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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

SUPERANNUATION INDUSTRY (SUPERVISION) CONSEQUENTIAL  
AMENDMENTS BILL 1992  
EXPLANATORY MEMORANDUM

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



## **SUPERANNUATION INDUSTRY (SUPERVISION) CONSEQUENTIAL AMENDMENTS BILL 1992**

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

This Bill, together with the companion Superannuation Industry (Supervision) Bill 1992, Occupational Superannuation Standards Amendment Bill 1992, Superannuation (Resolution of Complaints) Bill 1992, Superannuation (Financial Assistance Funding) Levy Bill 1992, Superannuation (Rolled Over Benefits) Levy Bill 1992 and Superannuation Supervisory Levy Amendment 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 Australian Capital Territory (Self-Government) Act 1988, the Income Tax Assessment Act 1936, the Social Security Act 1991, the Superannuation Act 1976, the Superannuation Guarantee (Administration) Act 1992, the Taxation Administration Act 1953 and the Veterans' Entitlements Act 1986 as a consequence of amendments to be made to the Occupational Superannuation Standards Act 1987 and the commencement of the Superannuation Industry (Supervision) Bill 1992. Further consequential amendments are being prepared to other taxation legislation including the Taxation Administration Act 1953 and the Superannuation Guarantee (Administration) Act 1992.

The provisions of the Bill generally replace references in the Principal Acts to the Occupational Superannuation Standards Act 1987 with references to the Superannuation Industry (Supervision) Act 1992 or the Superannuation Industry (Supervision) Act 1992 as appropriate.

### **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, Occupational Superannuation Standards Amendment Bill 1992, Superannuation (Resolution of Complaints) Bill 1992, Superannuation (Financial Assistance Funding) Levy Bill 1992, Superannuation (Rolled Over Benefits) Levy Bill 1992 and Superannuation Supervisory Levy Amendment 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 SUPERANNUATION INDUSTRY (SUPERVISION)  
CONSEQUENTIAL AMENDMENTS BILL 1992**

**PART 1 - PRELIMINARY**

CLAUSE 1 SHORT TITLE

1. This clause provides the mode of citation of the Bill.

CLAUSE 2 COMMENCEMENT AND APPLICATION

2. Subclause (1) provides for the Bill to come into operation on the same day as Part 2 of the Superannuation Industry (Supervision) Act 1992. Subclause (2) provides that the amendments made by Parts 3, 6 and 7 apply to assessments in respect of years of income commencing on or after 1 July 1993.

**PART 2 - AMENDMENT OF THE AUSTRALIAN CAPITAL TERRITORY (SELF-GOVERNMENT) ACT 1988**

CLAUSE 3 PRINCIPAL ACT

3. Self explanatory.

CLAUSE 4 DISQUALIFICATION OF MEMBER

4. This clause amends section 14 of the Principal Act to omit the current definition of "dependant", and substitute a new definition.

**PART 3 - AMENDMENTS OF THE INCOME TAX ASSESSMENT ACT 1936**

CLAUSE 5 PRINCIPAL ACT

5. Self explanatory.

CLAUSE 6 OFFICERS TO OBSERVE SECRECY

6. This clause provides for amendment of section 16 of the Principal Act to allow for the change in the citation of the Occupational Superannuation Standards Act 1987 to the Superannuation Entities (Taxation) Act 1987.

CLAUSE 7 ASSESSABLE INCOME TO INCLUDE VALUE OF BENEFITS  
RECEIVED FROM OR IN CONNECTION WITH FUNDS THAT HAVE  
OBTAINED TAX BENEFITS UNDER PART IX OR FORMER SECTION  
23FC

7. This clause provides for amendment of section 26AFB of the Principal Act to include reference to subsection 15(1) of the Superannuation Industry (Supervision) Act 1992.

## CLAUSE 8 INTERPRETATION

8. This clause provides for amendment of certain definitions in section 27A of the Principal Act to allow for the commencement of the Superannuation Industry (Supervision) Act 1992, and the change in the citation of the Occupational Superannuation Standards Act 1987 to the Superannuation Entities (Taxation) Act 1987.

## CLAUSE 9 COMPONENTS OF AN ETP

9. This clause provides for amendment of section 27AA of the Principal Act to allow for the change in the citation of the Occupational Superannuation Standards Act 1987 to the Superannuation Entities (Taxation) Act 1987.

## CLAUSE 10 INTERPRETATION

10. This clause amends section 82AAA of the Principal Act to omit the current definition of "dependant", and substitute a new definition.

## CLAUSE 11 INTERPRETATION

11. This clause amends section 82AAS of the Principal Act to omit the current definition of "dependant", and substitute a new definition.

## CLAUSE 12 INSERTION OF NEW DIVISION

12. This clause inserts a new Division 9BA (Tax treatment of matters relating to superannuation (financial assistance funding) levies) in Part III.

13. New section 121EA defines a term for the purposes of this Division.

14. New section 121EB provides that financial assistance funding levy imposed on a taxpayer is an allowable deduction.

15. New section 121EC provides that a grant of financial assistance under Part 11 of the Superannuation Industry (Supervision) Act 1992 is exempt from income tax.

16. New section 121ED provides that a repayment of financial assistance under Part 11 of the Superannuation Industry (Supervision) Act 1992 is not an allowable deduction.

17. New section 121EE provides that amendment of an assessment for the purposes of giving effect to section 121EB or 121EC is not prevented by section 170. New subsection (2) sets out some examples of situations that could result in an amendment being made.

18. New section 121EF provides that Division 9BA is to be the primary code for determining the taxation treatment of matters relating to financial assistance funding levy imposed pursuant to the Superannuation (Financial Assistance Funding) Act 1992.

CLAUSE 13 OBJECTS OF THIS PART

19. This clause adds a new paragraph to the end of section 202 of the Principal Act.

CLAUSE 14 INTERPRETATION

20. This clause provides for amendment of certain definitions in section 221A of the Principal Act to allow for the change in the citation of the Occupational Superannuation Standards Act 1987 to the Superannuation Entities (Taxation) Act 1987.

CLAUSE 15 INTERPRETATION

21. Subclause (1) provides for omission of certain definitions in section 267 of the Principal Act.

22. Subclause (2) provides for replacement of certain definitions in section 267 of the Principal Act with new definitions giving them the same meaning as in the Superannuation Industry (Supervision) Act 1992.

23. Subclause (3) inserts into section 267 of the Principal Act definitions for "SIS Act" and "SIS notice".

24. Subclause (4) provides for replacement of references to the "OSS Act" and to the "Occupational Superannuation Standards Act 1987" in section 267 of the Principal Act with, respectively, references to the "SIS Act" and to the "Superannuation Entities (Taxation) Act 1987".

CLAUSE 16 ISSUE, REVOCATION ETC OF SIS NOTICES

25. This clause provides for replacement of references in section 269 of the Principal Act to notices under the Occupational Superannuation Standards Act 1987 with references to corresponding notices under the Superannuation Entities (Taxation) Act 1987.

CLAUSE 17 PRE-JULY 88 FUNDING CREDIT BALANCE

26. This clause provides for replacement of references in section 275A of the Principal Act to subsections in the OSS Act with references to corresponding subsections in the SIS Act.

CLAUSE 18 ASSESSMENT AS IF ENTITY WERE A COMPLYING  
SUPERANNUATION FUND, COMPLYING ADF OR PST

27. This clause amends section 300A of the Principal Act to provide that the Commissioner of Taxation may make an assessment of a superannuation fund, approved deposit fund or unit trust as if it were a complying superannuation fund, complying ADF or PST under the Superannuation Industry (Supervision) Act 1992. It also provides for replacement of references to the OSS Act with corresponding references to the SIS Act.

CLAUSE 19 ASSESSMENT ON BASIS OF ANTICIPATED PRE-1 JULY 88  
FUNDING CREDIT BALANCE

28. This clause provides for replacement of references in section 300B of the Principal Act to the OSS Act and the Occupational Superannuation Standards Act 1987 with references to corresponding provisions in the SIS Act and the Superannuation Entities (Taxation) Act 1987.

**PART 4 - AMENDMENTS OF THE SOCIAL SECURITY ACT 1991**

CLAUSE 20 PRINCIPAL ACT

29. Self explanatory.

CLAUSE 21 INVESTMENT INCOME DEFINITIONS

30. This clause provides for replacement of references to the Occupational Superannuation Standards Act 1987 in certain definitions in section 9 of the Principal Act with corresponding references in the Superannuation Industry (Supervision) Act 1992.

**PART 5 - AMENDMENT OF THE SUPERANNUATION ACT 1976**

CLAUSE 22 PRINCIPAL ACT

31. Self explanatory.

CLAUSE 23 FUND TO BE MANAGED BY BOARD

32. This clause provides for replacement of a reference to the Occupational Superannuation Standards Act 1987 in section 41 of the Principal Act with a corresponding reference in the Superannuation Industry (Supervision) Act 1992.

**PART 6 - AMENDMENTS TO THE SUPERANNUATION GUARANTEE  
(ADMINISTRATION) ACT 1992**

CLAUSE 24 PRINCIPAL ACT

33. Self explanatory.

**CLAUSE 25 INTERPRETATION: GENERAL**

34. This clause amends section 6 of the Principal Act to omit the current definition of "superannuation fund", and substitute a new definition.

**CLAUSE 26 REPEAL OF SECTIONS 24 AND 25**

35. Self explanatory.

**CLAUSE 27 PAYMENT OF A SHORTFALL COMPONENT**

36. Self explanatory.

**PART 7 - AMENDMENTS OF THE TAXATION ADMINISTRATION ACT 1953****CLAUSE 28 PRINCIPAL ACT**

37. Self explanatory.

**CLAUSE 29 UNAUTHORISED REQUIREMENT ETC. THAT TAX FILE NUMBER BE QUOTED**

38. Self explanatory.

**CLAUSE 30 UNAUTHORISED RECORDING ETC. OF TAX FILE NUMBER**

39. Self explanatory.

**PART 8 - AMENDMENT OF THE VETERANS' ENTITLEMENTS ACT 1986****CLAUSE 31 PRINCIPAL ACT**

40. Self explanatory.

**CLAUSE 32 INTERPRETATION**

41. This clause amends subsection 35(1) of the Principal Act to omit paragraph (c) from the current definition of "compulsory preserved superannuation benefit", and substitute a new definition.