lodges a voluntary disclosure statement for the QE day:
 - (a) on a day covered by column 2 of that table item (the *lodgement day*); and
 - (b) before the day an assessment under subsection 36(1) of the Act is made for the employer and the QE day.

Reductions in percentage if a voluntary disclosure statement is lodged for the QE day		
	Column 1	Column 2
Item	Reduce the percentage by:	... if the lodgement day is:
1	40%	before the end of the 30-day period starting on the QE day.
2	35%	during the period: <ol style="list-style-type: none">(a) starting immediately after the end of the period mentioned in item 1; and(b) ending at the end of the 60-day period starting on the QE day.
3	30%	during the period:

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Reductions in percentage if a voluntary disclosure statement is lodged for the QE day		
	Column 1	Column 2
Item	Reduce the percentage by:	... if the lodgement day is:
		(a) starting immediately after the end of the period mentioned in item 2; and (b) ending at the end of the 120-day period starting on the QE day.
4	15%	after the end of the 120-day period starting on the QE day.

Example 1: If section 13C applies and table item 1 applies, the 60% in subsection 19C(1) of the Act is reduced to 0%.

Example 2: If section 13C does not apply but table item 2 applies, the 60% in subsection 19C(1) of the Act is reduced to 25%.

Note: To be a voluntary disclosure statement, the statement will need to be lodged in the approved form (see subsection 33(2) of the Act). A statement lodged on a particular day that is inaccurate or incomplete:

- (a) may not be in the approved form due to it not containing the information required by the form (see paragraph 388-50(1)(c) in Schedule 1 to the *Taxation Administration Act 1953*); and
- (b) as a result, may not be a voluntary disclosure statement lodged on that day.

Adjustment if a purported voluntary disclosure statement is inaccurate or incomplete but suggested a higher shortfall

- (2) However, if the Commissioner is satisfied that:
- (a) a statement purportedly lodged by the employer under section 33 of the Act on a particular day (the **initial day**) is not a voluntary disclosure statement; and
 - (b) either:
 - (i) the statement becomes a voluntary disclosure statement on a later day when the statement is read with other information lodged by the employer; or
 - (ii) on a later day an assessment under subsection 36(1) of the Act is made for the employer and the QE day; and
 - (c) the result of paragraph (b) is a lower superannuation guarantee shortfall for the employer and the QE day than the shortfall that would have resulted from the statement in its form on the initial day;
- then, for the purposes of subsection (1), treat the statement as if it were a voluntary disclosure statement lodged by the employer on the initial day.

Part 2—Other amendments

Superannuation Guarantee (Administration) Regulations 2018

4 Paragraph 7(1)(a)

Repeal the paragraph.

5 Paragraph 7(1)(b)

Omit “if the employer is not required to lodge a superannuation guarantee statement—”.

Superannuation Industry (Supervision) Regulations 1994

6 Subregulation 7.07B(4)

Omit “3 business days”, substitute “2 business days”.

7 Subregulation 7.07D(2)

Omit “5 business days”, substitute “2 business days”.

8 Subregulations 7.07G(2) to (5)

Repeal the subregulations, substitute:

- (2) If the trustee is unable to allocate the contribution to the member, the trustee must refund the contribution to the employer:
 - (a) as soon as practicable; and
 - (b) in any case, no later than 3 business days after receiving the contribution.
- (3) If a contribution is refunded under subregulation (2), the contribution is taken not to have been made to the fund by the employer.

9 Regulation 7.11

Omit “in a month”.

10 Subparagraph 7.11(a)(i)

Repeal the subparagraph, substitute:

- (i) within 5 business days after receiving the contribution; or