

Superannuation Guarantee (Administration) Amendment Regulations 2003 (No. 1) 2003 No. 49

EXPLANATORY STATEMENT

STATUTORY RULES 2003 No. 49

Issued by authority of the Minister for Revenue and Assistant Treasurer

Subject - *Superannuation Guarantee (Administration) Act 1992*

Superannuation Guarantee (Administration) Amendment Regulations 2003 (No. 1)

Section 80 of the *Superannuation Guarantee (Administration) Act 1992* (the Act) provides that the Governor-General may make regulations prescribing all matters permitted or necessary for giving effect to the Act.

The Act imposes a potential liability to the Superannuation Guarantee Charge on all employers. Under the Act and related provisions, all employers are required to provide a prescribed minimum level of superannuation support in each financial year for each eligible employee. An employer that does not make the minimum level of superannuation contributions into a complying fund on behalf of his/her eligible employees is required to pay the Superannuation Guarantee Charge.

Section 23A of the Act was inserted by the *Taxation Laws Amendment (Superannuation) Act (No. 2) 2002*, and commences on 1 July 2003. Under section 23A, from 1 July 2003 an employer that makes a contribution to a superannuation fund or retirement savings account that reduces the rate of the employer's charge percentage under section 23, must give a report to the employee in writing identifying the amount of the contribution and any other information prescribed in the regulations.

This reporting requirement is designed to support the administration of the Superannuation Guarantee system by allowing early identification of non-compliance amongst employers. The Government has previously indicated that the reporting requirement would cover both the amount and the destination of contributions.

The purpose of the new regulations is to require all employers to report to their employees the name of the superannuation fund or retirement savings account provider that they have paid contributions to and, where possible, the employee's membership or account number.

The reporting of employer contributions is consistent with a recommendation made by the Senate Select Committee on Superannuation and Financial Services in its report *Enforcement of the Superannuation Guarantee Charge*.

Details of the amending Regulations are set out in the Attachment.

The amending Regulations commence on 1 July 2003, which is the commencement date of section 23A of the *Superannuation Guarantee (Administration) Act 1992*.

ATTACHMENT

Superannuation Guarantee (Administration) Amendment Regulations 2003 (No. 1)

Background

Recent amendments to the *Superannuation Guarantee (Administration) Act 1992* inserted a new section 23A.

Under section 23A, where an employer makes a contribution to a superannuation fund or retirement savings account (RSA) for the benefit of an employee, that reduces the rate of the employer's charge percentage under section 23, the employer must give a report to the employee in writing identifying the amount of the contribution and any other information prescribed in the regulations. The new provision will take effect from 1 July 2003.

The new regulations require employers to report to their employees the destination of superannuation contributions. To meet this obligation the employer must provide in writing to the employee the name of the superannuation fund or RSA provider they have contributed to and, where possible the employee's membership or account number.

Explanation of the Amendments

New Regulation 6A of the Superannuation Guarantee (Administration) Regulations requires an employer to include in the report to an employee on superannuation contributions:

- the name of the superannuation fund or RSA provider to which the employer has made the contribution for the benefit of the employee;
- if the contribution has been made to a superannuation fund, the employee's fund membership number, or equivalent;
- if the contribution has been made to an RSA provider, the account number, or equivalent, of the RSA held by the employee.

The regulation also provides, however, that the employer does not have to report the employee's membership or account number where the employer does not have that information.

Regulation 1 specifies the name of the regulations as the Superannuation Guarantee (Administration) Amendment Regulations 2003 (No. 1).

Regulation 2 provides that the regulations commence on 1 July 2003.

Regulation 3 provides that Schedule 1 amends the Superannuation Guarantee (Administration) Regulations 1993.

The Superannuation Guarantee (Administration) Amendment Regulations 2003 are amended as set out in Schedule 1.

Schedule 1 - Amendments

Item 1 of Schedule 1 - inserts new Regulation 6A which sets out the additional information to be included in the employer's report to an employee on superannuation contributions made on the employee's behalf.