
Superannuation Guarantee Determination

Superannuation guarantee: method of preparing a benefit certificate for superannuation funds which are ‘deemed’ defined benefit superannuation schemes under subsection 6A(2) of the *Superannuation Guarantee (Administration) Act 1992*.

Preamble

Superannuation Guarantee Determinations do not have the force of law. Each decision made by the Australian Taxation Office is made on the merits of the individual case having regard to any relevant Rulings and Determinations.

1. The trustee of a fund other than a defined benefit fund, for example an accumulation fund, can elect that the fund be treated as a defined benefit superannuation scheme for the purposes of the *Superannuation Guarantee (Administration) Act 1992* (SGAA).¹
2. Where a trustee makes the election, employers providing support in the fund will be treated as employers in defined benefit superannuation schemes. Consequently, employers who wish to use the scheme for superannuation guarantee purposes will need to obtain a benefit certificate from an actuary specifying the notional employer contribution rate (the NECR) in relation to the employees specified in the certificate.
3. The NECR in respect of a class of employees is calculated in accordance with either regulation 4, 5 or 6 of the *Superannuation Guarantee (Administration) Regulations*. Regulation 4 applies if neither regulations 5 nor 6 apply to calculate the NECR. Regulation 4 provides that the NECR is to be calculated in accordance with a method decided by an actuary.
4. For an alternative calculation to be adopted under regulation 4, an actuary must certify that the method is applicable to the class of employees, is consistent with regulations 5 or 6, and determines a rate comparable to the rate at which the employer of the employees must contribute to the superannuation scheme, or schemes, to provide the employees with the minimum requisite benefit.

¹ Subsection 6A(2) SGAA.

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5. For the purposes of regulation 4, where the fund is a defined benefit superannuation scheme under subsection 6A(2) of the SGAA, we will accept methods of calculating a NECR which are consistent with Guidance Note 457 issued on 30 June 1993 (and revised in March 1995) by The Institute of Actuaries of Australia and entitled 'Benefit Certificates for "Deemed" Defined Benefit Funds'.

6. The Institute of Actuaries Guidance Note 457 is available from:

The Institute of Actuaries of Australia

Level 7

Challis House

4 Martin Place

SYDNEY NSW 2000

Telephone: (02) 9233 3466

Facsimile: (02) 9233 3446

Internet: <http://www.actuaries.asn.au>

Date of Effect:

7. This Determination applies from 1 October 2003. It replaces SGD 93/9 which issued on 8 July 1993. However, this Determination does not apply to taxpayers to the extent that it conflicts with the terms of settlement of a dispute agreed to before the date of issue of the Determination.

Commissioner of Taxation

1 October 2003

Previous Rulings/Determinations:

SGD 93/9

Subject references:

- benefit certificates
- notional employer contribution rate
- deemed defined benefit
- minimum requisite benefits

Legislative references:

- SGAA 1992
- SGAA 1992 6A(2)
- Superannuation Guarantee (Administration) Regulations 1993 4
- Superannuation Guarantee (Administration) Regulations 1993 5
- Superannuation Guarantee (Administration) Regulations 1993 6

ATO References

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