



Australian Government
The Treasury



Ministerial Submission

MS25-000825

FOR ACTION - Payday Super - consultation outcomes and policy recommendations

TO: Treasurer - The Hon Jim Chalmers MP

CC: Assistant Treasurer and Minister for Financial Services - The Hon Dr Daniel Mulino MP

s 47C, s47E(d)



Signature	Date: / /2025
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KEY POINTS

- Following your agreement on 6 March 2025 (MS24-002443 refers), Treasury has consulted on exposure draft legislation for Payday Super. Submissions closed on 11 April 2025 with 166 written submissions, 6 industry roundtables, and 8 key stakeholder meetings.
 - Widespread feedback was received across all impacted cohorts: Large and small business employers, digital service providers, employee advocates/unions, super fund trustees/administrators, clearing houses and onboarding services.
- While support is strong for the fundamental policy reform to align superannuation payments with wages, stakeholders across multiple sectors hold significant concerns with three key aspects of the policy:
 - the proposed 1 July 2026 commencement date,
 - the 7 calendar day 'due date' for contributions to be received by super funds, and
 - the risk of employers facing penalties for delays or errors outside their control due to other parties in the transaction (employees, clearing houses or super funds).

s 47C, s47E(d)

s 47C, s47E(d)

- Some stakeholders may claim businesses have had sufficient time to prepare given the headline reform has been public since the 2023-24 Budget. While it is true that businesses have had time to ready their cashflow management and resourcing to pay super more frequently, the readiness issues centre on the critical system infrastructure and upgrades required to process contributions effectively to meet the new obligations.
 - Business overwhelmingly rely on digital service providers for this technology, and it is their implementation timeframes that are key (as detailed in **Attachment A**). Builds have not yet begun as design parameters are remain uncertain without finalised legislation.
- We also note some stakeholders (particularly superfunds) recommend maintaining the 1 July 2026 start date but adopting “transitional grace periods” or “phased implementation” to mitigate readiness concerns. s 47C

s 47C, s 47E(d)

Further possibilities to improve adoption of onboarding reforms

- In addition to the core provisions, the draft payday super legislation will amend ‘stapling’ provisions to let employers retrieve stapled fund details and display them alongside an

employee's choice of fund during onboarding, and introduce a prohibition on advertising non-MySuper products during employee onboarding.

- Some stakeholders have warned that there will be limited adoption of the stapling changes given they are not mandatory. The key barrier to adoption is the difficulty in generating an 'employment link' with the ATO (for fraud prevention) prior to requesting stapled fund details.

s 47C, s47E(d)

Calls for additional ATO services and functionality

- Employers are strongly focussed on the expected experience of navigating Payday Super and managing their obligations via technology and business processes. Many claim that additional ATO-run services would mitigate concerns and provide a necessary baseline of Government support to businesses. Commonly requested services were:
 - Data visualisation for employers, so that they can see the 'data-matching' the ATO is using to detect any suspected SG shortfall, seek correction of data they disagree with, and/or voluntarily disclose where they accept a shortfall exists, without waiting for the ATO to engage with them.
 - An ATO-run account verification service, where employers can check that their employees' fund/account information is correct (based on ATO-held fund reporting data) prior to making contributions, to prevent errors and rejections.

- A media campaign to raise broader awareness of Payday Super across the population, to ensure employers engage with the reforms and understand the changes they need to make before commencement.

- s 47E(d) s 34(3)

s 47E(d) s 47E(d)

- s 47E(d) s 34(3)

s 47E(d)

- s 47E(d) s 34(3)

s 47E(d) s 47E(d)

Next steps

- Legislative finalisation is proceeding as soon as possible to introduce in the Spring sittings; legislation passage before the end of 2025 is required to maximise industry's implementation window, s 47C, s 47E(d)

s 47C, s47E(d)

Clearance Officer

Brendan McKenna
Assistant Secretary
Tax and Transfers Branch
s 47E(d)

Contact Officer

s 22
Director
Superannuation Access and Compliance Unit
Ph: s 22

CONSULTATION

ATO, DTA, Law Division, Department of Prime Minister and Cabinet

ATTACHMENTS

s 47C, s47E(d)

B: Summary of consultation feedback

C: Additional ATO services recommended by stakeholders

s 47C, s47E(d)

s 47C, s47E(d)

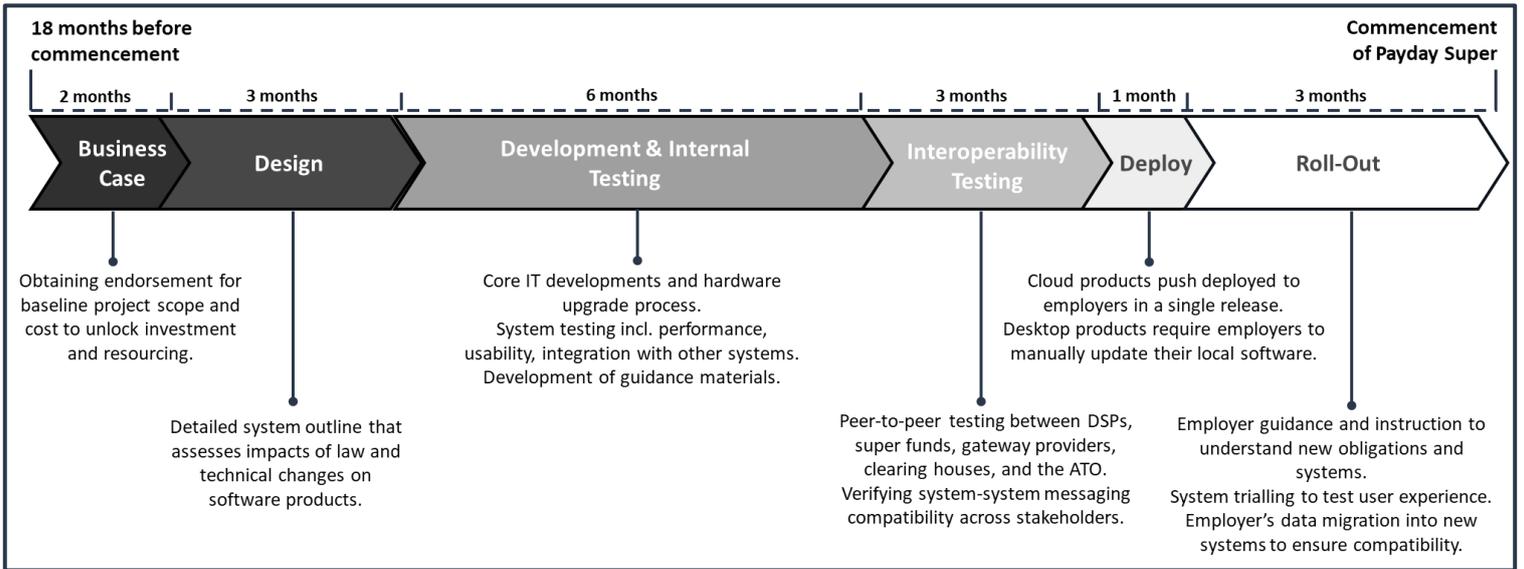
- Stakeholders across multiple sectors have expressed concerns about their ability to design, build and implement system changes and upgrades for Payday Super readiness. Changes are required across the superannuation ecosystem, encompassing:
 - Digital service providers (DSPs), whose software platform provides contribution processing. This includes calculating/reporting contribution amounts, payment transaction handling, and preparing the SuperStream data that is transmitted to a fund to enable allocation to the employee’s account.
 - Employers, who make the actual contributions and across the ecosystem are heavily depending on DSP software to do this. Employers are also responsible for offering their employees choice of fund and contributing to the correct fund in line with those rules.
 - Clearing houses, to whom an employer may outsource their contribution handling responsibilities including the SuperStream obligations.
 - Gateway operators, who manage the transaction network architecture and the flow of data between senders (employer/clearing houses) and receivers (super funds).
 - Super funds, who receive and reconcile the payments and SuperStream data to allocate to members, and handle refunds and error messaging for contributions that cannot be allocated.
- Of these, DSPs and super funds are most at risk of being unable to complete implementation activities to be ‘Payday Super enabled’ by 1 July 2026. Key change activities these two stakeholder cohorts must deliver include the following:

DSP			Super fund		
Mandatory			Mandatory		
 Core functionality changes to reflect new law	 Infrastructure for increased volumes	 Update to new SuperStream standards	 Upgrade Fund Validation Service protocols	 Infrastructure for increased volumes	 Update to new SuperStream standards
 Build Member Verification Request functionality	 Implement new error treatment framework	 Upgrade STP system to report OTE	 Build Member Verification Request functionality	 Implement new error treatment framework	 Integrate NPP enabled payment solution
 Develop support and guidance products	 <i>If providing onboarding:</i> ad ban compliance changes				
Optional					
 Implement NPP enabled payment solution	 Receipt date system to prefill voluntary disclosure	 <i>If providing onboarding:</i> earlier stapled fund display			

s 47C, s47E(d)

- **DSPs** consistently indicate that their implementation timeline requires a minimum of 18 months from the point of legislative passage and finalisation of ATO technical specifications. They stress that:
 - Their businesses (many of whom are multinationals building systems to comply with a variety of regulatory jurisdictions) will not commit funding to invest in system upgrades until there is legislative certainty.
 - They are co-dependent on other stakeholders for the many build elements that focus on transmitting data between them; they need access to completed fund/gateway/ATO systems for ‘interoperability testing’ to ensure the upgraded systems communicate correctly.
 - It will not be enough for them to finalise systems in time to deploy on the day the measure commences; they are responsible for instructing and guiding their employer clients on using the new systems to comply with their new obligations, which must occur prior to commencement.
- Some **super funds** have now indicated their implementation requires a minimum of 12 months from legislative passage. They argue that:
 - The Best Financial Interests Duty means many trustees have determined that they will not invest in systems until legislative certainty, to limit the risk of sunk expenditure that is detrimental to member interests.
 - While funds can be ready for the basic requirements to receive Payday Super-compliant contributions, the changes to uplift data quality and remediate contribution errors cannot be delivered in time for a 1 July 2026 start. Delayed deployment of these changes also jeopardises employers’ ability to comply, even if DSPs could be ready with their component of these functions.
 - Funds will be mandated to adopt a New Payments Platform (NPP) solution, as employers/DSPs will be able to unilaterally decide to transact via NPP. The current immaturity of NPP adoption, and issues highlighted in the March 2025 RBA risk assessment, mean funds are reliant on fit-for-purpose NPP solutions entering the market between now and commencement, and being able to rapidly adopt them.
- Critically, system changes and new functions are required even for employers that already pay with a ‘payday cadence’, to reliably comply with Payday Super’s timeliness and responsiveness requirements.
 - An employer may already make contributions each fortnight, but with an antiquated system/process that takes weeks for contributions to reach employee’s accounts, and months to rectify any errors.

- An illustrative 18-month implementation timeline for a typical DSP is reflected below:



s 47C, s47E(d)



Revising the default contribution due date

- Stakeholders overwhelmingly advocated for the contribution due dates to be measured in business days instead of calendar days with two key justifications:
 - Timeframes based on calendar days do not account for weekends or public holidays, during which key payroll and superannuation personnel may be unavailable. Business day calculations provide a more practical and realistic approach, ensuring sufficient time for obligations to be met in a standard working environment.

- The inconsistency between affording 3 business days for super funds to accept or reject contributions, while requiring employers to meet deadlines measured in calendar days. This inconsistency creates confusion and administrative complexity, particularly for employers attempting to meet their obligations in good faith.
- Stakeholder feedback varied on the most appropriate number of business days, with suggestions of 5, 7, or 10 business days, or longer time periods such as an end-of-month due date.
- While 5 business days would represent alignment with the proposed 7 calendar days in the current exposure draft, most stakeholders advocated for a longer due date for a variety of reasons.
 - Employer payroll processes including the payment of super relies on human interaction and manual oversight to action payments and resolve mistakes. Commonly payroll schedules occur toward the end of the week, with payroll teams working part-time hours meaning calendar day deadlines can place undue pressure on employers, particularly small businesses with limited administrative capacity.
 - Employers may pay superannuation contributions in a timely manner but could be penalised for the delays associated with intermediaries. For example, the 3 business days for super funds to reject a contribution and return it to the employer, leaving little time for the employer and clearing house within the proposed timeline.

s 47C, s47E(d)

Extended due date in situations where the fund an employer must contribute to changes

- A number of stakeholders are concerned about the treatment of situations where a contribution is made by an employer, but subsequently rejected by the receiving superannuation fund.
 - Concern centres on employers being penalised for situations where the contribution is rejected for reasons 'out of their control', and broadly the difficulty of meeting the original 7-day due date timeline when an initial contribution is rejected.
 - Stakeholders generally argued that legislation should be amended to extend due dates or offer penalty relief in situations where a rejection occurs. Some stakeholders held that relief should apply where the employer can demonstrate the rejection was out of their control, while others argued for a blanket concession for all rejections without specifying the reason for the rejection.

s 47C, s47E(d)

Issue	Stakeholder views
<p>1. Commencement date</p> <p><i>The exposure draft legislation currently proposes a 1 July 2026 commencement date for entities to be compliant with the Payday Super requirements.</i></p>	<p>There was strong consensus across almost all stakeholder groups that a 1 July 2026 commencement is unrealistic given the scope of changes required implement payday superannuation. Most stakeholders advocated for a deferral of the start date by <u>at least</u> 12 months.</p> <p>While some stakeholders agreed with the proposed 1 July 2026 commencement date, this was predicated on concessions to allow a “transitional grace period” (or similar) to adjust to the Payday Super requirements. These included transitional arrangements, phasing in different components of the package, staged commencements by employer types, and waiving penalties for non-compliance for a set period of time.</p>
<p>2. Due date</p> <p><i>Under the current draft, employers are required to have contributions received by the super fund within 7 calendar</i></p>	<p>The vast majority of stakeholders argued that the 7 calendar day due date is not feasible as it does not suit the system architecture or account for public holidays.</p> <p>Stakeholders argued that the 7 calendar date would be unfeasible when considering the amount</p>

s 47C, s47E(d)

<p><i>days from the day the employee has been paid.</i></p>	<p>of time needed for intermediaries to clear the funds and superannuation funds to determine if the contribution can be allocated to the member or needs to be returned. This leaves no margin for error for the employer, and a high risk of non-compliance where a public holiday is concerned, or when the super fund returns the contribution.</p>
<p>3. Errors and rejections</p> <p><i>The draft legislation offers due date extensions for new employees, where a stapled fund does not accept a contribution, where a default fund fails the performance test, and for exceptional circumstances.</i></p>	<p>Many stakeholders argue that in the Payday Super environment, employers need protection in situations where a contribution is paid but subsequently rejected by the super fund.</p> <p>In particular, stakeholders are concerned about being penalised where rejections occur for reasons out of their control, and the difficulty of meeting the original 7 day due date given rejections can take a number of days to return to an employer's account and then resolve.</p>
<p>4. Exceptional circumstances</p> <p><i>The draft legislation allows up to an additional 21 days for employers to make contributions where the Commissioner of Taxation makes a determination that the</i></p>	<p>Several stakeholders have advocated for the application of 'exceptional circumstances' to be expanded. Stakeholders commonly advocated for the exceptional circumstances to include instances where:</p> <ul style="list-style-type: none">• The late payment was due to situations outside of the employer's control.• Instances where a super fund is undertaking a successor fund transfer (merger).

<p><i>employer is affected by exceptional circumstances.</i></p>		s 47C, s47E(d)
<p>5. Penalties for non-compliance/SGC Design</p> <p><i>Payday Super redesigns the SG charge framework to better incentivise employers to disclose and rectify instances of unpaid superannuation, and to scale consequences. For example, penalties are reduced for first time offenses and/or when the employer voluntarily discloses breaches.</i></p>	<p>Stakeholders positively support the proposed scaled consequences but also argue for further instances for a reduction in consequences, particularly when the employer intended to comply. Stakeholders made recommendations that cover a number of aspects of the SG charge, including:</p> <ul style="list-style-type: none">• the administrative uplift and the late payment penalty should be significantly lowered, even to nil, where the employer is not at fault or there are other mitigating circumstances.• certain shortfall charges should be waived where the element of the charge falls under a certain value (for example \$50) or a certain number of days of lateness (de-minimis).	
<p>6. Impacts on and interactions with concessional contribution caps</p> <p><i>The maximum contribution base is the income amount at which</i></p>	<p>Many stakeholders have raised concerns that the proposed changes to the MCB become problematic when a high-income employee changes employers during the financial year. This is because employers have no oversight about the previous salary the employee has earned during the financial year.</p>	

s 47C, s47E(d)

<p><i>superannuation guarantee contributions are capped to ensure SG entitlements do not exceed the concessional contribution cap.</i></p> <p><i>Payday super changes the operation of the maximum contribution base from a quarterly to an annual amount.</i></p>	<p>The MCB is designed to limit an employer's superannuation guarantee obligations to a level which will not exceed the concessional contribution limit. There is higher risk of new employees exceeding the contribution cap if the employer does not know what income they have earned during the financial year.</p> <p>It may be more difficult to establish the correct contribution amounts for employees on 'total remuneration packages', where the balance between salary and contributions would change during a year once the MCB was reached.</p>
<p>7. Regulation of clearing houses</p> <p><i>There are no current timeframe obligations on superannuation clearing houses, which remain the only entity in the superannuation payment system without regulated accountability under Payday Super.</i></p>	<p>There was consensus among stakeholders that timeframe standards must be imposed on superannuation clearing houses.</p> <p>There was strong agreement that clearing houses are a key intermediary in the superannuation payment ecosystem, and currently do not have timeframe obligations. This may result in employers may be penalised when they are doing the right thing due slow clearing houses. Stakeholders raised the following solutions.</p> <ul style="list-style-type: none">• Legislative amendments giving clearing houses 3 business days to meet their obligations before they are penalised.• Using the Australian Financial Services Licence (AFSL) regime to obligate licensed commercial clearing houses to payment standards that ensure contributions and

s 47C, s47E(d)

	<p>associated error messages are promptly processed.</p> <ul style="list-style-type: none">• Employer super obligations being fulfilled once an employer sends the funds and data to the clearing house.
<p>8. Closure of the small business superannuation clearing house</p> <p><i>The Small Business Super Clearing House is currently run by the ATO and has been announced to close on 1 July 2026 with the commencement of Payday Super.</i></p>	<p>Some stakeholders have raised concerns with the closure of the ATO Small Business Superannuation (SBS) clearing houses.</p> <p>Stakeholders believe closing the SBS clearing house will have adverse effects on small businesses due to the additional cost of a commercial clearing house. There are also concerns about additional administration pressures due to the SBS clearing house being the only approved clearing house where employers legally fulfil their super obligations when their payment and instructions are accepted by the SBS Clearing House.</p> <p>Stakeholders have proposed the continuation, or a delay in closing the SBS clearing house to ease pressures on small business.</p> <p>Stakeholders have also raised concerns regarding a use of the SBS Clearing House where a foreign employer does not have a Australian Business Number (ABN) but does have a Withholding Payer</p>

	<p>Number (WPN). The ATO currently allows employers in this situation to manage SG obligations through the SBS clearing house. Stakeholders believe if the SBS clearing house is this is not maintained there are no other practical mechanisms for foreign employers with a WPN and no ABN to make SG payments.</p>	s 47C, s47E(d)
<p>9. Advertising ban during onboarding</p> <p><i>Draft legislation proposes a prohibition on advertising superannuation products during onboarding, unless it is a MySuper product that meets other relevant conditions.</i></p>	<p>Most stakeholders were generally supportive of the advertising ban, and gave recommendations as to what conditions must be met to allow advertising.</p> <p>Most stakeholders agreed that clear disclosures should be included alongside advertisements during onboarding such as links to the YourSuper Comparison Tool, clear warnings about the risks of switching funds and disclosure of commercial arrangements between funds and the onboarding provider.</p> <p>Some stakeholders also recommended advertising should be prohibited unless the employee's stapled fund is displayed alongside it. This would effectively make the stapling reform (item 10) mandatory for onboarding platforms who wish to advertise.</p>	

	<p>One stakeholder raised that banning related parties from advertising on their own platform discourages funds from offering digitised onboarding and that they would have to then pay a third-party to advertise which would be less cost-effective.</p> <p>One stakeholder pushed for a total ban on onboarding advertising given the consumer harm, stating that Treasury's impact analysis showed a higher net benefit compared to the limited ban.</p>	<p>s 47C, s47E(d)</p>
<p>10. Stapling</p> <p><i>The bill amends the stapled fund provisions to allow an employer to request and show an employee's stapled fund without the absence of choice</i></p>	<p>Several stakeholders supported stapling at the time of onboarding to be mandatory, as there will likely be little uptake if it is voluntary.</p> <p>Other stakeholders supported the retaining voluntary stapling due to the current issues with the employment link. Many stakeholders reiterated the importance of fixing the employment link before stapling can be made mandatory.</p> <p>Some stakeholders suggested that disclosures should be made alongside stapled fund details to employees, such as information for employees to consider their insurance arrangements if moving into a high-risk occupation.</p>	

		s 47C, s47E(d)
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s 47C, s47E(d)

s 47C, s47E(d)

Issue	Stakeholder views
<p>Compliance approach</p> <p><i>Under Payday Super, ATO compliance will initiate through either voluntary disclosure, employee notifications or the ATO's proactive data matching and detection. The ATO will issue assessments where SG charge identified remains unpaid, and finally a late payment penalty where an assessment is not paid.</i></p>	<p>Some stakeholders sought additional points of discretion through the compliance system under Payday Super, including:</p> <ul style="list-style-type: none">• employers should have an opportunity to respond prior to being assessed with a late payment penalty• the commissioner should be able to accept slightly erroneous voluntary disclosures• the commissioner should inform employers if they have information that suggests a voluntary disclosure is incorrect
<p>Contributions counting</p> <p><i>In the draft legislation, where an employer misses or is late in paying SG, any future contributions will automatically be applied to the earliest possible QE date with an outstanding, non-assessed shortfall.</i></p>	<p>Several stakeholders had concerns with the current approach which may lead to one missed or incorrect superannuation contribution resulting a series of SG shortfalls by allocating correct future payments to previous QE due dates.</p> <p>Stakeholders propose a variety alternate approaches to this contribution allocation process, such as allowing the employer to specify the QE day that a contribution relates to, or applying the contribution to the QE day on which it was paid.</p>

<p>Impact on employers</p> <p><i>Employers currently have to pay superannuation entitlements on a quarterly basis, and have structured their cash flow to suit these entitlements.</i></p>	<p>Many stakeholders raised concerns that Payday Super timeframes will cause administrative burdens and cashflow issues for employers, especially of small and micro businesses.</p> <p>Stakeholders argued that the timeframes under Payday Super will create significant cashflow constraints due to:</p> <ul style="list-style-type: none">• Bringing forward liabilities for the payment of more frequent superannuation contributions.• Upfront system change costs.• Employees whose salary package is 'salary plus super'.• 60-90 day payment timeframes for suppliers. <p>Stakeholders also argued that extra superannuation payments will cause extra complexity for their administrative processes, causing higher workloads for payroll staff.</p> <p>Stakeholders raised the possibility of a staggered implementation approach for small and micro business to minimise the impact on these businesses.</p>

<p>Overpayment of superannuation entitlements</p> <p><i>Payday Super requires SG payments must be made in line with the payment of salary and wages (weekly, fortnightly or monthly).</i></p>	<p>Stakeholders have raised that there is currently a limited ability to recover overpaid superannuation contributions from a superannuation fund, on behalf of an employee.</p> <p>Under Payday super, there is potential for a rise in overpayments due to the higher frequency of payments. A common example is when an employee ‘pre-pays’ superannuation contributions and then the employee resigns or is terminated.</p>
<p>Issues associated with non-traditional forms of payroll</p> <p><i>Payday super provides a definition of ordinary time earnings that forms the basis of the SG obligation for employers.</i></p>	<p>Some stakeholders raised that employers may struggle to comply for workers that are not paid through traditional payroll.</p> <p>Contractors may be paid through accounts receivable, not currently aligned to the employee payroll for contribution calculation and payment</p> <p>Foreign employees may be paid out of a non-Australian branch or entity, which is not equipped for contribution processing.</p>
<p>Payment allocation of SG charge debts by the ATO</p> <p><i>The Commissioner is responsible for disbursing the ‘employee</i></p>	<p>One stakeholder criticised the process followed by the ATO to allocated received SG charge to different periods for the purpose of determining which amounts to distribute to employee funds.</p> <p>Stakeholders took issue with the ATO’s ‘earliest period first’ approach, where ‘government revenue’</p>

s 47C, s47E(d)

*entitlement' component
of received SG charge to
employee funds*

components of earlier debts may take priority over
'employee entitlement' components of later debts.

They argued that, in cases where SG charge debts are only ever partially paid, this may mean some employee entitlements are left unrecovered while amounts were retained in consolidated revenue. They advocated for an approach where employee entitlements are always prioritised regardless of age, and payments are only ever allocated to 'government revenue' components after every dollar of employee entitlement has been covered.

ATTACHMENT C – ADDITIONAL ATO SERVICES RECOMMENDED BY STAKEHOLDERS

s 47E(d)



- s 47E(d) s 34(3)
s 47E(d)

s 47E(d)



ATO-run member account validation service

- Stakeholders have called for a new ATO service that validates the accuracy of employee and fund details before employers make a contribution. This would check proposed contribution data against ATO-held details that have been obtained through fund reporting, and confirm if a contribution is expected to be sent to a correct account.
- This would replace the Member Verification Request (MVR) functionality that is being added to SuperStream, which provides similar validation functionality via a check and response between the employer and receiving super fund. In our view the MVR is the preferred option:
- verification by the fund can in some cases be more reliable than ATO validation. Where there is an error preventing allocation, the fund is better placed to return an actionable error message that the can use to remediate.
 - While some fund stakeholders argue that implementing this will add to their cost burden, the MVR is leveraging the existing SuperStream architecture to the greatest extent possible to minimise costs.

s 47E(d)



FOI 4112
Document 8



Australian Government
The Treasury

Ministerial Submission
MS25-002336



FOR ACTION - Payday Super - residual policy authority for Bill introduction

TO: Treasurer - The Hon Dr Jim Chalmers MP

CC: Assistant Treasurer and Minister for Financial Services - The Hon Dr Daniel Mulino MP

s 47C, s47E(d)



Signature	Date: / /2025
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KEY POINTS

- Final policy authority is needed for residual policy items to the Treasury Laws Amendment (Payday Super) Bill 2025, which were not included in the s 34(2) or MYEFO authority s 34(2) ahead of introduction to Parliament in the week beginning 1 September 2025.
- This includes four policy items you agreed to before and after consultation on the draft Bill (MS24-002443, MS25-000825 refer) which require the Prime Minister's approval:
 1. adjusting the ordinary due date for making contributions to 7 business days,
 2. the final categories of due date extensions for events outside of the employer's control, and the length of extension,
 3. the additional late payment penalty where employers fail to pay an ATO SG charge debt in a timely manner will not accrue general interest charge,
 4. increasing the maximum per-employee penalty for failing to comply with choice-of-

s 47C, s47E(d)

Consequential authority

- As a part of the final law approval process you must seek the Minister for Finance's agreement to the final text of the provisions in the Bill that amend their portfolio's legislation; consequential amendments to the enabling legislation for several Commonwealth superannuation schemes, to align with revised legislative terminology.
 - A draft letter to the Minister for Finance seeking agreement is included for your signature in **Attachment C**.
- Additionally, because the Bill contains consequential amendments to the *Corporations Act 2001* (Corporations Act) you need to write to the Legislative and Governance Forum on Corporations to notify the States and Territories as required by the *Corporations Agreement 2002*.
 - A copy of the Bill in near/final form will be provided to States and Territories on a confidential basis for their review. There is a minimal risk of subsequent changes to the Bill, and there are unlikely to relate to the provisions relevant to the Corporations

Agreement. You will still have the opportunity for a full text review prior to introduction.

- Subject to your agreement, Treasury will provide a near final version of the explanatory memorandum to states and territories as soon as it is available. A draft letter to States and Territories notifying them of changes to the Corporations Act is included for your signature in **Attachment D**.

Next steps

- The final legislation and explanatory memorandum will be sent to you for final text approval before introduction into Parliament.

Clearance Officer

s 22 [redacted] y
Director
Retirement Income and Superannuation Division
s 47E(d) [redacted]

Contact Officer

s 22 [redacted]
Superannuation Access and Compliance Unit
Ph: s 22 [redacted]

CONSULTATION

Law Division, Department of the Prime Minister and Cabinet, Office of Parliamentary Counsel

ATTACHMENTS

s 47C, s47E(d) [redacted]

- C: Letter to the Finance Minister
- D: Letter to the Legislative and Governance Forum on Corporations (LGFC)

THE HON JIM CHALMERS MP
TREASURER

Ref: MS25-002336

Senator the Hon Katy Gallagher
Minister for Finance
Minister for Women
Minister for Public Service and Government Services
Parliament House
CANBERRA ACT 2600

Dear Minister

I write to seek your agreement to the text of consequential amendments to various acts that you administer, which are necessary to implement the Government's payday super reforms announced on 2 May 2023.

The Treasury Laws Amendment (Payday Super) Bill 2025 amends *Superannuation Guarantee (Administration) Act 1992* to incentivise employers to make superannuation contributions for employees' on, or shortly after, the day that employees are paid wages or salary. Currently, employers only need to make contributions on a quarterly basis to avoid liability to pay the superannuation guarantee charge.

Subject to your approval, I propose consequential amendments to the following Acts to ensure they continue to operate consistently with the Superannuation Guarantee framework:

- *Governor-General Act 1974*
- *Judges' Pensions Act 1968*
- *Parliamentary Contributory Superannuation Act 1948*
- *Parliamentary Superannuation Act 2004*
- *Superannuation Act 1976*
- *Superannuation Act 2005*
- *Superannuation (Productivity Benefit) Act 1988*

The amendments reflect the changed timing for making superannuation contributions and other updates to terminology that will be made by the Payday Super Bill. I enclose a copy of the Bill, which includes the relevant consequential amendments (in Part 2 of the Bill).

Officials of your department have been consulted during the drafting of these consequential amendments. There may also be changes required to some subordinate legislation in your portfolio, which I understand that your department will progress following passage of the Bill, and will continue to work closely with my department.

I intend to introduce the Payday Super Bill in the Spring 2025 sittings and would appreciate your response by 11 August 2025 in order to meet legislation approval timeframes. The consequential amendments are settled, subject to minor editorial changes.

Yours sincerely

The Hon Jim Chalmers MP

Enc Treasury Laws Amendment (Payday Super) Bill 2025

CC: Assistant Treasurer and Minister for Financial Services, the Hon Daniel Mulino MP

THE HON JIM CHALMERS MP
TREASURER

Ref: MS25-002336

TO:	<p>Ms Tara Cheyne MLA Attorney-General Australian Capital Territory</p> <p>The Hon Michael Daley MP Attorney-General New South Wales</p> <p>The Hon Marie-Clare Boothby MLA Attorney-General Northern Territory</p> <p>The Hon Deborah Frecklington MP Attorney-General Queensland</p>	<p>The Hon Kyam Maher MLC Attorney-General South Australia</p> <p>The Hon Guy Barnett MP Attorney-General Tasmania</p> <p>The Hon Sonya Kilkenny MLC Attorney-General Victoria</p> <p>The Hon John Quigley MLA Attorney-General Western Australia</p>
<hr/>		
DATE:	[XX]	
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SUBJECT:	Notification: Amendment to <i>Corporations Act 2001</i> by the Treasury Laws Amendment (Payday Superannuation) Bill 2025	

Attorneys-General,

In accordance with clauses 506 and 507 of the Corporations Agreement 2002, I write to notify you of the proposed amendments contained in the Treasury Laws Amendment (Payday Superannuation) Bill 2025 (the Bill). The Government is proposing to introduce amendments to the *Corporations Act 2001* (Corporations Act), to:

- Make consequential amendments to provisions dealing with the priority of payments in the winding up of a company in the Corporations Act to reflect the changes in terminology in the payday super reforms.

Pursuant to sub-clauses 507(1)(f) and (g) of the Corporations Agreement 2002, the amendments to the Corporations Act in Schedule 1 to the Bill do not require your approval, as they relate to superannuation matters and are also amendments of a technical nature with nil regulatory impact.

The relevant Schedules to the proposed Bill and the Explanatory Memoranda are attached.

Nature of the amendments

Priorities:

Currently, the priorities provisions in subsections 556(1AB) to (1AG) of the Corporations Act outline how a superannuation guarantee shortfall of a company is to be dealt with in the context of the payments of debts and claims made in the winding up of companies.

The new provisions repeal these subsections and insert new subsections 556(1AB) to 556(1AE), which update the provisions to reflect that superannuation guarantee shortfalls will be linked to the day an makes a payment of qualifying earnings (i.e. payday) rather than on a quarterly basis. This is the QE day, as defined in the Bill. Subsection 556(2) will also be amended to repeal the definition of a 'quarter' and insert the definition of a 'QE day'.

These amendments will apply to QE days on or after 1 July 2026. Section 556 continues to apply, as if these amendments had not been made, for quarters ending before 1 July 2026.

The changes are intended to maintain the current rules for determining how superannuation guarantee shortfalls are to be prioritised in the winding up of companies. In doing so, the amendments will support reforms to Australia's superannuation system to ensure that the superannuation guarantee is paid on time and in full while addressing unpaid superannuation.

Public consultation on the draft payday superannuation legislation was open for four weeks from 14 March to 11 April 2025. Treasury received 166 written submissions as part of this consultation process. The consequential amendments to the Corporations Act were identified after this process and were not included in that exposure draft.

Next steps

The Bill is being prepared for introduction in the 2025 Spring sittings.

If you have any questions in relation to the Schedules, please contact s 22 of the Retirement Income and Superannuation Division, Treasury on s 22 .

Yours sincerely,

The Hon Jim Chalmers MP