



SUPERANNUATION INDUSTRY (SUPERVISION) ACT 1993

PART 16 - ACTUARIES AND AUDITORS OF SUPERANNUATION ENTITIES

Division 4 - Offences and failure to carry out duties etc.

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SECTION 131A THE REGULATOR MAY REFER MATTERS TO A PROFESSIONAL ASSOCIATION

131A(1)

If the Regulator is of the opinion that an RSE auditor or a superannuation actuary:

(a) has failed, whether within or outside Australia, to carry out or perform adequately and properly:

(i) the duties of an auditor or an actuary under this Act, the regulations or the prudential standards; 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 an actuary; or

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

(aa) has been or acted as the auditor or actuary of a registrable superannuation entity, knowing that he or she did not meet the relevant eligibility criteria set out in the prudential standards; or

(b) is otherwise not a fit and proper person to be an RSE auditor or a superannuation actuary for the purposes of this Act;

the Regulator may refer the details of the matter to the persons specified in subsection (2).

Note:

Persons to whom the Regulator refers the details of the matter are subject to secrecy obligations under section 56 of the *Australian Prudential Regulation Authority Act 1998* (if APRA is the Regulator) or Division 355 in Schedule 1 to the *Taxation Administration Act 1953* (if the Commissioner of Taxation is the Regulator). In particular, see paragraph (c) of the definition of **officer** in subsection (1), and subsections (2), (9) and (10), of section 56 of the *Australian Prudential Regulation Authority Act 1998* and sections 355-15 and 355-25 in Schedule 1 to the *Taxation Administration Act 1953*.

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131A(1A)

In deciding whether it is satisfied as mentioned in paragraph (1)(b) in relation to a person who is or has been an

RSE auditor or an RSE actuary, the Regulator may also take into account any criteria for fitness and propriety that are relevant to the auditor or actuary set out in the prudential standards.

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131A(2)

The persons specified in relation to an RSE auditor or a superannuation actuary for the purposes of subsection (1) are those members of the auditor's or actuary's professional association whom the Regulator believes will be involved:

(a) in deciding whether the professional association should take any disciplinary or other action against the auditor or actuary in respect of the matter referred; or

(b) in taking that action.

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131A(3)

In relation to an RSE auditor or a superannuation actuary, the power of the Regulator under subsection (1) may be exercised whether or not an order disqualifying the auditor or actuary has been made under section 130D or 131.

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131A(4)

If, under this section, the Regulator refers details of a matter involving an RSE auditor or a superannuation actuary, the Regulator must, as soon as practicable but, in any event, not later than 7 days after the referral, by notice in writing given to the auditor or actuary, inform the auditor or actuary:

(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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