





# **Superannuation (Surcharge Rate Reduction) Amendment Act 2003**

**No. 112, 2003**

**An Act to amend laws relating to superannuation,  
and for related purposes**

Note: An electronic version of this Act is available in SCALEplus  
(<http://scaleplus.law.gov.au/html/comact/browse/TOCN.htm>)



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# Superannuation (Surcharge Rate Reduction) Amendment Act 2003

No. 112, 2003

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## An Act to amend laws relating to superannuation, and for related purposes

[Assented to 12 November 2003]

The Parliament of Australia enacts:

### 1 Short title

This Act may be cited as the *Superannuation (Surcharge Rate Reduction) Amendment Act 2003*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, on the day or at the time specified in column 2 of the table.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent	12 November 2003
2. Schedule 1	1 July 2003	1 July 2003

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table is for additional information that is not part of this Act. This information may be included in any published version of this Act.

## 3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

## **Schedule 1—Superannuation surcharge**

### **Part 1—Amendments related to reduction of the surcharge rate**

#### *Superannuation Contributions Tax Imposition Act 1997*

##### **1 Before subsection 5(1)**

Insert:

(1AA) In this section:

*higher income amount* means:

- (a) for the 2003-2004 financial year—\$114,981; and
- (b) for each later financial year—that amount as indexed under section 7.

*lower income amount* means:

- (a) for the 2003-2004 financial year—\$94,691; and
- (b) for each later financial year—that amount as indexed under section 7.

*maximum surcharge percentage* means:

- (a) for the 2003-2004 financial year—14.5%; and
- (b) for the 2004-2005 financial year—13.5%; and
- (c) for the 2005-2006 financial year and later financial years—12.5%.

##### **2 Subsection 5(1)**

Omit “\$70,000 but is less than \$85,000”, substitute “the lower income amount but is less than the higher income amount”.

##### **3 Subsection 5(1) (formula)**

Repeal the formula, substitute:

$$\frac{\text{Relevant adjusted taxable income} - \text{Lower income amount}}{A}$$

where:

**Schedule 1** Superannuation surcharge

**Part 1** Amendments related to reduction of the surcharge rate

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*A* is:

$$\frac{\text{Higher income amount} - \text{Lower income amount}}{\text{Maximum surcharge percentage}} \times 100$$

**4 Subsection 5(2)**

Omit “\$85,000 or a higher amount”, substitute “equal to, or greater than, the higher income amount”.

**5 Subsection 5(2)**

Omit “15%”, substitute “the maximum surcharge percentage”.

**6 Paragraphs 5(3)(c), (d) and (f)**

Omit “15%”, substitute “the maximum surcharge percentage”.

**7 Subsection 7(6)**

Omit “1997-98”, substitute “2004-05”.

Note: The heading to subsection 7(1) is altered by omitting “1997-98” and substituting “2004-05”.

**8 Subsection 7(7) (definition of *indexing financial year*)**

Omit “1997-98”, substitute “2004-05”.

***Superannuation Contributions Tax (Members of  
Constitutionally Protected Superannuation Funds)  
Imposition Act 1997***

**9 Before subsection 5(1)**

Insert:

(1A) In this section:

***higher income amount*** means:

- (a) for the 2003-2004 financial year—\$114,981; and
- (b) for each later financial year—that amount as indexed under section 7.

***lower income amount*** means:

- (a) for the 2003-2004 financial year—\$94,691; and

(b) for each later financial year—that amount as indexed under section 7.

**maximum surcharge percentage** means:

- (a) for the 2003-2004 financial year—14.5%; and
- (b) for the 2004-2005 financial year—13.5%; and
- (c) for the 2005-2006 financial year and later financial years—12.5%.

**10 Subsection 5(1)**

Omit “\$70,000 but is less than \$85,000”, substitute “the lower income amount but is less than the higher income amount”.

**11 Subsection 5(1) (formula)**

Repeal the formula, substitute:

$$\frac{\text{Relevant adjusted taxable income} - \text{Lower income amount}}{A}$$

where:

*A* is:

$$\frac{\text{Higher income amount} - \text{Lower income amount}}{\text{Maximum surcharge percentage} \times 100}$$

**12 Subsection 5(3)**

Omit “\$85,000 or a higher amount”, substitute “equal to, or greater than, the higher income amount”.

**13 Subsection 5(3)**

Omit “15%”, substitute “the maximum surcharge percentage”.

**14 Paragraphs 5(4)(c), (d) and (f)**

Omit “15%”, substitute “the maximum surcharge percentage”.

**15 Subsection 7(6)**

Omit “1997-98”, substitute “2004-05”.

Note: The heading to subsection 7(1) is altered by omitting “1997-98” and substituting “2004-05”.

**16 Subsection 7(7) (definition of *indexing financial year*)**

Omit “1997-98”, substitute “2004-05”.

***Termination Payments Tax Imposition Act 1997***

**17 Before subsection 5(1)**

Insert:

(1AA) In this section:

***higher income amount*** means:

- (a) for the 2003-2004 financial year—\$114,981; and
- (b) for each later financial year—that amount as indexed under section 6.

***lower income amount*** means:

- (a) for the 2003-2004 financial year—\$94,691; and
- (b) for each later financial year—that amount as indexed under section 6.

***maximum surcharge percentage*** means:

- (a) for the 2003-2004 financial year—14.5%; and
- (b) for the 2004-2005 financial year—13.5%; and
- (c) for the 2005-2006 financial year and later financial years—12.5%.

**18 Subsection 5(1)**

Omit “\$70,000 but is less than \$85,000”, substitute “the lower income amount but is less than the higher income amount”.

**19 Subsection 5(1) (formula)**

Repeal the formula, substitute:

$$\frac{\text{Relevant adjusted taxable income} - \text{Lower income amount}}{A}$$

where:

*A* is:

$$\frac{\text{Higher income amount} - \text{Lower income amount}}{\text{Maximum surcharge percentage}} \times 100$$

**20 Subsection 5(2)**

Omit “\$85,000 or a higher amount”, substitute “equal to, or greater than, the higher income amount”.

**21 Subsection 5(2)**

Omit “15%”, substitute “the maximum surcharge percentage”.

**22 Subsection 6(6)**

Omit “1997-98”, substitute “2004-05”.

Note: The heading to subsection 6(1) is altered by omitting “1997-98” and substituting “2004-05”.

**23 Subsection 6(7) (definition of *indexing financial year*)**

Omit “1997-98”, substitute “2004-05”.

## **Part 2—Amendments related to reduction of the surcharge cap**

### ***Defence Force Retirement and Death Benefits Act 1973***

#### **24 Subsection 6C(3)**

Repeal the subsection, substitute:

- (3) The amount determined by the Authority may not be more than the total of the following amounts:
- (a) 15% of the employer-financed component of any part of the benefits payable to the member that accrued between 20 August 1996 and 1 July 2003;
  - (b) 14.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2003-2004 financial year;
  - (c) 13.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2004-2005 financial year;
  - (d) 12.5% of the employer-financed component of any part of the benefits payable to the member that accrued after 30 June 2005.

### ***Parliamentary Contributory Superannuation Act 1948***

#### **25 Subsection 4E(3)**

Repeal the subsection, substitute:

- (3) The amount determined by the Trust may not be more than the total of the following amounts:
- (a) 15% of the employer-financed component of any part of the benefits payable to the person that accrued between 20 August 1996 and 1 July 2003;
  - (b) 14.5% of the employer-financed component of any part of the benefits payable to the person that accrued in the 2003-2004 financial year;

- (c) 13.5% of the employer-financed component of any part of the benefits payable to the person that accrued in the 2004-2005 financial year;
- (d) 12.5% of the employer-financed component of any part of the benefits payable to the person that accrued after 30 June 2005.

### ***Superannuation Act 1976***

#### **26 Subsection 80A(3)**

Repeal the subsection, substitute:

- (3) The amount determined by the Board may not be more than the total of the following amounts:
  - (a) 15% of the employer-financed component of any part of the benefits payable to the person that accrued between 20 August 1996 and 1 July 2003;
  - (b) 14.5% of the employer-financed component of any part of the benefits payable to the person that accrued in the 2003-2004 financial year;
  - (c) 13.5% of the employer-financed component of any part of the benefits payable to the person that accrued in the 2004-2005 financial year;
  - (d) 12.5% of the employer-financed component of any part of the benefits payable to the person that accrued after 30 June 2005.

### ***Superannuation Contributions Tax (Application to the Commonwealth—Reduction of Benefits) Act 1997***

#### **27 Subsection 4(1)**

Omit “not exceeding 15% of the employer-financed component of that part of the benefits that accrued after 20 August 1996”, substitute “subject to subsection (2A)”.

#### **28 After subsection 4(2)**

Insert:

- (2A) The amount of the reduction under subsection (1) may not be more than the total of the following amounts:

- (a) 15% of the employer-financed component of any part of the benefits payable to the member that accrued between 20 August 1996 and 1 July 2003;
- (b) 14.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2003-2004 financial year;
- (c) 13.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2004-2005 financial year;
- (d) 12.5% of the employer-financed component of any part of the benefits payable to the member that accrued after 30 June 2005.

***Superannuation Contributions Tax (Members of  
Constitutionally Protected Superannuation Funds)  
Assessment and Collection Act 1997***

**29 Paragraph 15(6)(b)**

Repeal the paragraph, substitute:

- (b) the total of the following amounts:
  - (i) 15% of the employer-financed component of any part of the benefits payable to the member that accrued between 20 August 1996 and 1 July 2003;
  - (ii) 14.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2003-2004 financial year;
  - (iii) 13.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2004-2005 financial year;
  - (iv) 12.5% of the employer-financed component of any part of the benefits payable to the member that accrued after 30 June 2005.

**30 Paragraph 15(6AA)(d)**

Repeal the paragraph, substitute:

- (d) the total of the following amounts:
  - (i) 15% of the employer-financed component of any part of the benefits that would have been payable to the

- member but for the payment split and that accrued between 20 August 1996 and 1 July 2003;
- (ii) 14.5% of the employer-financed component of any part of the benefits that would have been payable to the member but for the payment split and that accrued in the 2003-2004 financial year;
  - (iii) 13.5% of the employer-financed component of any part of the benefits that would have been payable to the member but for the payment split and that accrued in the 2004-2005 financial year;
  - (iv) 12.5% of the employer-financed component of any part of the benefits that would have been payable to the member but for the payment split and that accrued after 30 June 2005.

**31 Paragraph 15(6A)(b)**

Repeal the paragraph, substitute:

- (b) the total of the following amounts:
  - (i) 15% of the employer-financed component of any part of the value of the age retirement benefits of the member when the fund ceased to be a constitutionally protected superannuation fund that accrued between 20 August 1996 and 1 July 2003;
  - (ii) 14.5% of the employer-financed component of any part of the value of the age retirement benefits of the member when the fund ceased to be a constitutionally protected superannuation fund that accrued in the 2003-2004 financial year;
  - (iii) 13.5% of the employer-financed component of any part of the value of the age retirement benefits of the member when the fund ceased to be a constitutionally protected superannuation fund that accrued in the 2004-2005 financial year;
  - (iv) 12.5% of the employer-financed component of any part of the value of the age retirement benefits of the member when the fund ceased to be a constitutionally protected superannuation fund that accrued after 30 June 2005.

## Part 3—Application provisions

### 32 Application of amendments made by Part 1

The amendments made by Part 1 apply in relation to liability to surcharge in respect of the 2003-04 financial year and later financial years.

Note: The Acts amended by Part 1 continue to apply in relation to liability to surcharge in respect of financial years that ended before 1 July 2003 as if the amendments made by Part 1 had not been made.

### 33 Application of items 24 to 30

The amendments made by items 24 to 30 apply in relation to benefits that become payable on or after 1 July 2003.

Note: The Acts amended by items 24 to 30 continue to apply in relation to benefits that become payable before 1 July 2003 as if the amendments made by those items had not been made.

### 35 Application of item 31

The amendment made by item 31 applies in relation to superannuation funds that cease to be constitutionally protected superannuation funds on or after 1 July 2003.

Note: The Act amended by item 31 continues to apply in relation to superannuation funds that cease to be constitutionally protected superannuation funds before 1 July 2003 as if the amendment made by item 31 had not been made.

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*[Minister's second reading speech made in—  
House of Representatives on 29 May 2003  
Senate on 23 June 2003]*

(77/03)

