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# Written guidelines for the reduction of an increase in an employer's individual superannuation guarantee shortfall under the *Superannuation Guarantee (Administration) Act 1992*

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## Explanatory Statement

### General Outline of Instrument

This instrument sets out the written guidelines the Commissioner of Taxation (the Commissioner) must have regard to in making a decision whether to reduce the amount of the increase in an employer's individual superannuation guarantee shortfall (the 'choice shortfall') for an employee for a quarter under the *Superannuation Guarantee (Administration) Act 1992*.

The instrument is made under subsection 21(1) of the *Superannuation Guarantee (Administration) Act 1992*.

The instrument will be a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

### Date of effect

This instrument applies from the date of registration.

### What is this instrument about:

This instrument is made by the Commissioner pursuant to the *Superannuation Guarantee (Administration) Act 1992*. It contains the written guidelines the Commissioner must have regard to in making a decision whether to reduce an employer's 'choice shortfall' for an employee for a quarter under the *Superannuation Guarantee (Administration) Act 1992*.

### What is the effect of this instrument:

This instrument provides the written guidelines the Commissioner must have regard to when deciding whether to reduce the choice shortfall.

### Background:

The choice of fund requirements form part of the *Superannuation Guarantee (Administration) Act 1992*. The requirements are effective from 1 July 2005. Subsections 19(2A) and 19(2B) of the *Superannuation Guarantee (Administration)*

*Act 1992* give rise to an increase in the amount of an employer's individual superannuation guarantee shortfall for a quarter where the employer makes contributions to a complying superannuation fund or retirement savings account but does not comply with the choice of fund requirements.

Under subsection 19(2E), the Commissioner may reduce the choice shortfall in part or in full. In making a decision under subsection 19(2E), the Commissioner is required by section 21 to have regard to written guidelines.

This Legislative Instrument sets out the guidelines the Commissioner will have regard to when making a decision under subsection 19(2E).

In order to assist the public and ATO officers, the Commissioner will also issue a Law Administration Practice Statement providing a detailed explanation of this Legislative Instrument.

**Consultation:**

There was no public consultation undertaken in the development of this instrument. However, the guidelines are mirrored in a Law Administration Practice Statement which was subject to targeted consultation with key industry groups. No adverse comments were received. The Commissioner has also consulted with various stakeholders within the Tax Office in relation to the contents of this instrument.

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**Commissioner of Taxation**  
16 September 2005

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*Subject references:*

*Individual superannuation guarantee shortfall  
choice of fund requirements*

*Legislative references:*

*Superannuation Guarantee (Administration) Act 1992  
Legislative Instruments Act 2003*

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ATO references

NO:

ISSN: