



# SUPERANNUATION INDUSTRY (SUPERVISION) ACT 1993

## PART 16 - ACTUARIES AND AUDITORS OF SUPERANNUATION ENTITIES

### Division 1A - Approved SMSF auditors

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#### History

Div 1A inserted by No 158 of 2012, s 3 and Sch 2 item 9, effective 31 January 2013. No 158 of 2012, s 3 and Sch 2 items 70-76 contain the following application provisions:

### Part 3 - Application and transitional provisions

#### Approved auditors of self managed superannuation funds

**70(1)** If, immediately before 31 January 2013, a person was an approved auditor of a self managed superannuation fund, the *Superannuation Industry (Supervision) Act 1993* as amended by this Schedule applies in relation to the person as if the person became an approved SMSF auditor on 31 January 2013.

**70(2)** Subitem (1) does not prevent the person applying, under section 128A of that Act as so amended, for registration as an approved SMSF auditor.

**70(3)** This item continues to apply to the person until:

(a) registration of the person as an approved SMSF auditor under section 128B of that Act as so amended takes effect; or

(b) the end of 30 June 2013;

whichever happens earlier.

**70(4)** While this item applies to the person, section 128J of that Act as so amended does not require particulars relating to the person to be entered in the Register of Approved SMSF Auditors.

#### Applications before 1 July 2013 for registration as an approved SMSF auditor

**71(1)** A person who, before 1 July 2013, applies for registration as an approved SMSF auditor is taken, in the circumstances prescribed by a regulation, to have met the one or more requirements of paragraph 128B(1)(a) of the *Superannuation Industry (Supervision) Act 1993*, as amended by this Schedule, prescribed by that regulation.

**71(2)** This item does not affect the operation of subsection 128B(2) of that Act as so amended.

#### Approved auditors of superannuation entities that are not self managed superannuation funds

**72(1)** The amendment made by item 5 of this Schedule does not affect the continuity of any regulations made for the purposes of the definition of **approved auditor** in subsection 10(1) of the *Superannuation Industry (Supervision) Act 1993* that are in force immediately before this item commences.

**72(2)** However, this item does not apply to the extent that those regulations apply to an auditor of a self managed superannuation fund.

**Auditors previously disqualified under section 131**

**73(1)** If:

(a) immediately before 31 January 2013, a person was a person in respect of whom an order (a **section 131 order**) is in force under section 131 of the *Superannuation Industry (Supervision) Act 1993*; and

**(b)** immediately before the order came into force, the person was an approved auditor within the meaning of that Act;

on and after that day, the person is taken, for the purposes of that Act as amended by this Schedule, to be a person for whom an order (a **section 130F order**) disqualifying a person from being an approved SMSF auditor is in force under section 130F.

**73(2) If:**

**(a)** before 31 January 2013, an application was made, as mentioned in subsection 131(6) of the *Superannuation Industry (Supervision) Act 1993*, for the revocation of the section 131 order; and

**(b)** a decision on the application was not made before that day;

on and after that day, an application is taken, for the purposes of that Act as amended by this Schedule, to have been made, as mentioned in subsection 130F(9) of that Act as so amended, for the revocation of the section 130F order.

**73(3) If:**

**(a)** before 31 January 2013, a request was made, under subsection 344(1) of the *Superannuation Industry (Supervision) Act 1993*, for reconsideration of a decision refusing to revoke the section 131 order; and

**(b)** a decision on the request was not made before that day;

on and after that day, a request is taken, for the purposes of that Act as amended by this Schedule, to have been made, under subsection 344(1) of that Act as so amended, for reconsideration of a decision refusing to revoke the section 130F order.

**73(4) If:**

**(a)** before 31 January 2013, an application was made, under subsection 344(8) of the *Superannuation Industry (Supervision) Act 1993*, for review of a decision under subsection 344(4) of that Act relating to the section 131 order; and

**(b)** a decision on the application was not made before that day;

on and after that day, an application is taken, for the purposes of that Act as amended by this Schedule, to have been made, under subsection 344(8) of that Act as so amended, for review of a corresponding decision relating to the section 130F order.

**74 If:**

**(a)** before 31 January 2013, the Commissioner of Taxation accepted an undertaking, under subsection 262A(1) of the *Superannuation Industry (Supervision) Act 1993*, given by an approved auditor; and

**(b)** the undertaking was still in force immediately before that day;

on and after that day, the undertaking is taken, for the purposes of that Act as amended by this Schedule, to have been accepted by ASIC under that subsection of that Act as so amended.

**Inspectors**

**75** If a person was an inspector immediately before 31 January 2013, the person's appointment as an inspector continues after that day as if it were an appointment for the purposes of the conduct of investigations, under Division 4 of Part 25 of the *Superannuation Industry (Supervision) Act 1993* as amended by this Schedule, in relation to:

- (a) the affairs of superannuation entities and approved SMSF auditors; and
  - (b) the conduct of audits of self managed superannuation funds.
- Regulations**  
76 The Governor-General may make regulations prescribing matters:

- (a) required or permitted by this Part to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.

### Subdivision A - Registration of approved SMSF auditors

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## SECTION 128A APPLICATION FOR REGISTRATION AS AN APPROVED SMSF AUDITOR

### 128A(1)

A natural person who is an Australian resident may apply to the Regulator for registration as an approved SMSF auditor.

### 128A(2)

The application must be in the approved form.

#### Note:

The approved form may require electronic lodgement of the application: see sections 11A and 11B.

### 128A(3)

The Regulator may request the applicant to give to the Regulator further information relating to the application within a specified time.

### 128A(4)

The applicant is taken to have withdrawn the application if he or she does not give the further information within that time.

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