# EXPLANATORY STATEMENT

## Issued by authority of the Minister for Revenue and Financial Services

*Superannuation (Self Managed Superannuation Funds) Taxation Act 1987*

*Superannuation (Self Managed Superannuation Funds) Taxation Regulations 2018*

Section 22 of the *Superannuation (Self Managed Superannuation Funds) Taxation Act 1987* (the Act) prescribes the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The purpose of the *Superannuation (Self Managed Superannuation Funds) Taxation Regulations 2018* (the Regulations) is to remake and improve the *Superannuation (Self Managed Superannuation Funds) Taxation Regulations 1999* and ensure their effect continues. The *Legislation Act 2003* provides that all legislative instruments, other than exempt instruments, are automatically repealed after 10 years or in accordance with the progressive timetable set out in section 50. The *Superannuation (Self Managed Superannuation Funds) Taxation Regulations 1999* was scheduled for automatic repeal on 1 April 2019.

The purpose of the *Superannuation (Self Managed Superannuation Funds) Taxation Regulations 1999* was to prescribe the timing for when the self managed super fund supervisory levy was due and payable. That purpose is achieved by the Regulations.

The Regulations apply from the 1 July 2018.

The Regulations remake and improve the *Superannuation (Self Managed Superannuation Funds) Taxation Regulations 1999* by repealing redundant provisions, simplifying the provisions and adopting current drafting practices, such as referring to ‘sections’ rather than ‘regulations’.

The proposed changes do not affect the substantive meaning or operation of the provisions.

Further details of the Regulations are set out in the Attachment.

The Act does not specify any conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003.*

The Regulations commence on 1 July 2018.

**ATTACHMENT**

**Details of the proposed *Superannuation (Self Managed Superannuation Funds) Taxation Regulations 2018***

This Attachment sets out further details of the *Superannuation (Self Managed Superannuation Funds) Taxation Regulations 2018*. All references are to the Regulations unless otherwise stated. References to a ‘corresponding provision’ are to the corresponding provision in the *Superannuation (Self Managed Superannuation Funds) Taxation Regulations 1999*, as identified by the Finding Table at page 6.

Changes of a minor or machinery nature, such as references to section rather than regulation in accordance with modern drafting practices, are generally not specifically identified in this Attachment. Where the Regulations make changes that require further explanation, these are identified and explained in this Attachment.

**Section 1 –** Specifies the name of the Regulations as Superannuation (Self Managed Superannuation Funds) Taxation Regulations 2018.

**Section 2** – provides the Regulations commence on 1 July 2018.

**Section 3** – provides that the Regulation are made under the Superannuation (Self Managed Superannuation Funds) Taxation Act 1987.

**Section 4** – provides that each instrument identified in a Schedule to the Regulations is amended or repealed in accordance with these Regulations.

**Section 5** – provides a definitions section listing the only defined term used in the Regulations. This replaces regulation 3 of the prior Regulations.

**Section 6** – specifies that the levy for an income year is due and payable on the day the entity is required to lodge their annual return for the preceding income year. In the first income year that the entity becomes liable for the levy – payment is due and payable on the day the entity is required to lodge their annual return for that income year. Consequently, an entity will be required to pay the levy for its first and second year on the day it is required to lodge its first annual return.

**Schedule 1** – repeals the Superannuation (Self Managed Superannuation Funds) Taxation Regulations 1999from 1 July 2018.

**Finding table**

As a result of some of the changes described above, it became necessary to renumber provisions of the proposed Regulations. This Explanatory Memorandum includes a finding table to assist in identifying which provision in the proposed Regulations corresponds to a provision in the old law that has been rewritten or consolidated, and vice versa.

References to the old law are to the *Superannuation (Self Managed Superannuation Funds) Taxation Regulations 1999.* References to the new law are to the *Superannuation (Self Managed Superannuation Funds) Taxation Regulations 2018*. Also, in the finding table, ‘no equivalent’means that this is a new provision that has no equivalent in the old law.

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| --- | --- |
| ***Old law*** | ***New law*** |
| *Superannuation (Self Managed Superannuation Funds) Taxation Regulations 1999* | *Superannuation (Self Managed Superannuation Funds) Taxation Regulations 2018* |
| 1 | 1 |
| 2 | 2 |
| 4 | 3 |
| No equivalent | 4 |
| 3 | 5 |
| 5 | 6 |
| 6 | No equivalent |
| No equivalent | Schedule 1 |