



Superannuation Industry (Supervision) Amendment Regulation 2012 (No.)¹

Select Legislative Instrument 2012 No.

I, QUENTIN BRYCE, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation under the *Superannuation Industry (Supervision) Act 1993*.

Dated 2012

Governor-General

By Her Excellency's Command

[CONSULTATION DRAFT – NOT FOR SIGNATURE]

Minister for Financial Services and Superannuation

CONSULTATION DRAFT

1 Name of regulation

This regulation is the *Superannuation Industry (Supervision) Amendment Regulation 2012 (No.)*.

2 Commencement

This regulation commences on 31 January 2013.

3 Amendment of *Superannuation Industry (Supervision) Regulations 1994*

Schedule 1 amends the *Superannuation Industry (Supervision) Regulations 1994*.

Schedule 1 Amendments

(section 3)

[1] Subregulation 1.03 (1)

insert

sign off, in relation to an audit (an *SMSF audit*) of a superannuation entity that is a self managed superannuation fund, means the action that occurs when an auditor gives a report of the kind mentioned in subsection 35C (1) of the Act to each trustee of the entity for subsection 35C (6) of the Act.

[2] Subregulation 1.03 (1)

insert

registered company auditor has the same meaning as in section 9 of the *Corporations Act 2001*.

[3] Subregulation 1.04 (2)

substitute

Approved auditor

- (2) For the purposes of paragraph (b) of the definition of ***approved auditor*** in subsection 10 (1) of the Act, the following class of persons is specified, namely individuals each of whom is:
- (a) registered, or taken to be registered, as an auditor under Division 2 of Part 9.2 of the *Corporations Act 2001*; or
 - (b) the Auditor-General of the Commonwealth, a State or a Territory, or a delegate of the Auditor-General.

[4] After Part 9

insert

Part 9A Approved SMSF auditors

9A.01 Qualifications

- (1) For subparagraph 128B (1) (a) (i) of the Act, each of the following subregulations sets out a qualification.
- (2) A degree, diploma or certificate in accounting of not less than 3 years, which includes a course in audit, from either of the following bodies (a ***relevant body***):
- (a) a university mentioned in Part 1 of the table in regulation 9.2.02 of the *Corporations Regulations 2001*;
 - (b) the institution mentioned in Part 2 of the table in regulation 9.2.02 of the *Corporations Regulations 2001*.
- (3) Both:
- (a) a degree, diploma or certificate in accounting of not less than 3 years, which does not include a course in audit, from a relevant body; and
 - (b) satisfactory completion of a course in audit mentioned in regulation 9.2.03 of the *Corporations Regulations 2001*.

-
- (4) A qualification or combination of qualifications which the Regulator regards as equivalent to the degree, diploma or certificate mentioned in subsection (2).

9A.02 Practical experience

For subparagraph 128B (1) (a) (ii) of the Act, each of the following is practical experience:

- (a) at least 300 hours of work auditing one or more self managed superannuation funds under the direction of an approved SMSF auditor in the 3 years immediately before applying to be an approved SMSF auditor;
- (b) practical experience that the Regulator regards as equivalent to the practical experience mentioned in paragraph (a).

9A.03 Continuing professional development requirements

- (1) For paragraph 128F (a) of the Act, the requirements in this regulation form the continuing professional development requirement.
- (2) The approved SMSF auditor must undertake at least 120 hours of continuing professional development training every 3 years.
- (3) The training must:
 - (a) include 30 hours of training about superannuation at least 8 hours of which is training about auditing of self managed superannuation funds; and
 - (b) be training that could reasonably be expected to enhance an approved SMSF auditor's technical skills or professional service delivery.
- (4) The approved SMSF auditor must keep a written record of the training undertaken by the approved SMSF auditor for at least 3 years after the end of the calendar year in which the training occurred.

9A.04 Professional indemnity requirements

- (1) For paragraph 128F (b) of the Act, each of the following subregulations sets out a level of professional indemnity insurance.
- (2) The level that is set under a limitation of liability scheme provided by a professional organisation mentioned in Schedule 1AAA.
- (3) The level that:
 - (a) is adequate to ensure that the amount of coverage in relation to a single claim or in aggregate is at least \$500,000; and
 - (b) in the opinion of the Regulator is adequate because other terms of the policy will indemnify the auditor against civil liability that may arise from an act, error or omission in connection with audits of self managed superannuation funds.

9A.05 Auditor independence requirements

For paragraph 128F (d) of the Act, the auditor independence requirements produced by the Accounting Professional and Ethical Standards Board Limited and set out in the APES 110 Code of Ethics for Professional Accountants issued in December 2010 are prescribed for all approved SMSF auditors.

Note At the commencement of this regulation, a copy of the APES 110 Code of Ethics for Professional Accountants was available at <http://apesb.org.au>.

9A.06 When fees must be paid

For subsection 128L (3) of the Act, the table sets out when fees imposed under the *Superannuation Auditor Registration Imposition Act 2012* are due and payable.

Item	A fee payable for...	is due and payable...
1	applying for registration as an approved SMSF auditor	when the application is submitted

Item	A fee payable for...	is due and payable...
2	undertaking a competency examination in accordance with section 128C of the Act	when applying to sit the examination
3	giving to the Regulator a statement under section 128G of the Act	when the statement is submitted
4	giving to the Regulator a statement under section 128G of the Act within 1 month after it fell due (in addition to the fee payable because of item 3)	when the statement is submitted
5	giving to the Regulator a statement under section 128G of the Act more than 1 month after it fell due (in addition to the fee payable because of item 3)	when the statement is submitted
6	giving to the Regulator particulars under section 128H of the Act within 1 month after they fell due	when the particulars are submitted
7	giving to the Regulator particulars under section 128H of the Act more than 1 month after they fell due	when the particulars are submitted
8	inspecting or searching a register that the Regulator keeps under Division 1A of the Act	when the request is made

[5] After Part 13

insert

Part 14 Transitional arrangements

Division 14.1 Transitional arrangements arising out of *Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012*

14.01 Applications as approved SMSF auditor before 1 July 2013

For item 71 of the *Superannuation Laws Amendment (Capital Gains Tax Relief and Other Efficiency Measures) Act 2012*, the table sets out the prescribed circumstances.

Item	Prescribed circumstance	Requirement of paragraph 128B (1) (a) taken to have been met
1	An approved auditor has signed off on an SMSF audit in the 12 months immediately before applying for registration as an approved SMSF auditor under section 128A of the Act	subparagraph 128B (1) (a) (ii)
2	An approved auditor has signed off on at least 20 SMSF audits in the 12 months immediately before applying for registration as an approved SMSF auditor under section 128A of the Act	subparagraph 128B (1) (a) (iii)
3	An approved auditor is a registered company auditor before 1 July 2013	subparagraphs 128B (1) (a) (ii) and (iii)

[6] Schedule 1AAA, table, item 3

omit

National Institute of Accountants

insert

Institute of Public Accountants

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.comlaw.gov.au.