



ASIC
Australian Securities &
Investments Commission

ASIC Corporations (Superannuation Calculators and Retirement Estimates) Instrument 2022/603

I, Jane Eccleston, delegate of the Australian Securities and Investments Commission, make the following legislative instrument.

Date 29 June 2022

Jane Eccleston

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Part 1—Preliminary

1 Name of legislative instrument

This is the *ASIC Corporations (Superannuation Calculators and Retirement Estimates) Instrument 2022/603*.

2 Commencement

This instrument commences on the day after it is registered on the Federal Register of Legislation.

Note: The register may be accessed at www.legislation.gov.au.

3 Authority

This instrument is made under paragraphs 926A(2)(a) and 951B(1)(a) of the *Corporations Act 2001*.

4 Definitions

In this instrument:

Act means the *Corporations Act 2001*.

adjusted current contributions means, in relation to a retirement estimate for a member of a superannuation entity, the total contributions (or alternatively, total compulsory contributions) paid into the member's account with the superannuation entity, less contributions tax, and excluding amounts transferred into the member's account with the superannuation entity from an account with another superannuation entity.

administration fee has the same meaning as in section 29V of the *Superannuation Industry (Supervision) Act 1993*.

age pension means an age pension under Part 2.2 of Chapter 2 of the *Social Security Act 1991*.

age pension amount has the meaning given to that term in subsection 6(3).

assumed drawdown period means, in relation to a retirement estimate or numerical calculation in relation to a person:

- (a) if it is known that the person has a superannuation product that is in the retirement phase—a period commencing on the date of the retirement estimate or numerical calculation and ending on, or within 12 months before, the later of:
 - (i) the person reaching 92 years of age; and

- (ii) 5 years after the date of the retirement estimate or numerical calculation; and
- (b) otherwise—a period commencing on the date of the person reaching the assumed retirement age and ending on, or within 12 months before, the later of:
 - (i) the person reaching 92 years of age; and
 - (ii) 5 years after the date of the person reaching the assumed retirement age.

assumed retirement age, in relation to a person, means:

- (a) if the person has inputted a retirement age, the greater of:
 - (i) the inputted retirement age; and
 - (ii) if known, the preservation age for the person; and
- (b) if the person has not inputted a retirement age:
 - (i) if it is known that the person has a superannuation product in the retirement phase—their current age; and
 - (ii) otherwise:
 - (A) if the age of the person is less than 67 years, or the age of the person is not known—67 years of age; or
 - (B) if the age of the person is 67 years or greater—the age of the person on their next birthday.

calculation means the result of a numerical calculation performed by a superannuation calculator.

current balance means, in relation to a retirement estimate for a member of a superannuation entity, the balance of the member's account with the superannuation entity at the date of the retirement estimate.

date, in relation to a retirement estimate for a member of a superannuation entity, means:

- (a) if the retirement estimate is included in or with a periodic statement—the date of the last day of the reporting period covered by the periodic statement; and
- (b) otherwise—the date specified by the trustee for the purpose of the retirement estimate.

default age pension assumptions mean, in relation to the age pension amount for a member of a superannuation entity, the following assumptions:

- (a) upon reaching pension age (within the meaning of the *Social Security Act 1991*), the member qualifies for an age pension under section 43 of the *Social Security Act 1991*;
- (b) the member has a partner;
- (c) the member and their partner jointly own their own home;
- (d) at the assumed retirement age for the member, the member and their partner each have a single superannuation fund retirement benefit equal to the estimated lump sum amount for the member;
- (e) the member and their partner have no other assets or income affecting the amount of the age pension payable to the member or their partner including any other superannuation accounts.

defined benefit interest has the same meaning as in regulation 1.03AA of the *Superannuation Industry (Supervision) Regulations 1994*.

drawdown assumptions means, in relation to a retirement estimate for a member of a superannuation entity:

- (a) if the estimate does not include an age pension amount— the estimated lump sum amount is converted into a series of annual income payments in a manner that, to the extent that is reasonably possible:
 - (i) results in the present value of each annual income payment being constant for each year over the assumed drawdown period, or a drawdown period inputted by the member; and
 - (ii) takes into account the statutory assumptions; and
 - (iii) results in the member’s account being drawn down to zero at the end of the drawdown period; and
- (b) if the estimate includes an age pension amount—the following assumptions:
 - (i) if the retirement estimate is not an interactive retirement estimate—the default age pension assumptions;
 - (ii) the assumption that the estimated lump sum amount is converted into a series of annual income payments in a manner that, to the extent that is reasonably possible:
 - (A) results in the present value of the sum of the annual income payment and age pension amount for the

- member being maximised and constant for each year over the assumed drawdown period, or a drawdown period inputted by the member; and
- (B) takes into account the statutory assumptions; and
 - (C) results in the member's account being drawn down to zero at or before the end of the period; and
- (iii) if the estimate is worked out on the assumption that the member has a partner—the following assumptions or, if the member has changed any of those assumptions, the assumptions inputted by the member:
- (A) the estimate is calculated assuming that the partner has the same estimated lump sum amount as the member which is converted to a series of annual income payments in the same manner as for the member; and
 - (B) the age pension amount for the member is half of the age pension amount for the member and their partner.

estimated lump sum amount: see the definition of ***retirement estimate***.

inputted means, in relation to a person, inputted by or with the consent of the person.

interactive retirement estimate means, in relation to a member of a superannuation entity, a retirement estimate provided by an electronic facility or device which:

- (a) may initially provide a retirement estimate that is not based on information inputted by the member; and
- (b) in any case, allows the member to input information for the purpose of the retirement estimate.

member data means, in relation to a retirement estimate of a member of a superannuation entity, the member's age, current balance held with the fund, adjusted current contributions, insurance premiums (if insurance is held at the date of the estimate) and total administration fees.

member's online portal means an electronic facility provided by the trustee of a superannuation entity in relation to a member's superannuation product.

periodic statement has the same meaning as in subsection 1017D(1) of the Act.

present value of a calculation or estimate of an amount payable or accruing to a person at a future time is the amount worked out using the following formula:

- (a) where the amount is payable or accrues to the person before they reach the assumed retirement age:

$$\frac{C}{(1+r)^n}$$

where:

C is the estimate of the amount payable or accruing at the future time.

n is the number of years and part years between the present date and the future time that the amount is payable or accrues.

r is 0.04 or such other assumed rate (expressed as a decimal fraction) as is inputted by the person;

Note: The default number assumes an inflation rate of 4.0% per year (which reflects the long-term forecast of nominal wage growth in the Government's 2021 Intergenerational Report).

- (b) where the amount is payable or accrues to the person on or after they reach the assumed retirement age and the person has not yet reached that age:

$$\frac{C}{(1+r)^a (1+s)^b}$$

where:

C is the estimate of the amount payable or accruing at the future time.

a is the number of years and part years between the present date and the assumed retirement age.

b is the number of years and part years between the assumed retirement age and the future time that the amount is payable or accrues (zero if the amount is payable or accrues on the date of retirement).

r is 0.04 or such other assumed inflation rate (expressed as a decimal fraction) for the purpose of the period between the present date and the assumed retirement age as is inputted by the person.

Note: The default number assumes an inflation rate of 4.0% per year (which reflects the long-term forecast of nominal wage growth in the Government's 2021 Intergenerational Report).

s is 0.025 or such other assumed inflation rate (expressed as a decimal fraction) for the purpose of the period between the assumed retirement age and the future time that the amount is payable or accrues as is inputted by the person;

Note: The default number assumes an inflation rate of 2.5% per year (being the mid-point of the Reserve Bank of Australia's target range for consumer price inflation).

- (c) where the person has already reached the assumed retirement age:

$$\frac{C}{(1+s)^b}$$

where:

C is the estimate of the amount payable or accruing at the future time.

b is the number of years and part years between the present date and the future time that the amount is payable or accrues.

s is 0.025 or such other value inputted by the person.

Note: The default number assumes an inflation rate of 2.5% per year (being the mid-point of the Reserve Bank of Australia's target range for consumer price inflation).

preservation age has the same meaning as in regulation 6.01 of the *Superannuation Industry (Supervision) Regulations 1994*.

retirement estimate in relation to a member of a superannuation entity:

- (a) means an estimate by the trustee of the following amounts, worked out using any relevant statutory assumptions and the member data and specified as amounts in dollars rounded to the nearest three significant figures:
- (i) an amount (the **estimated lump sum amount**) representing
 - (A) if the member does not have a superannuation product that is in the retirement phase—the present value of the estimated balance of the member's account with the superannuation entity when the member is at the assumed retirement age; or
 - (B) if the member has a superannuation product that is in the retirement phase—their current balance;
 - (ii) either:
 - (A) an amount representing the present value of the estimated average annual income payment the member

will get if the drawdown assumptions are applied in relation to the estimated lump sum amount; or

- (B) amounts representing the present value of each estimated annual income payment the member will get if the drawdown assumptions are applied in relation to the estimated lump sum amount; and

Note: A retirement estimate may include an age pension amount: subsection 6(3).

- (b) in the case of a retirement estimate that is an interactive retirement estimate, may include a numerical confidence level or interval relating to the estimate.

retirement phase has the same meaning as in section 995-1 of the *Income Tax Assessment Act 1997*.

statutory assumption means an assumption that reflects a rate or amount fixed by legislation.

Note: Statutory assumptions include a rate of taxation, the minimum drawdown rules for payments of superannuation pensions and the rate of compulsory superannuation contributions.

superannuation calculator means a facility, device, table or other thing provided by a person (the **provider**) that works out a numerical calculation or finds out the result of a numerical calculation relating to a superannuation product, but does not use information the provider knows about a user unless the information has been inputted by the user.

Note 1: The facility, device, table or other thing will not be a superannuation calculator to the extent that its output goes beyond the numerical result of a calculation and a description of what that result is. For example, an electronic facility will not be a superannuation calculator to the extent that it makes a recommendation about a particular financial product.

Note 2: A superannuation calculator may relate to something else (whether or not a financial product) in addition to relating to a superannuation product (e.g. a superannuation calculator may also relate to the age pension).

superannuation entity has the same meaning as in section 761A of the Act.

superannuation product has the same meaning as in section 761A of the Act.

total administration fees means, in relation to a retirement estimate for a member of a superannuation entity, the amount of administration fees payable in relation to the member's account with the superannuation entity.

transition to retirement income stream has the same meaning as in regulation 6.01(2) of the *Superannuation Industry (Supervision) Regulations 1994*.

trustee means the trustee of a superannuation entity.

user means:

- (a) in relation to a superannuation calculator—a person who uses the calculator; and
- (b) in relation to a retirement estimate for a member of a superannuation entity—the member.

Part 2—Exemptions

5 Exemption for providers of superannuation calculators

Exemption

- (1) A person who provides financial product advice through, or through making available, a superannuation calculator does not have to comply with:
 - (a) the requirement in subsection 911A(1) of the Act to hold an Australian financial services licence covering the provision of that advice; and
 - (b) where the person is a financial services licensee—Divisions 2, 3 and 4 of Part 7.7 of the Act in relation to that advice.

Exclusion

- (2) The exemption in subsection (1) does not apply to a person if 30 days have elapsed since the person knew or was reckless with respect to whether there are reasonable grounds to believe that the person has failed, other than in an immaterial respect, to comply with a condition of this instrument without full particulars of the failure having been notified to ASIC (to the extent that the person knows those particulars or would have known them if they had undertaken reasonable enquiries).

6 Exemption for providers of retirement estimates

Exemption

- (1) A trustee of a superannuation entity who provides financial product advice in, or through making available, a retirement estimate to a member of the superannuation entity does not have to comply with:
 - (a) the requirement in subsection 911A(1) of the Act to hold an Australian financial services licence covering the provision of that advice; and
 - (b) where the trustee is a financial services licensee—Divisions 2, 3 and 4 of Part 7.7 of the Act in relation to that advice.

Where exemption applies

- (2) Subject to subsection (4), the exemption in subsection (1) applies to a trustee in relation to a member of the superannuation entity if:
 - (a) the member has been a member of the superannuation entity for the year ending on the date of the estimate; and

- (b) the member is not receiving a transition to retirement income stream in relation to the superannuation entity at the date of the estimate; and
- (c) in the case of a retirement estimate that is not an interactive retirement estimate—the superannuation product held by the member is not in the retirement phase at the date of the estimate; and
- (d) where the superannuation product held by the member is not in the retirement phase at the date of the estimate, a contribution has been made into the member’s account with the superannuation entity in the 16 months before the date of the estimate; and
- (e) the member has an account balance with the superannuation entity equal to or greater than \$6000 at the date of the estimate; and
- (f) the member does not hold a superannuation product that is a defined benefit interest in the superannuation entity.

Retirement estimate may include an age pension amount

- (3) A retirement estimate may include an amount (***age pension amount***) representing the amount (if any) that would be payable to the member as an age pension on an annual basis.

Exclusion

- (4) The exemption in subsection (1) does not apply to a trustee if 30 days have elapsed since the trustee knew or was reckless with respect to whether there are reasonable grounds to believe that the trustee has failed, other than in an immaterial respect, to comply with a condition of this instrument without full particulars of the failure having been notified to ASIC (to the extent that the trustee knows those particulars or would have known them if they had undertaken reasonable enquiries).

7 Conditions

- (1) A person who relies on an exemption in subsection 5(1) or 6(1) in relation to a superannuation calculator or retirement estimate must take reasonable steps to ensure the following:
 - (a) in the case of a superannuation calculator—the superannuation calculator must use the following assumptions:
 - (i) if the calculator uses a retirement age for the user—the assumed retirement age;
 - (ii) if the calculator uses a period over which a superannuation account of the user is drawn down—the assumed drawdown period or a drawdown period inputted by the user;

- (b) in the case of a superannuation calculator—the superannuation calculator does not advertise or promote a specific financial product;
- (c) in the case of a retirement estimate—the retirement estimate does not advertise or promote a specific financial product other than to the extent necessary to provide the retirement estimate;
- (d) if the superannuation calculator is an electronic facility or device, or the retirement estimate is an interactive retirement estimate, the facility or device, or interactive retirement estimate:
 - (i) enables the user to input or change any and all of the assumptions that are applied in working out the calculation or estimate relating to a financial product other than:
 - (A) in the case of an interactive retirement estimate—statutory assumptions and drawdown assumptions; and
 - (B) in the case of a superannuation calculator—statutory assumptions and assumptions about the manner in which the balance of the user’s superannuation account is drawn down (other than assumptions about the retirement age of the user or the length of the drawdown period); and

Note 1: If the calculator applies any assumptions about the retirement age of the user or the length of the drawdown period, the calculator must enable the user to input or change those assumptions.

Note 2: The calculator or interactive retirement estimate may allow the user to change the assumptions referred to in sub-subparagraphs (A) and (B) but is not required to.

- (ii) works out or enables the user to work out a calculation or estimate on the basis of the changed assumptions;
- (e) the assumptions applied by the superannuation calculator or retirement estimate, unless inputted or changed by the user, are reasonable for the purpose of working out the calculation or estimate;
- (f) the superannuation calculator or retirement estimate displays to the user in the ordinary course of its use or has printed on it all of the following:
 - (i) a clear and prominent statement about the purpose and limitations of the calculator or estimate;
 - (ii) a clear and prominent explanation of the impact of any significant limitation of the calculator or estimate;
 - (iii) a clear and prominent statement of the assumptions;

- (iv) a clear and prominent statement setting out the present value of the calculation or estimate and identifying that the amount is the present value of the calculation or estimate;
 - (v) a clear and prominent statement to the effect that the superannuation calculator or retirement estimate is not intended to be relied on for the purpose of making a decision in relation to a financial product and that users should consider obtaining advice from a financial services licensee before making any financial decisions;
 - (g) the superannuation calculator or retirement estimate displays to the user (including because of a step taken by the user) or has printed on it an explanation of why the assumptions (unless inputted or changed by the user) are reasonable for the purpose of working out the calculation or estimate;
 - (h) if the superannuation calculator is an electronic facility or device or the retirement estimate is an interactive retirement estimate—the calculator or estimate does not prevent the user from readily printing or electronically storing the calculation or estimate;
 - (i) the person keeps a functioning copy of the superannuation calculator or facility, device, table or other thing that is used to calculate the retirement estimate for 7 years from when the superannuation calculator or retirement estimate is last made available;
 - (j) in the case of a retirement estimate—the retirement estimate must:
 - (i) either:
 - (A) be included in or with a periodic statement given to the member; or
 - (B) be included on the member’s online portal; and
 - (ii) other than a numerical confidence level or interval relating to an interactive retirement estimate, not specify other amounts or figures representing or purporting to represent the member’s expected retirement benefit (however described).
- (2) A statement or explanation required under paragraph (1)(f) or (g) must contain as much detail as a retail client using the superannuation calculator or retirement estimate would reasonably expect to find having regard to the nature of the calculator or estimate.

Part 3—Repeal

8 Repeal

This instrument is repealed on 1 July 2027.