

Income Tax Rates Amendment (Unlawful Payments from Regulated Superannuation Funds) Bill 2012

Introduced into the House of Representatives on 29 November 2012

Portfolio: Treasury

This bill was introduced with the Superannuation Legislation Amendment (Reducing Illegal Early Release and Other Measures) Bill 2012 (discussed below), and amends the *Income Tax Rates Act 1986* to impose a rate of tax of 45 per cent on superannuation benefits that are illegally released.

Compatibility with human rights

1.1 This bill is one of a number of bills which gives effect to the Government's *Stronger Super* package. An explanatory memorandum dealing both with this bill and the Superannuation Legislation Amendment (Reducing Illegal Early Release and Other Measures) Bill 2012 was presented to the Parliament. The explanatory memorandum included separate statements of compatibility relating to the two bills.

1.2 The aspect of this bill which gives rise to human rights concerns is the provision permitting the imposition of the higher superannuation fund non-complying tax rate of 45 per cent on benefits released illegally.

1.3 The statement of compatibility describes the effect of the bill as amending 'the Income Tax Rates Act 1986 to impose a rate of taxation of 45 per cent on superannuation benefits that are received in breach of legislative requirements' and states that the bill 'does not engage any of the applicable rights or freedoms'.¹

1.4 These changes may involve a higher rate of tax on the proceeds of superannuation than a person would otherwise have paid if the applicable marginal rate was less than 45%. The rate is the superannuation non-complying tax rate, and its imposition is justified in order to deter persons from illegally accessing their superannuation.

1.5 The committee considers that this bill does not appear to give rise to any significant human rights concerns.

1 Statement of compatibility, paras 4.17- 4.18.