![Institute of Actuaries of Australia logo]

Information Note: Superannuation Guarantee Legislation – Earnings Base Change from 1 July 2008

January 2008

Purpose

The purpose of this Information Note is to inform members of consultation between the Institute and the Treasury in regard to the implementation for defined benefit funds of Ordinary Time Earnings (OTE) as the universal Superannuation Guarantee (SG) earnings base from 1 July 2008.

Background

The SG legislation was introduced in 1992 and requires employers to provide at least a minimum level of superannuation for employees.

The default earnings base has been OTE since the commencement of the SG regime, but, subject to certain conditions, employers who had established a superannuation earnings base other than OTE prior to 21 August 1991 have been able to use the 'grandfathered' earnings base for SG purposes.

For employees in accumulation funds, employers can meet the SG requirements by making contributions of at least the legislated minimum. However, for employees in defined benefit funds, employers must obtain an actuarial certification in the form of a "Benefit Certificate" to the effect that the minimum benefits accrued each year are worth at least 9% of the relevant earnings base (if the full SG rate of 9% is to be met via the defined benefits).

The Superannuation Guarantee Administration Act 1992 was amended in 2004 to remove the ability to use earnings bases other than OTE with effect from 1 July 2008.

However, the necessary consequential amendments have not yet been made to the associated regulations which deal with the preparation of benefit certificates for defined benefit funds

Consultation

Earlier this year, the Institute was asked to participate in confidential discussions with the Australian Government Actuary on appropriate changes to the Superannuation Guarantee (Administration) Regulations 1993 (the Regulations) to implement the intended requirement that benefit certificates measure SG support against OTE in all cases for periods commencing on or after 1 July 2008.

The Treasury has now agreed that the Institute can make members aware of this consultation, which is at an advanced stage.

The most significant changes are expected to be to Regulation 6, which sets out formulae for determining the SG support for a specified defined benefit design. It is worth noting that the defined benefit design specified in Regulation 6 as it currently stands is unlikely to precisely match the design of any particular defined benefit fund and this is expected to remain the case following the OTE amendments . However Regulation 6 does serve to provide a legislated standard on which Institute guidance as to the SG value of defined benefits can be based.

Work is also proceeding on preparation of updated guidance to members on the preparation of Benefit Certificates using OTE as the earnings base. The SEBPC anticipates that the guidance will provide suitable flexibility for SG on OTE to be met via various minimum requisite benefit designs, including, for example:

- A combination of a 9% of Superannuation Salary defined benefit and a 9% of (OTE Less Superannuation Salary) accumulation benefit

- Defined benefits based on OTE averaged over a period ending on the date of termination of employment*

- Defined benefits based on OTE averaged over a period ending on the fund's annual review date prior to termination of employment*

- Maintenance of the pre-1 July 2008 notional earnings base definition for the indexation of minimum requisite benefits accrued prior to 1 July 2008.

*It is not expected that average OTE determined in this manner could generally be used to determine contributions on OTE for accumulation-style minimum requisite benefits.

Member Meeting

The SEBPC will consider holding a meeting for practitioners to discuss the new requirements following the availability of the amended regulations.

Feedback

Any comments or feedback on this Information Note should be sent to Paul Shallue paul.shallue@mercer.com.au