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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

OCCUPATIONAL SUPERANNUATION STANDARDS AMENDMENT BILL 1992  
EXPLANATORY MEMORANDUM

(Circulated by authority of the Treasurer,  
the Hon John Dawkins, MP)





## **OCCUPATIONAL SUPERANNUATION STANDARDS AMENDMENT BILL 1992**

### **GENERAL OUTLINE AND MAIN PURPOSES OF THE BILL**

This Bill, together with the companion Superannuation Industry (Supervision) Bill 1992, Superannuation (Resolution of Complaints) Bill 1992, Superannuation (Financial Assistance Funding) Levy Bill 1992, Superannuation (Rolled Over Benefits) Levy Bill 1992, Superannuation Supervisory Levy Amendment Bill 1992 and Superannuation Industry (Supervision) Consequential Amendments Bill 1992, give effect to measures to substantially increase the level of prudential protection provided to the superannuation industry, and represent a substantial strengthening of the security of superannuation savings and in protecting the rights of superannuation fund members.

These seven Bills give effect to most of the new prudential arrangements for superannuation that the Treasurer announced on 21 October 1992.

This Bill amends the Occupational Superannuation Standards Act 1987 as a consequence of the commencement of the Superannuation Industry (Supervision) Bill 1992. As the remaining provisions of the Principal Act will all relate to matters concerning taxation arrangements applicable to the superannuation industry, the Principal Act is also being renamed the "Superannuation Entities (Taxation) Act 1987".

### **FINANCIAL IMPACT STATEMENT**

The measures contained in this Bill for added protection for superannuation savings and promotion of a more efficient superannuation industry, together with the measures contained in the companion Superannuation Industry (Supervision) Bill 1992, Superannuation (Resolution of Complaints) Bill 1992, Superannuation (Financial Assistance Funding) Levy Bill 1992, Superannuation (Rolled Over Benefits) Levy Bill 1992, Superannuation Supervisory Levy Amendment Bill 1992 and Superannuation Industry (Supervision) Consequential Amendments Bill 1992, will result in additional supervisory costs being incurred by the Insurance and Superannuation Commission.

The Insurance and Superannuation Commission estimates that the additional resources needed to give effect to this package of measures will be \$4.155m in 1992-93, \$4.831m in 1993-94, \$4.591m in 1994-95 and \$4.631m in 1995-96.

These additional costs will be recovered through the superannuation supervisory levy and the imposition of a new levy on certain superannuation funds and approved deposit funds as provided in the Superannuation (Rolled Over Benefits) Levy Bill 1992.

**EXPLANATORY NOTES ON THE OCCUPATIONAL SUPERANNUATION STANDARDS  
AMENDMENT BILL 1992**

**CLAUSE 1 SHORT TITLE ETC.**

1. This clause provides the mode of citation of the Bill, and that a reference to the "Principal Act" is a reference to the Occupational Superannuation Standards Act 1987.

**CLAUSE 2 COMMENCEMENT**

2. This clause provides for clauses 1 and 2 to come into operation on the day the Bill receives Royal Assent, and for clause 11 and clause 12 to commence on the same days as Part 11 and Part 12 respectively of the Superannuation Industry (Supervision) Act 1992 come into operation. The balance of the provisions of the Bill are to come into operation on a day to be proclaimed, save that they must commence no later than 6 months after the giving of Royal Assent.

**CLAUSE 3 AMENDMENT OF TITLE**

3. This clause provides for the title of the Principal Act to be amended to read "An Act relating to taxation in respect of certain superannuation funds, approved deposit funds and pooled superannuation trusts, and for related purposes".

**CLAUSE 4 SHORT TITLE**

4. This clause amends the short title of the Principal Act from the Occupational Superannuation Standards Act 1987 to the Superannuation Entities (Taxation) Act 1987.

**CLAUSE 5 INTRODUCTION**

5. This clause amends section 3 of the Principal Act by omitting certain definitions, omitting certain paragraphs from the definition of "reviewable decision", and replacing the definitions of approved deposit fund, pooled superannuation trust and superannuation fund.

**CLAUSE 6 REPEAL OF SECTIONS 4, 5, 6 AND 6A**

6. Self explanatory.

**CLAUSE 7 REPEAL OF PART II**

7. Self explanatory.

**CLAUSE 8 REPEAL OF SECTIONS 10 TO 15D**

8. Self explanatory.

## CLAUSE 9 INSERTION OF NEW SECTION

9. This clause inserts a new section 15DAA (Definitions) in Part IIIAA (Collection of Superannuation Supervisory Levy) of the Principal Act. The new section provides for insertion of definitions of a number of terms and expressions for the purposes of the Part.

## CLAUSE 10 LIABILITY TO LEVY

10. This clause repeals the current section 15DA of the Principal Act, and substitutes a new section 15DA which provides for the payment of a levy in respect of a return lodged pursuant to section 19 of the Superannuation Industry (Supervision) Act 1992.

## CLAUSE 11 INSERTION OF NEW PART

11. This clause inserts a new Part IIIAB (Collection of Levy Under Superannuation (Financial Assistance Funding) Levy Act 1992), which will provide for the collection and application of levies imposed by regulations under the Superannuation (Financial Assistance Funding) Levy Act 1992.

12. New section 15DI sets out definitions of a number of words and expressions for the purposes of the Part.

13. New section 15DJ provides that the accounts of a fund prepared in respect of a financial year shall be prima facie evidence of the value of the assets of the fund at the end of that financial year.

14. New section 15DK provides that liability to pay a levy imposed on a fund is with the trustee.

15. New section 15DL specifies when a levy payable by the trustee of a fund is due and payable.

16. New section 15DM provides for a penalty for non-payment of any levy payable by the trustee of a fund. The penalty for late payment is payable monthly.

17. New section 15DN provides for recovery by the Commonwealth as debts due any levy and late payment penalty that is due and payable.

18. New section 15DO provides for any levy and late payment penalty to be paid to the Minister.

19. New section 15DP sets out in subclause (1) when payments of levy and late payment penalty and repayments of financial assistance are to be paid into the Consolidated Revenue Fund. Subclause (2) sets out when payments of levy and late payment penalty and repayments of financial assistance are to be paid into the Superannuation Protection Account.

20. New section 15DQ provides for remission by the Minister of late payment penalty.

21. New section 15DR provides that nothing in a law passed before this section comes into operation exempts a person from liability to levy. It further provides that a law passed after commencement of this section can only exempt a person from liability to pay taxes under laws that include levy where that law expressly exempts a person from liability to pay levy.

22. New section 15DS provides that the Minister may delegate his powers under this Part to the Insurance and Superannuation Commissioner.

#### CLAUSE 12 INSERTION OF NEW PART

23. This clause inserts a new Part IIIAC (Collection of Levy Under Superannuation (Rolled Over Benefits) Levy Act 1992), which will provide for the collection of levies imposed by regulations under the Superannuation (Rolled Over Benefits) Levy Act 1992.

24. New section 15DT sets out definitions of a number of words and expressions for the purposes of the Part.

25. New section 15DU provides that the accounts of an eligible rollover fund prepared in respect of a financial year shall be prima facie evidence of the value of the assets of the fund at the end of that financial year.

26. New section 15DV provides that liability to pay a levy imposed on an eligible rollover fund is with the trustee.

27. New section 15DW specifies when a levy payable by the trustee of an eligible rollover fund is due and payable.

28. New section 15DX provides for a penalty for non-payment of any levy payable by the trustee of a fund. The penalty for late payment is payable monthly.

29. New section 15DY provides for recovery by the Commonwealth as debts due any levy and late payment penalty that is due and payable.

30. New section 15DZ provides for any levy and late payment penalty to be paid to the Commissioner, and for the Commissioner to pay any such amounts received into the Consolidated Revenue Fund.

31. New section 15DZA provides for remission by the Commissioner of late payment penalty.

32. New section 15DZB provides that nothing in a law passed before this section comes into operation exempts a person from liability to levy. It further provides that a law passed after commencement of this section can only exempt a person from liability to pay taxes under laws that include levy where that law expressly exempts a person from liability to pay levy.

CLAUSE 13 APPROVED DEPOSIT FUND, LIFE ASSURANCE COMPANIES AND REGISTERED ORGANISATIONS TO PROVIDE CERTAIN INFORMATION

33. Self explanatory.

CLAUSE 14 PAYERS TO PROVIDE CERTAIN INFORMATION

34. Self explanatory.

CLAUSE 15 DEEMED COMMUTATION OF ANNUITIES AND PENSIONS

35. Self explanatory.

CLAUSE 16 REVIEW OF CERTAIN DECISIONS

36. Self explanatory.

CLAUSE 17 SECRECY

37. This clause amends section 18 of the Principal Act as a consequence of other amendments being made to the Act.

CLAUSE 18 COMMISSIONER MAY PUBLISH STATISTICAL INFORMATION

38. Self explanatory.

CLAUSE 19 REGULATIONS

39. This clause amends section 22 of the Principal Act by inserting a new subsection (2) which defines the term "levy" for the purposes of that section. The insertion of this subsection makes it clear that Regulations may be made in respect of levies imposed by or under the Superannuation Supervisory Levy Act 1991, Superannuation (Financial Assistance Funding) Levy Act 1992 and the Superannuation (Rolled Over Benefits) Levy Act 1992.

