



SUPERANNUATION INDUSTRY (SUPERVISION) ACT 1993

PART 16 - ACTUARIES AND AUDITORS OF SUPERANNUATION ENTITIES

Division 1A - Approved SMSF auditors

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Subdivision E - Miscellaneous

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SECTION 128P COMMISSIONER OF TAXATION MAY REFER MATTERS TO ASIC

128P(1)

If the Commissioner of Taxation is of the opinion that:

(a) an approved SMSF auditor is not a fit and proper person to be an approved SMSF auditor; or

(b) in relation to the conduct of an audit of a self managed superannuation fund - a person has contravened this Act or the regulations, or a person who conducted, or is conducting, the audit has failed to carry out or perform adequately and properly:

(i) the duties of an auditor under this Act or the regulations; or

(ii) any duties required by a law of the Commonwealth, a State or a Territory to be carried out or performed by an auditor; or

(iii) any functions that an auditor is entitled to perform in relation to this Act or the regulations or the *Financial Sector (Collection of Data) Act 2001*;

the Commissioner of Taxation may refer the details of the matter to ASIC.

128P(2)

The Commissioner of Taxation may exercise the power under subsection (1) in relation to an approved SMSF auditor whether or not an order disqualifying or suspending the approved SMSF auditor has been made under section 130F.

128P(3)

If, under subsection (1), the Commissioner of Taxation refers details of a matter to ASIC, the Commissioner of Taxation must, as soon as practicable but, in any event, not later than 14 days after the referral, by notice in writing given to the auditor or person concerned, inform the auditor or person:

(a) of the fact that a matter has been referred under subsection (1); and

(b) of the nature of the matter so referred.

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