

EXPOSURE DRAFT

2022-2023

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES/THE SENATE

EXPOSURE DRAFT

Superannuation (Objective) Bill 2023

No. , 2023

(Treasury)

**A Bill for an Act relating to the objective of
superannuation, and for related purposes**

EXPOSURE DRAFT

EXPOSURE DRAFT

Contents

| | | |
|---|--|---|
| 1 | Short title..... | 1 |
| 2 | Commencement..... | 1 |
| 3 | Simplified outline of this Act | 2 |
| 4 | Definitions | 2 |
| 5 | The objective of superannuation..... | 3 |
| 6 | Statements of compatibility—Bills relating to superannuation..... | 4 |
| 7 | Statements of compatibility—regulations relating to superannuation..... | 5 |
| 8 | Act does not create enforceable rights or duties etc..... | 6 |
| 9 | Regulations..... | 6 |

EXPOSURE DRAFT

1 **A Bill for an Act relating to the objective of**
2 **superannuation, and for related purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act is the *Superannuation (Objective) Act 2023*.

6 **2 Commencement**

7 (1) Each provision of this Act specified in column 1 of the table
8 commences, or is taken to have commenced, in accordance with
9 column 2 of the table. Any other statement in column 2 has effect
10 according to its terms.

EXPOSURE DRAFT

EXPOSURE DRAFT

Section 3

1

Commencement information

Column 1

Column 2

Column 3

Provisions

Commencement

Date/Details

| | | |
|--------------------------|--|--|
| 1. The whole of this Act | The 28th day after this Act receives the Royal Assent. | |
|--------------------------|--|--|

2

Note: This table relates only to the provisions of this Act as originally enacted.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.

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(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.

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3 Simplified outline of this Act

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A statement of compatibility is required for Bills and regulations relating to superannuation, unless an exception applies.

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The statement of compatibility must include an assessment of whether the Bill is, or the regulations are, compatible with the objective of superannuation.

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14

4 Definitions

15

In this Act:

16

excepted matter means a matter that relates to any of the following:

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18

(a) a public sector superannuation scheme (within the meaning of the *Superannuation Industry (Supervision) Act 1993*) established by or under a law of the Commonwealth;

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(b) the Australian Defence Force Superannuation Scheme (within the meaning of the *Australian Defence Force Superannuation Act 2015*);

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(c) the superannuation scheme established under the *Military Superannuation and Benefits Act 1991*;

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2

Superannuation (Objective) Bill 2023

No. , 2023

EXPOSURE DRAFT

EXPOSURE DRAFT

- 1 (d) the retirement scheme constituted by the *Parliamentary*
2 *Contributory Superannuation Act 1948*;
- 3 (e) the parliamentary superannuation scheme established by the
4 *Parliamentary Superannuation Act 2004*;
- 5 (f) the scheme for the provision of retirement and other benefits
6 to and in respect of Judges under the *Judges' Pensions Act*
7 *1968*;
- 8 (g) a Commonwealth superannuation contribution (within the
9 meaning of the *Federal Circuit and Family Court of*
10 *Australia Act 2021*) payable to a Judge (within the meaning
11 of that Act);
- 12 (h) the allocation of a superannuation interest (within the
13 meaning of the *Family Law Act 1975*) between:
14 (i) the parties to a marriage; or
15 (ii) the parties to a de facto relationship;
16 whether the allocation is dealt with under that Act or any
17 other law of the Commonwealth.

18 ***objective of superannuation*** means the objective set out in
19 subsection 5(1).

20 ***rule-maker*** has the same meaning as in the *Legislation Act 2003*.

21 ***statement of compatibility*** has the meaning given by subsection
22 6(1) or 7(1).

23 5 The objective of superannuation

- 24 (1) The objective of superannuation is to preserve savings to deliver
25 income for a dignified retirement, alongside government support,
26 in an equitable and sustainable way.
- 27 (2) This section does not affect:
- 28 (a) the operation of any law of the Commonwealth (other than
29 this Act or regulations made under this Act); or
- 30 (b) the operation of the governing rules (within the meaning of
31 the *Superannuation Industry (Supervision) Act 1993*) of any
32 superannuation entity (within the meaning of that Act); or

EXPOSURE DRAFT

Section 6

- 1 (c) any power, duty, right or liability of the trustee (within the
2 meaning of that Act) of such an entity in its capacity as
3 trustee.

4 **6 Statements of compatibility—Bills relating to superannuation**

5 *Requirement for statement of compatibility*

- 6 (1) Subject to subsection (4), a member of Parliament who proposes to
7 introduce a Bill for an Act into a House of the Parliament must, if
8 the Bill relates to superannuation, cause a statement (a *statement of*
9 *compatibility*) to be prepared in respect of the Bill.
- 10 (2) Subject to subsection (4), a member of Parliament who introduces
11 a Bill for an Act into a House of the Parliament, or another member
12 acting on the first member's behalf, must, if the Bill relates to
13 superannuation, cause the statement of compatibility prepared
14 under subsection (1) to be presented to the House.

15 *Content of statement of compatibility*

- 16 (3) A statement of compatibility must include an assessment of
17 whether the Bill is compatible with the objective of
18 superannuation.

19 *Exceptions*

- 20 (4) This section does not apply in relation to a Bill to the extent that
21 the Bill:
22 (a) deals with a matter other than superannuation; or
23 (b) deals with a matter that:
24 (i) relates to superannuation; and
25 (ii) is of a minor or technical nature; or
26 (c) deals with an excepted matter; or
27 (d) amends or repeals, or relates to an amendment or repeal of,
28 an Act, or a provision of an Act, prescribed by regulations
29 made for the purposes of this paragraph.

1 **7 Statements of compatibility—regulations relating to**
2 **superannuation**

3 *Requirement for statement of compatibility*

- 4 (1) Subject to subsections (3) and (4), the rule-maker for regulations
5 made under an Act must, if the regulations relate to
6 superannuation, cause a statement (a *statement of compatibility*) to
7 be prepared in respect of the regulations.

8 Note: The statement of compatibility must be included in the explanatory
9 statement relating to the regulations (see section 15J of the *Legislation*
10 *Act 2003*).

11 *Content of statement of compatibility*

- 12 (2) A statement of compatibility must include an assessment of
13 whether the regulations are compatible with the objective of
14 superannuation.

15 *Exceptions*

- 16 (3) This section does not apply in relation to regulations to the extent
17 that the regulations:
18 (a) deal with a matter other than superannuation; or
19 (b) deal with a matter that:
20 (i) relates to superannuation; and
21 (ii) is of a minor or technical nature; or
22 (c) deal with an excepted matter; or
23 (d) amend or repeal, or relate to an amendment or repeal of,
24 regulations made:
25 (i) under an Act prescribed by regulations made for the
26 purposes of paragraph 6(4)(d); or
27 (ii) under or for the purposes of a provision prescribed by
28 regulations made for the purposes of that paragraph; or
29 (e) amend or repeal, or relate to an amendment or repeal of,
30 regulations, or a provision of regulations, prescribed by
31 regulations made for the purposes of this paragraph.

EXPOSURE DRAFT

Section 8

- 1 (4) This section does not apply in relation to regulations if the
2 rule-maker for the regulations is satisfied that:
3 (a) the regulations (the *new regulations*) are made because other
4 regulations have been, or will be, repealed by an Act (for
5 example, by section 50 of the *Legislation Act 2003*); and
6 (b) the new regulations do not involve a substantial change in
7 policy in the law relating to superannuation.

8 Note: Section 50 of the *Legislation Act 2003* deals with the sunseting of
9 legislative instruments.

8 Act does not create enforceable rights or duties etc.

- 11 (1) Nothing in this Act creates rights or duties that are enforceable in
12 judicial or other proceedings.
- 13 (2) A failure to comply with section 6 in relation to a Bill that becomes
14 an Act does not affect the validity, operation or enforcement of the
15 Act or any other provision of a law of the Commonwealth.
- 16 (3) A failure to comply with section 7 in relation to regulations does
17 not affect the validity, operation or enforcement of the regulations
18 or any other provision of a law of the Commonwealth.
- 19 (4) A statement of compatibility prepared under this Act is not binding
20 on any court or tribunal.

9 Regulations

- 22 The Governor-General may make regulations prescribing matters:
23 (a) required or permitted by this Act to be prescribed by the
24 regulations; or
25 (b) necessary or convenient to be prescribed for carrying out or
26 giving effect to this Act.