

EXPOSURE-DRAFT

1 Inserts for
2 **Superannuation Legislation Amendment**
3 **(Stronger Super and Other Measures**
4 **Bill) (No. 2) Bill 2012: giving information**
5 **about superannuation contributions**
6

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Commencement information

Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1.		
2. Schedule ??	The day this Act receives the Royal Assent.	
3.		

Schedule ??—Giving information about superannuation contributions

Superannuation Industry (Supervision) Act 1993

1 Subsection 3(1)

Before “object”, insert “main”.

2 At the end of subsection 6(1) (before the note)

Add:

; and (h) the Fair Work Ombudsman has the general administration of Part 29B.

3 Subsection 10(1)

Insert:

Fair Work Inspector has the same meaning as in the *Fair Work Act 2009*.

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4 Subsection 10(1)

Insert:

industrial instrument has the same meaning as in the *Income Tax Assessment Act 1997*.

5 Subsection 10(1)

Insert:

salary or wages has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

6 Subsection 64(4)

Repeal the subsection.

7 After Part 29A

Insert:

Part 29B—Employers to give information about superannuation contributions

336J Object of this Part

The object of this Part is to require employers to regularly give information about the superannuation contributions they have made or will make for the benefit of their employees.

336JA Requirement to give information

(1) This section applies if:

- (a) under an industrial instrument, an employer must give a pay slip to an employee; and
- (b) the employer can make a contribution for the benefit of the employee to a regulated superannuation fund or an RSA; and
- (c) the contribution relates to the salary or wages mentioned in the pay slip; and
- (d) the contribution is not in respect of a defined benefit interest (within the meaning of the regulations).

Note: For paragraph (a), an example of an industrial instrument is subsection 536(1) of the *Fair Work Act 2009*.

(2) The employer must ensure that:

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- 1 (a) the pay slip includes, or is accompanied by, any information
2 prescribed by the regulations about the contribution; and
3 (b) the information is set out as prescribed by the regulations.

4 Note: This section is a civil remedy provision under the *Fair Work Act 2009*
5 (see section 336JB of this Act and Part 4-1 of that Act).

- 6 (3) Without limiting paragraph (1)(b), the regulations may describe
7 when a contribution relates to salary or wages.

8 **336JB Requirement is a civil remedy provision under the Fair Work** 9 **Act**

10 The *Fair Work Act 2009* has effect as if item 1 of the following
11 table were an item of the table in subsection 539(2) of that Act:
12

Standing, jurisdiction and maximum penalty				
#	Column 1	Column 2	Column 3	Column 4
	Civil remedy provision	Persons	Courts	Maximum penalty
1	336JA of the <i>Superannuation Industry (Supervision) Act 1993</i>	(a) an employee; (b) an inspector	(a) the Federal Court; (b) the Federal Magistrates Court; (c) an eligible State or Territory court	30 penalty units

13 **336JC Geographical application of this Part**

14 Division 3 (about geographical application) of Part 1-3 of the *Fair*
15 *Work Act 2009* applies in relation to this Part in a corresponding
16 way to the way that Division applies in relation to section 536
17 (about pay slips) of that Act.

18 **336JD Compliance with the requirement**

- 19 (1) The Fair Work Ombudsman's functions include the following:
20 (a) promoting compliance with section 336JA;
21 (b) monitoring compliance with section 336JA;
22 (c) inquiring into, and investigating, any act or practice that may
23 be contrary to section 336JA;
24 (d) commencing proceedings in a court to enforce
25 section 336JA;

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- 1 (e) representing employees who are, or may become, a party to
2 proceedings in a court under the *Fair Work Act 2009*, if the
3 Fair Work Ombudsman considers that representing the
4 employees will promote compliance with section 336JA.
- 5 (2) A Fair Work Inspector may exercise compliance powers (within
6 the meaning of the *Fair Work Act 2009*) for the purpose of
7 determining whether section 336JA is being, or has been, complied
8 with.
- 9 (3) For the purposes of the *Fair Work Act 2009*, the purpose referred
10 to in subsection (2) is taken to be a compliance purpose.
- 11 (4) Parts 25, 26, 27 and 28 of this Act do not apply in relation to this
12 Part.

13 **336JE Disclosing information relating to this Part**

14 For information relating directly or indirectly to this Part that is
15 information to which section 718 of the *Fair Work Act 2009*
16 applies, subsections 718(3) and (4) of that Act apply with the
17 following modifications:
18

Modifications to be made

Item	For a reference in subsection 718(3) or (4) to ...	include a reference to ...
1	the Minister	the Minister administering the <i>Superannuation Industry (Supervision) Act 1993</i>
2	the Department	the Department administered by the Minister administering the <i>Superannuation Industry (Supervision) Act 1993</i>
3	this Act	Part 29B of the <i>Superannuation Industry (Supervision) Act 1993</i>

19 **336JF Alternative constitutional basis**

20 Without limiting its effect apart from this section, this Part also has
21 the effect it would have if its references to an employer were, by
22 express provision, confined to an employer that:

- 23 (a) is a corporation to which paragraph 51(xx) of the
24 Constitution applies; or
25 (b) is a national system employer (within the meaning of the
26 *Fair Work Act 2009*); or
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1 (c) has its registered office (within the meaning of the
2 *Corporations Act 2001*) or principal place of business (within
3 the meaning of that Act) located in a Territory.

4 **8 Application of amendments**

5 The amendments made by this Schedule apply in relation to salary or
6 wages paid on or after 1 July 2012.