



Treasury Laws Amendment (Payday Superannuation) Regulations 2026

I, the Honourable Sam Mostyn AC, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 19 February 2026

Sam Mostyn AC
Governor-General

By Her Excellency's Command

Dr Jim Chalmers
Treasurer

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1 Name

This instrument is the *Treasury Laws Amendment (Payday Superannuation) Regulations 2026*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	At the same time as the <i>Superannuation Guarantee Charge Amendment Act 2025</i> commences.	1 July 2026

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the following:

- (a) the *Bankruptcy Act 1966*;
- (b) the *Superannuation Act 1976*;
- (c) the *Superannuation Guarantee (Administration) Act 1992*;
- (d) the *Superannuation Industry (Supervision) Act 1993*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Superannuation guarantee reforms to address unpaid superannuation

Part 1—Main amendments

Superannuation Guarantee (Administration) Regulations 2018

1 Section 5 (note)

Repeal the note, substitute:

- Note: A number of expressions used in this instrument are defined in the Act, including the following:
- (a) actuary;
 - (b) administrative uplift amount;
 - (c) assessment;
 - (d) defined benefit superannuation scheme;
 - (e) MySuper member;
 - (f) QE day;
 - (g) qualifying earnings;
 - (h) voluntary disclosure statement.

2 Section 5 (paragraph (b) of the definition of *employer contribution rate*)

Omit “ordinary time earnings”, substitute “qualifying earnings”.

3 Before section 6

Insert:

5A Circumstances in which member taken to be defined benefit member for the purposes of the Act

- (1) For the purposes of paragraph 6AA(b) of the Act, subsection (2) sets out a circumstance in which a member of a superannuation fund is to be taken to be a ***defined benefit member*** for the purposes of the Act.
- (2) The circumstance is that:
 - (a) the superannuation fund is a defined benefit superannuation scheme and a superannuation entity (within the meaning of the *Superannuation Industry (Supervision) Act 1993*); and
 - (b) the person’s minimum benefits in the scheme are met, or will be met, wholly or partly, from a reserve of the scheme; and
 - (c) a benefit certificate is currently in effect for the scheme.
- (3) For the purposes of paragraph (2)(b), ***reserve*** has the same meaning as in section 115 of the *Superannuation Industry (Supervision) Act 1993*.

4 Section 6 (at the end of the heading)

Add “for the purposes of subsection 20A(3) of the Act”.

5 Subsection 6(1)

Omit “subsection 19(2CA)”, substitute “subsection 20A(3)”.

6 Paragraph 7(1)(a)

Repeal the paragraph.

7 Paragraph 7(1)(b)

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

8 Subsection 8(1)

Repeal the subsection, substitute:

- (1) Subject to subsection (2), the notional employer contribution rate in relation to a class of employees who are:
 - (a) defined benefit members; and
 - (b) members of a defined benefit superannuation scheme;is the rate determined in accordance with section 9 or 10.

9 Section 9

Repeal the section, substitute:

9 Notional employer contribution rate—accumulation benefits

If, in relation to a class of employees who are:

- (a) defined benefit members; and
- (b) members of a defined benefit superannuation scheme;

both of the following are satisfied:

- (c) the minimum requisite benefit in respect of each employee in that class is calculated as an accumulation of employer contributions;
- (d) the employer contribution rate used in that calculation is the same for each employee in the class;

then the notional employer contribution rate in relation to the class is that employer contribution rate.

10 Subsection 10(1) (definition of *FOTE*)

Repeal the definition.

11 Subsection 10(1)

Insert:

FQE is:

- (a) if a benefit accruing in respect of membership after 30 June 2008 is expressed in the governing rules of a superannuation scheme as a multiple of the annual qualifying earnings of the person as at the day on which the person withdraws from the scheme—0.0833; or
- (b) if a benefit accruing in respect of membership after 30 June 2008 is expressed in the governing rules of the scheme as a multiple of the average annual qualifying earnings of the person in the period of 3 years ending on the day on which the person withdraws from the scheme—0.09; or
- (c) if a benefit accruing in respect of membership after 30 June 2008 is expressed in those governing rules as a multiple of the average annual qualifying earnings of the person in a particular number of years of

membership of the person ending on the day on which the person withdraws from the scheme:

$$0.0833 + \left(0.0022 \times A \right)$$

where:

A is the number of years specified in the governing rules of the scheme ending on the day on which the person withdraws from the scheme.

12 Subsection 10(1) (definition of *MCR*)

Omit “ordinary time earnings”, substitute “qualifying earnings”.

13 Subsection 10(1) (definition of *OTE*)

Repeal the definition.

14 Subsection 10(1)

Insert:

QE is:

- (a) if a benefit accruing in respect of the period from 1 July 2008 is expressed in the governing rules of a superannuation scheme as a multiple of the annual qualifying earnings of a member of that scheme as at the day on which the member withdraws from the scheme—the member’s annual rate of qualifying earnings as at that day; or
- (b) if a benefit accruing in respect of the period from 1 July 2008 is expressed in the governing rules of the scheme as a multiple of the average annual qualifying earnings of a member of the scheme in a period referred to in paragraph (b) or (c) of the definition of *FQE*—the member’s average annual rate of qualifying earnings in the relevant period.

15 Subparagraphs 10(2)(i)(i) and (ii)

Omit “ordinary time earnings”, substitute “qualifying earnings”.

16 Subsection 10(4)

Omit “FOTE”, substitute “FQE”.

17 Subsection 10(4)

Omit “OTE”, substitute “QE”.

18 Part 4

Repeal the Part, substitute:

Part 4—Liability of employers to superannuation guarantee charge

Division 1—Exclusions from qualifying earnings

11 Exclusions from qualifying earnings—kinds of employees

For the purposes of subparagraph 10A(3)(b)(i) of the Act, a person's qualifying earnings do not include earnings or remuneration of, or payments to, the person to the extent that the person is an employee of any of the following kinds:

- (a) an employee who has been appointed by a company operating in Australia to be the national managing executive or deputy national managing executive or a state manager and who is the holder of:
 - (i) a Subclass 456 (Business (Short Stay)) visa granted under the *Migration Act 1958*; or
 - (ii) a Subclass 400 (Temporary Work (Short Stay Specialist)) visa granted under that Act;
- (b) an employee who is the holder of a visa referred to in paragraph (a) if:
 - (i) the employee holds a position as a senior executive of a company operating in Australia or is establishing a business activity in Australia on behalf of the employer; and
 - (ii) the employee's position carries substantial executive responsibility; and
 - (iii) the employee's qualifications for the position are appropriate; and
 - (iv) the employee's position is a full-time position;
- (c) an employee who is the holder of a Subclass 482 (Skills in Demand or Temporary Skill Shortage) visa or a Subclass 457 (Temporary Work (Skilled)) visa granted under the *Migration Act 1958* if:
 - (i) the employee has been appointed by a company operating in Australia to be the national managing executive or deputy national managing executive or a state manager; and
 - (ii) the employee was nominated as mentioned in clause 482.212 of Schedule 2 to the *Migration Regulations 1994* or in paragraph 457.223(2)(c) or 457.223(4)(a) of that Schedule (as in force before 18 March 2018);
- (d) an employee who is the holder of a Subclass 482 (Skills in Demand or Temporary Skill Shortage) visa or a Subclass 457 (Temporary Work (Skilled)) visa granted under the *Migration Act 1958* if:
 - (i) the employee holds a position as a senior executive of a company operating in Australia; and
 - (ii) the employee was nominated as mentioned in clause 482.212 of Schedule 2 to the *Migration Regulations 1994* or in paragraph 457.223(2)(c) or 457.223(4)(a) of that Schedule (as in force before 18 March 2018); and
 - (iii) the employee's position carries substantial executive responsibility; and
 - (iv) the employee's qualifications for the position are appropriate; and
 - (v) the employee's position is a full-time position;

- (e) an employee who is the holder of a Subclass 482 (Skills in Demand or Temporary Skill Shortage) visa or a Subclass 457 (Temporary Work (Skilled)) visa granted under the *Migration Act 1958* if:
 - (i) the employee is establishing a business activity in Australia on behalf of the employer; and
 - (ii) the employee's position carries substantial executive responsibility; and
 - (iii) the employee's qualifications for the position are appropriate; and
 - (iv) the employee's position is a full-time position;
- (f) a part-time employee who is under 18.

12 Exclusions from qualifying earnings—kinds of earnings, remuneration or payments

- (1) For the purposes of subparagraph 10A(3)(b)(iii) of the Act, a person's qualifying earnings do not include earnings or remuneration of, or payments to, the person (the **payments to the person**) to the extent that the payments to the person are of any of the following kinds:
 - (a) payments to the person for a period of parental leave;
 - (b) payments to the person:
 - (i) where the person is engaged in an eligible community service activity; and
 - (ii) by the person's usual employer while the person is absent from the employee's usual employment;
 - (c) payments to the person:
 - (i) in respect of service that the person is undertaking with the Australian Defence Force; and
 - (ii) by the person's usual employer while the person is absent from the person's usual employment; and
 - (iii) that are not paid by the Australian Defence Force;
 - (d) if a scheduled international social security agreement provides that an employer to which the payments to the person relate is not subject to the Act in relation to the work for which the payments to the person are paid—the payments to the person so paid;
 - (e) payments to the person:
 - (i) paid on or after 1 November 2022; and
 - (ii) funded by a payment made to the person's employer under the program established by the Commonwealth and known as the Aged Care Registered Nurses' Payment to reward clinical skills and leadership;
 - (f) payments to the person that are fringe benefits (within the meaning of the *Fringe Benefits Tax Assessment Act 1986*);
 - (g) if the person is not a resident of Australia, either of the following:
 - (i) payments to the person for work done outside Australia (except to the extent that the payments to the person relate to employment covered by a certificate under section 15C of the Act);
 - (ii) payments to the person by their employer for work done in the Joint Petroleum Development Area (within the meaning of the *Petroleum (Timor Sea Treaty) Act 2003*);

- (h) if the person is a resident of Australia and the employer is not a resident of Australia—payments to the person by their employer for work done outside Australia;
 - (i) payments to the person that are exempt from income tax under item 1.4 of the table in section 51-5 of the *Income Tax Assessment Act 1997*;
 - (j) payments to the person under a contract for the employment of the person, for not more than 30 hours per week, for work that is wholly or principally of a domestic or private nature.
- (2) Paragraph (1)(b) does not apply to payments to the person where the person engages in the eligible community service activity in the capacity of an employee of the employer that carries on the activity.
- (3) Paragraphs (1)(b) and (c) do not apply to a payment to the person relating to:
- (a) annual leave; or
 - (b) sick leave; or
 - (c) long service leave;
- that is paid in relation to the period during which the person is engaged in the relevant activity or performing the relevant work.

Division 2—Superannuation guarantee shortfalls

13 Exceptional circumstances that affect ability of employers to make eligible contributions

For the purposes of paragraph 18C(4)(a) of the Act, the following kinds of exceptional circumstances are prescribed:

- (a) natural disasters;
- (b) widespread outages of:
 - (i) information and communication technology services; or
 - (ii) other technology services or platforms that facilitate or support employers to make contributions.

Division 3—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, or made an estimate, 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:

-
- | |
|---|
| <ul style="list-style-type: none">(a) in the approved form; and(b) before the day an assessment is made for the employer and the QE day. |
|---|

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 19B(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 19B(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, during the 24-month period ending on the QE day:
 - (a) no Commissioner-initiated assessment that is made, during the period, for the employer is in force on the QE day; and
 - (b) no estimate under subsection 268-10(1) in Schedule 1 to the *Taxation Administration Act 1953* has been made, during the period, for the employer for a liability to pay superannuation guarantee charge.

Note: If this subsection applies, then the 60% in subsection 19B(1) of the Act is reduced to 40%.

- (2) For the purposes of paragraph (1)(b), disregard an estimate for which either of the following is satisfied on or before the QE day:
 - (a) the estimate has been revoked;
 - (b) the amount of the estimate has been reduced to nil.

Note: Subdivision 268-D in Schedule 1 to the *Taxation Administration Act 1953* deals with reducing and revoking estimates.

- (3) Despite subsection (1), 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.
- (4) A **Commissioner-initiated assessment**, for the employer, is an assessment of superannuation guarantee charge that:
 - (a) is of an amount of charge that is greater than nil; and
 - (b) is made under subsection 36(1) of the Act for the employer and a QE day; and
 - (c) satisfies subsection (5).
- (5) The assessment satisfies this subsection if:
 - (a) it was made on the Commissioner's own initiative; or
 - (b) it was made in response to a statement that:
 - (i) was purportedly lodged by the employer under section 33 of the Act as a voluntary disclosure statement; but
 - (ii) is not a voluntary disclosure statement.

Note: Section 33 of the Act sets out when a statement is a voluntary disclosure statement.

13D Reduction if a voluntary disclosure statement is lodged for the QE day

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 *lodgment 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		
Item	Column 1	Column 2
Reduce the percentage by:	... if the lodgment day is:	
1	40%	before the end of the 30-day period starting on the QE day.
2	35%	during the period: (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: (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 19B(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 19B(1) of the Act is reduced to 25%.

Note: Section 33 of the Act sets out when a statement is a voluntary disclosure statement.

19 Paragraph 16(e)

Omit “subsection 25(1)”, substitute “subsection 18A(2)”.

20 Part 7

Repeal the Part.

Part 2—Other amendments

Bankruptcy Regulations 2021

21 Paragraph 34(2)(a)

Omit “relevant superannuation guarantee charge percentage”, substitute “charge percentage”.

22 Paragraph 34(2)(a)

Omit “ordinary time earnings”, substitute “qualifying earnings”.

23 Subsection 34(3)

Insert:

charge percentage means the charge percentage (within the meaning of subsection 17A(2) of the *Superannuation Guarantee (Administration) Act 1992*) divided by 100.

24 Subsection 34(3) (definition of *ordinary time earnings*)

Repeal the definition.

25 Subsection 34(3)

Insert:

qualifying earnings has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

26 Subsection 34(3) (definition of *relevant superannuation guarantee charge percentage*)

Repeal the definition.

27 At the end of Part 17

Add:

118 Amendments made by the *Treasury Laws Amendment (Payday Superannuation) Regulations 2026*

- (1) This section applies if the contributions assessment period (within the meaning of section 139K of the Act) for a bankrupt:
 - (a) begins on a day before 1 July 2026; and
 - (b) ends on a day that is 1 July 2026 or a later day.
- (2) For the purposes of subsection 34(2) of this instrument:
 - (a) the old law continues to apply on or after 1 July 2026 in relation to so much of the contributions assessment period as happens before that day; and
 - (b) the new law applies in relation to so much of that period as happens on or after 1 July 2026.
- (3) In this section:

new law means the *Superannuation Guarantee (Administration) Act 1992*, and any instruments made under that Act, as in force on or after 1 July 2026.

old law means the *Superannuation Guarantee (Administration) Act 1992*, and any instruments made under that Act, as in force on 30 June 2026.

Superannuation (CSS) (Superannuation Guarantee) Regulations 2008

28 Regulation 3

Insert:

old Superannuation Guarantee (Administration) Act 1992 means the *Superannuation Guarantee (Administration) Act 1992* as in force immediately before 1 July 2026.

29 Regulation 3 (definitions of *ordinary time earnings* and *quarter*)

Omit “*Superannuation Guarantee (Administration) Act 1992*”, substitute “*old Superannuation Guarantee (Administration) Act 1992*”.

30 Subregulation 5(1)

Repeal the subregulation, substitute:

- (1) For the purposes of subsection 155C(1) of the Act, this regulation is made for the purpose of ensuring that an employer does not, in relation to a person, have:
- (a) in respect of any period between 1 July 2008 and 30 June 2026 during which the person is an eligible employee—an individual superannuation guarantee shortfall (within the meaning of the old *Superannuation Guarantee (Administration) Act 1992*) for the person; and
 - (b) an individual base superannuation guarantee shortfall that is greater than nil for:
 - (i) the person; and
 - (ii) a QE day that is 1 July 2026 or a later day;while the person was an eligible employee.

Note 1: For paragraph (a), subitem 183(2) of Schedule 1 to the *Treasury Laws Amendment (Payday Superannuation) Act 2025* provides, among other things, that subsection 155C(1) of the *Superannuation Act 1976*, as in force immediately before 1 July 2026, continues to apply on and after 1 July 2026 to individual superannuation guarantee shortfalls relating to a quarter ending before 1 July 2026.

Note 2: For paragraph (b) and subsection (3B), *individual base superannuation guarantee shortfall* and *QE day* are defined in the Act. Those definitions apply to this instrument (see paragraph 13(1)(b) of the *Legislation Act 2003*).

31 Subregulation 5(3) (definition of *P*)

Omit “*Superannuation Guarantee (Administration) Act 1992*”, substitute “*old Superannuation Guarantee (Administration) Act 1992*”.

32 Subregulation 5(3A) (heading)

Repeal the heading, substitute:

Minimum contribution for period between 1 July 2023 and 30 June 2026

33 Subregulation 5(3A)

Omit “a period on and after 1 July 2023”, substitute “a period between 1 July 2023 and 30 June 2026”.

34 Subregulation 5(3A) (definitions of E and P)

Omit “*Superannuation Guarantee (Administration) Act 1992*”, substitute “old *Superannuation Guarantee (Administration) Act 1992*”.

35 After subregulation 5(3A)

Insert:

Minimum contribution for QE days

(3B) Despite section 110SC of the Act, the SG minimum contribution in respect of the person for the QE day (being the QE day mentioned in paragraph (1)(b) of this regulation) is equal to the employer’s individual superannuation guarantee amount (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) for the person and the QE day.

36 Before subregulation 5(4)

Insert:

Definition of SG minimum contribution

37 At the end of subregulation 5(4)

Add:

; and (d) to the extent that subregulation (3B) applies—to subregulation (3B) rather than to section 110SC of the Act.

Superannuation Industry (Supervision) Regulations 1994

38 Subregulation 7.07B(4)

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

39 Subregulation 7.07D(2)

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

40 Regulations 7.07G and 7.07H

Repeal the regulations, substitute:

7.07G Allocation of contributions—regulated superannuation funds (other than self managed superannuation funds)

- (1) This regulation applies to the trustee of a regulated superannuation fund, other than a self managed superannuation fund, if:
- (a) the fund receives a contribution for a member of the fund; and
 - (b) the contribution is not being made to a defined benefit interest.

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

7.07H Allocation of contributions—self managed superannuation funds

- (1) This regulation applies to the trustee of a regulated superannuation fund that is a self managed superannuation fund if:
 - (a) the trustee receives a contribution in a month; and
 - (b) the contribution is not being made to a defined benefit interest.
- (2) The trustee must allocate the contribution to the member within:
 - (a) 28 days after the end of the month; or
 - (b) a longer period that is reasonable in the circumstances.

41 Regulation 7.08

Repeal the regulation.

42 Regulation 7.09

Repeal the regulation, substitute:

7.09 Application of Division 7.3

This Division applies in relation to a regulated superannuation fund and to a contribution received by the fund if:

- (a) either:
 - (i) the fund; or
 - (ii) a superannuation sub-fund (within the meaning of the *Income Tax Assessment (1997 Act) Regulations 2021*) in the fund; has fewer than 5 defined benefit members; and
- (b) the contribution is in respect of a defined benefit interest of such a member; and
- (c) none of subsections 291.170.02(3), (4) and (5) of the *Income Tax Assessment (1997 Act) Regulations 2021* apply to the fund.