ASIC Supervisory Cost Recovery Levy (Consequential Amendments) Act 2017

No. 45, 2017

An Act to deal with consequential matters relating to the enactment of the *ASIC Supervisory Cost Recovery Levy Act 2017*, and for related purposes

Note: An electronic version of this Act is available on the Federal Register of Legislation (https://www.legislation.gov.au/)

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ASIC Supervisory Cost Recovery Levy (Consequential Amendments) Act 2017

No. 45, 2017

An Act to deal with consequential matters relating to the enactment of the *ASIC Supervisory Cost Recovery Levy Act 2017*, and for related purposes

[*Assented to 19 June 2017*]

The Parliament of Australia enacts:

1 Short title

This Act is the *ASIC Supervisory Cost Recovery Levy (Consequential Amendments) Act 2017*.

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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, 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 Act	At the same time as the *ASIC Supervisory Cost Recovery Levy Act 2017* commences. However, the provisions do not commence at all if that Act does not commence.	1 July 2017

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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Schedule 1—Amendments

Australian Securities and Investments Commission Act 2001

1 Before paragraph 12A(1)(c)

Insert:

(a) the *ASIC Supervisory Cost Recovery Levy Act 2017*;

(b) the *ASIC Supervisory Cost Recovery Levy (Collection) Act 2017*;

2 At the end of Part 8

Add:

Division 4—Transparency

138 Annual "dashboard" report about ASIC's regulatory costs

(1) As soon as practicable after 31 October in each year, ASIC must publish on its website the following information in respect of the financial year ending on 30 June in that year:

(a) its total regulatory costs in relation to leviable entities;

(b) the total regulatory costs from paragraph (a), apportioned on the basis of sector and sub-sector;

(c) the sector costs from paragraph (b), apportioned on the basis of costs relating to different kinds of activities undertaken by ASIC in the financial year;

(d) the sector costs from paragraph (b), apportioned on the basis of costs relating to different kinds of expenses incurred by ASIC in the financial year;

(e) any other information required by the regulations.

(2) This section applies in respect of the financial year that ends after the commencement of the *ASIC Supervisory Cost Recovery Levy Act 2017*, and later financial years.

(3) In this section:

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leviable entity, for a financial year, has the same meaning as in the *ASIC Supervisory Cost Recovery Levy Act 2017*.

regulatory costs, for a financial year, has the same meaning as in the *ASIC Supervisory Cost Recovery Levy Act 2017*.

sector has the same meaning as in the *ASIC Supervisory Cost Recovery Levy Act 2017*.

sub-sector has the same meaning as in the *ASIC Supervisory Cost Recovery Levy Act 2017*.

Corporations Act 2001

3 After subsection 601AB(1A)

Insert:

(1B) ASIC may also decide to deregister a company if:

(a) the company is liable to pay levy imposed by the *ASIC Supervisory Cost Recovery Levy Act 2017*; and

(b) the company has not paid in full at least 12 months after the due date for payment:

(i) the amount of the levy; and

(ii) the amount of any late payment penalty payable in relation to the levy; and

(iii) the amount of any shortfall penalty payable in relation to the levy.

4 After subsection 601AH(1)

Insert:

(1A) ASIC may reinstate the registration of a company deregistered under subsection 601AB(1B) if:

(a) ASIC receives an application in relation to the reinstatement of the company's registration; and

(b) the levy imposed on the company by the *ASIC Supervisory Cost Recovery Levy Act 2017* is paid in full; and

(c) the amount of any late payment penalty payable in relation to the levy is paid in full; and

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(d) the amount of any shortfall penalty payable in relation to the levy is paid in full.

5 Paragraph 601AH(3)(a)

After "(1)", insert "or (1A)".

6 Subsection 601AH(4)

Omit all words after "the *Gazette*.".

7 After subsection 601AH(4)

Insert:

(4A) If an application was made to ASIC for the reinstatement of a company's registration, ASIC must give notice of the reinstatement to the applicant.

8 At the end of section 797B

Add:

; or (e) in the case of a licensee that is a leviable entity (within the meaning of the *ASIC Supervisory Cost Recovery Levy Act 2017*)—the following have not been paid in full at least 12 months after the due date for payment:

(i) an amount of levy (if any) payable in respect of the licensee;

(ii) an amount of late payment penalty payable (if any) in relation to the levy;

(iii) an amount of shortfall penalty payable (if any) in relation to the levy.

9 At the end of section 826B

Add:

; or (e) in the case of a licensee that is a leviable entity (within the meaning of the *ASIC Supervisory Cost Recovery Levy Act 2017*)—the following have not been paid in full at least 12 months after the due date for payment:

(i) an amount of levy (if any) payable in respect of the licensee;

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(ii) the amount of late payment penalty payable (if any) in relation to the levy;

(iii) the amount of shortfall penalty payable (if any) in relation to the levy.

10 At the end of section 905H

Add:

; or (d) in the case of a licensee that is a leviable entity (within the meaning of the *ASIC Supervisory Cost Recovery Levy Act 2017*)—the following have not been paid in full at least 12 months after the due date for payment:

(i) an amount of levy (if any) payable in respect of the licensee;

(ii) the amount of late payment penalty payable (if any) in relation to the levy;

(iii) the amount of shortfall penalty payable (if any) in relation to the levy.

11 After paragraph 915B(1)(e)

Insert:

; or (f) is liable to pay levy imposed by the *ASIC Supervisory Cost Recovery Levy Act 2017* and has not paid in full at least 12 months after the due date for payment:

(i) the amount of levy; and

(ii) the amount of any late payment penalty payable in relation to the levy; and

(iii) the amount of any shortfall penalty payable in relation to the levy.

12 After paragraph 915B(2)(d)

Insert:

; or (e) in the case of a partnership that is a leviable entity (within the meaning of the *ASIC Supervisory Cost Recovery Levy Act 2017*)—the following have not been paid in full at least 12 months after the due date for payment:

(i) an amount of levy (if any) payable in respect of the licensee;

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(ii) an amount of late payment penalty payable (if any) in relation to the levy;

(iii) an amount of shortfall penalty payable (if any) in relation to the levy.

13 After paragraph 915B(3)(d)

Insert:

; or (e) is liable to pay levy imposed by the *ASIC Supervisory Cost Recovery Levy Act 2017* and has not paid in full at least 12 months after the due date for payment:

(i) the amount of levy; and

(ii) the amount of any late payment penalty payable in relation to the levy; and

(iii) the amount of any shortfall penalty payable in relation to the levy.

14 After paragraph 915B(4)(d)

Insert:

; or (e) in the case of a licensee that is a single legal entity under section 761FA and also a leviable entity (within the meaning of the *ASIC Supervisory Cost Recovery Levy Act 2017*)—the following have not been paid in full at least 12 months after the due date for payment:

(i) an amount of levy (if any) payable in respect of the licensee;

(ii) an amount of late payment penalty payable (if any) in relation to the levy;

(iii) an amount of shortfall penalty payable (if any) in relation to the levy.

15 After section 1290

Insert:

1291 Immediate suspension or cancellation

ASIC may cancel or suspend a person's registration as an auditor if:

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(a) the person is liable to pay levy imposed by the *ASIC Supervisory Cost Recovery Levy Act 2017*; and

(b) the following have not been paid in full at least 12 months after the due date for payment:

(i) an amount of levy (if any) payable in respect of the person;

(ii) an amount of late payment penalty payable (if any) in relation to the levy;

(iii) an amount of shortfall penalty payable (if any) in relation to the levy.

Note: See section 1298 for the effect of suspension.

1291A Notice of suspension or cancellation

Application of this section

(1) This section applies if ASIC decides under section 1291 to suspend or cancel the registration of a person as an auditor.

ASIC must give notice of decision

(2) ASIC must, within 10 business days after making the decision, give a written notice setting out the decision, and the reasons for the decision.

When decision comes into effect

(3) The decision comes into effect on the day after the notice is given to the person.

Failure to give notice does not affect validity of decision

(4) A failure by ASIC to give the notice under subsection (2) within 10 business days does not affect the validity of the decision.

1291B ASIC may vary or revoke suspension

(1) This section applies if ASIC has suspended the registration of a person as an auditor under section 1291.

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(2) ASIC may at any time vary or revoke the suspension by giving written notice to the person.

16 Subsection 1295(1)

After "suspended", insert "by the Board".

17 After paragraph 1299I(b)

Insert:

; or (c) in the case of a company that is a leviable entity (within the meaning of the *ASIC Supervisory Cost Recovery Levy Act 2017*)—the following have not been paid in full at least 12 months after the due date for payment:

(i) an amount of levy (if any) payable in respect of the company;

(ii) an amount of late payment penalty payable (if any) in relation to the levy;

(iii) an amount of shortfall penalty payable (if any) in relation to the levy.

18 At the end of subsection 40-25(1) of Schedule 2

Add:

; or (g) in the case of a person who is a leviable entity (within the meaning of the *ASIC Supervisory Cost Recovery Levy Act 2017*)—the following have not been paid in full at least 12 months after the due date for payment:

(i) an amount of levy (if any) payable in respect of the person;

(ii) an amount of late payment penalty payable (if any) in relation to the levy;

(iii) an amount of shortfall penalty payable (if any) in relation to the levy.

19 At the end of subsection 40-30(1) of Schedule 2

Add:

; or (g) in the case of a person who is a leviable entity (within the meaning of the *ASIC Supervisory Cost Recovery Levy Act 2017*)—the following have not been paid in full at least 12 months after the due date for payment:

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(i) an amount of levy (if any) payable in respect of the person;

(ii) an amount of late payment penalty payable (if any) in relation to the levy;

(iii) an amount of shortfall penalty payable (if any) in relation to the levy.

Corporations (Fees) Act 2001

20 Subsection 4(1) (paragraph (l) of the definition of *chargeable matter*)

Omit ";", substitute ".".

21 Subsection 4(1) (paragraphs (m) and (n) of the definition of *chargeable matter*)

Repeal the paragraphs.

22 Subsection 5(1)

Omit "sections 6 and 6A", substitute "section 6".

23 Subsection 6(6)

Repeal the subsection.

24 Section 6A

Repeal the section.

25 Subparagraph 7(1)(l)(ii)

Omit ";", substitute ".".

26 Paragraphs 7(1)(m) and (n)

Repeal the paragraphs.

27 Section 8

Omit ", 6 and 6A", substitute "and 6".

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National Consumer Credit Protection Act 2009

28 At the end of subsection 54(1)

Add:

; or (d) in the case of a licensee that is a leviable entity (within the meaning of the *ASIC Supervisory Cost Recovery Levy Act 2017*)—the following have not been paid in full at least 12 months after the due date for payment:

(i) an amount of levy (if any) payable in respect of the licensee;

(ii) an amount of late payment penalty payable (if any) in relation to the levy;

(iii) an amount of shortfall penalty payable (if any) in relation to the levy.

29 Application

Despite the repeals made by this Act of the following provisions of the *Corporations (Fees) Act 2001*:

(a) paragraphs (m) and (n) of the definition of ***chargeable matter*** in subsection 4(1);

(b) subsection 6(6);

(c) section 6A;

(d) paragraphs 7(1)(m) and (n);

those provisions, and any instruments in force under those provisions immediately before the commencement of this Act, continue to apply as if those repeals had not happened in relation to the following functions performed by ASIC:

(e) functions performed in relation to operators of a licensed market under Part 7.2A of the *Corporations Act 2001* before the commencement of this Act;

(f) functions performed in relation to participants in a licensed market under Part 7.2A of the *Corporations Act 2001* before the commencement of this Act.

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[*Minister's second reading speech made in—*
House of Representatives on 30 March 2017
Senate on 13 June 2017]

(61/17)

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