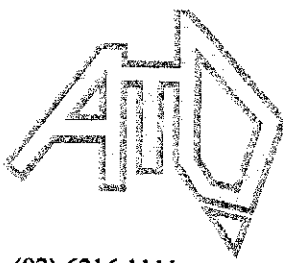


**Senate Select Committee on  
Superannuation and Financial Services**

**Main Inquiry  
Reference (c)**

**Submission No. 7**

**Submittor:** Mr Leo Bator  
Deputy Commissioner of Taxation  
Australian Taxation Office  
PO BOX 990  
CIVIC SQUARE ACT 2608  
 - (02) 6216 1111



Commissioner of Taxation

Telephone: (02) 6216 1111

2 Constitution Ave Civic ACT 2601  
PO Box 990 Civic Square ACT 2608

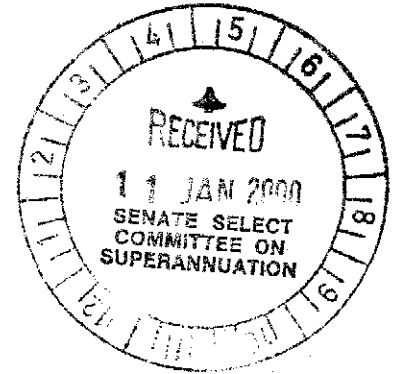
**Our Reference:** SUPERANNUATION

**Contact Officer:** David Diment **Phone:** (03) 9275 5022

**Your Reference:**

7 January 2000

The Secretary  
Senate Select Committee on  
Superannuation and Financial Services  
The Senate  
Parliament House  
CANBERRA ACT 2600



**AUSTRALIAN TAX OFFICE SUBMISSION ON ENFORCEMENT  
OF THE SUPERANNUATION GUARANTEE**

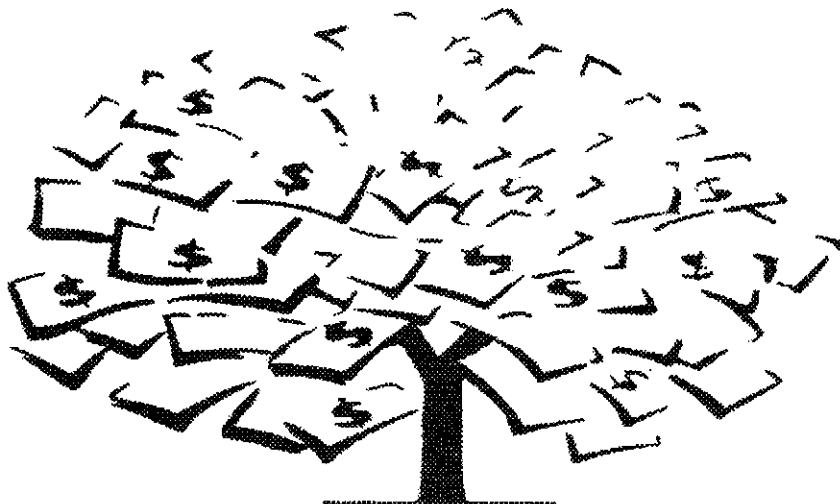
I refer to the Committee's review of the arrangements for enforcement of the Superannuation Guarantee and its request for submissions on this subject. I have pleasure in enclosing the Australian Tax Office's submission.

Leo Bator  
Deputy Commissioner of Taxation (Superannuation)

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## **SUPERANNUATION BUSINESS LINE**



**S U P E R**

**IT PAYS TO TAKE AN INTEREST**

**THE ATO's APPROACH TO SG  
COMPLIANCE**

## **Executive Summary**

The Australian Taxation Office (ATO) welcomes the opportunity presented by the Senate Select Committee on Superannuation and Financial Services to provide information on our administration of the *Superannuation Guarantee (Administration) Act 1992* (SG Act).

The ATO considers that its existing and planned approaches to SG compliance will enable the ATO to maximise the compliance of employers through intelligence and analysis, and targeted compliance projects including a range of activities from education and service oriented measures to reminders and audits. The outcome sought is an increase in the compulsory superannuation coverage for all employees.

The following points are addressed in the submission:

- The ATO's compliance approach for SG predominantly revolves around two elements:
  - the SG Compliance Research Survey; and
  - the ongoing SG Compliance strategy.
- Results from the annual SG Compliance Research Survey completed in 1999 indicate that 71% of capital city businesses and 70% of regional business were fully complying with their SG obligations. Of the remaining 29% of capital city businesses and 30% of regional businesses, a substantial proportion received a low degree and magnitude score of non-compliance, indicating only minor non-compliance. Less than 1% of both the capital city and regional businesses were found to be fully non-compliant.
- The ATO's SG Compliance strategy includes the maintenance of an SG database, identifying SG compliance projects from the database, actioning notifications from employees, and utilising the ATO Burnie outbound call centre.
- The Australian National Audit Office (ANAO) recently performed an appraisal of the ATO's administration of SG. The results published in the report positively stated that the ATO's administration of SG is sound.
- More generally, the amount of contributions entering the Superannuation System, provides further endorsement of the health of the system and the ATO's compliance approach for SG.

## **Background**

The three pillars of the Government's retirement incomes policy are:

- An age pension paid from current revenue;
- Voluntary savings, including superannuation; and
- Compulsory saving through mandatory superannuation contributions by employers on behalf of their employees.

The SG represents the third pillar identified as part of this policy. The SG Act, which came into effect on 1 July 1992, was introduced to reduce reliance on the age pension as a means for funding retirement for individuals.

The ATO has responsibility for the administration of the SG Act which requires employers to make superannuation contributions for their employees. This responsibility is administered within the ATO by the Superannuation Business Line. The ATO's administration of this Act is predominantly concerned with ensuring employers comply with their compulsory superannuation obligations which currently ensure that every employer provides 7% of an employees earnings base as a superannuation contribution.

The strategies adopted by the ATO in its compliance approach for SG largely revolve around the SG Compliance Research Survey and the SG Compliance Strategy. This compliance strategy broadly includes SG compliance projects, employee notifications of insufficient employer contributions, and the use of the ATO Burnie outbound call centre. A recent performance appraisal by the Australian National Audit Office (ANAO) analysed the ATO's administration of SG and paid particular attention to these strategies. Each of these strategies will be addressed in more detail.

## **SG Compliance Research Survey**

### **Methodology:**

The SG Compliance Research Survey (referred to as SG CRS) is a tool used by the ATO to test SG compliance levels. The first of the surveys were completed in 1994 and 1996. A new response mechanism was adopted for the 1998 survey (SG CRS 98) in order to minimise and streamline the process for businesses. This methodology was continued for the recently completed 1999 survey (SG CRS 99).

During SG CRS 99, those businesses selected in the sample were given the option of responding via a hard copy and/or via an electronic response mechanism. The survey packs were mailed to the 4,831 selected businesses in July who were given one month to return the completed form.

The businesses included in the Australian Bureau of Statistics selected sample were split into three separate categories; capital city samples, regional samples, and new business samples.

The capital city sample comprised of 2,815 businesses with annual payrolls of \$35,000 - \$50,000,000. The sample was stratified by region (6 capital cities) and 'size of business' (by payroll). The regional sample comprised of 1,631 businesses with annual payrolls of \$35,000 - \$3,500,000. Sample strata were region (5 regional areas) and 'size of business' (by payroll). The new business sample comprised of 385 businesses that had commenced operating in Melbourne and Sydney in the last twelve to eighteen months.

## **Main Results:**

The results below display a comparison between the SG CRS 99 and SG CRS 98 surveys. These results are able to be compared as the same methodology was used for both surveys. The only addition made to SG CRS 99 was the new business sample, and as such no comparisons can be drawn on this sample.

### **Capital City Businesses:**

- 71% were assessed as being fully compliant (also 71% in 1998);
- 28% were assessed as partially non-compliant (down from 29% in 1998);
- 20 businesses out of the sample of 2,815 were assessed as fully non-compliant (ie made no contributions for any non-exempt employees).

### **Regional Businesses:**

- 70% were assessed as being fully compliant (up from 59% in 1998);
- 29% were assessed as partially non-compliant (down from 41% in 1998);
- 12 businesses out of the sample of 1,631 were assessed as fully non-compliant.

(Note: Only one regional area was included in both the 1998 and 1999 survey.)

### **New Businesses:**

- 83% were assessed as being fully compliant;
- 14% were assessed as partially non-compliant;
- 8 new businesses out of the sample of 385 were assessed as fully non-compliant.

## **Findings/Commentary:**

- Full compliance rates among capital city businesses remained at the high level of 71% (71% in 1998), while the full compliance rates for the regional sample increased to 70% (from 59% in 1998). There was also a high level of full compliance among new businesses (83%) indicating that Superannuation Guarantee is routinely adopted when establishing a new business.
- Less than 1% of businesses in the capital city and regional samples were assessed as being fully non-compliant. In the majority of instances, the businesses identified as being fully non-compliant were those with relatively few employees.
- In all samples, a substantial proportion of partially non-compliant businesses received a low degree/magnitude score of non-compliance, indicating only minor non-compliance. From those employees who did not receive the full amount (7% of superannuation, 12% received 6-6.5%, and 42% received 6.5-7%. This highlights that 54% of employees who were not fully supported, received within 1% of the required rate. This indicates that these employers are aware of and providing superannuation support for their employees but are incorrectly calculating the extent of their legislative obligations. A general acceptance of the need for employers to provide superannuation can be inferred from this result.

(Please refer to Attachment A for more information on the "SG Compliance Task")

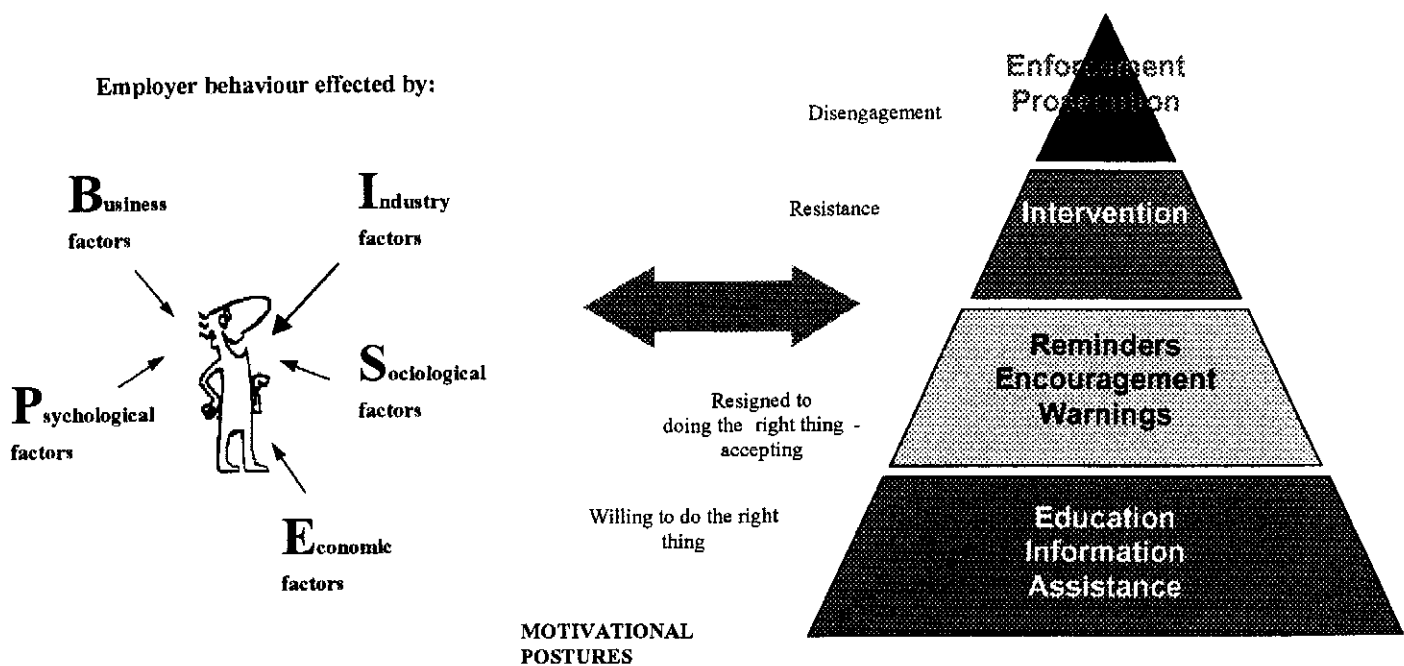
# SG Compliance Strategy

## Overview

In addition to the annual SG CRS carried out by the ATO, an extensive ongoing strategy has been developed by the ATO in ensuring compliance with the SG Act.

As a whole, the ATO has adopted a 'Compliance Model' to guide its approach to compliance generally. This model is based on a view that compliance is more than simply audit activity, that compliance activities include information and service provision, education and reminder strategies as well as more traditional audit and prosecution work. The SG Compliance strategy follows the ATO Compliance Model in this respect by addressing non-compliance with a balanced compliance program. It also involves leveraged activities to maximise the effective use of resources. In addition, the Compliance Model targets its activities dependant upon the behaviours displayed by the employer population. (See Figure 1)

Figure 1: ATO Compliance Model



Compliance activity for compulsory superannuation is guided by compliance risk analysis of employer and industry profiles. The information obtained from complaints by employees is recorded on a computer database (SG database) along with other risk indicators of non-compliance: anonymous phone calls, referrals from other areas of the ATO, etc. Characteristics which are used as indicators of compliance risk include the industry, geographical location, compliance history (for SG and other areas of the ATO), type of employment (tenure), and business size.

## **SG Database & Projects**

The information contained on the SG database is analysed and target groups of employers are identified. Analysis includes identifying employers subject to multiple complaints, or repeated complaints over more than one year.

Projects are then selected from information contained on the SG database. Strategies undertaken during these projects may include a mixture of education, reminder, warning, or audit measures. There are currently over 40 SG Compliance projects which have either been finalised, are currently in progress, or have been recently initiated. Examples of these compliance projects include:

- Hairdressers
- Financial Risk Analysis
- Retailers
- New Business
- Multiple Complaints
- Previous Super Guarantee Debtors
- Regionals
- Cafes & Restaurants

(Please refer to Attachment B for a full list of projects)

By targeting 'groups' of employers (for example, by industry, location, PAYE payment record etc) rather than solely actioning employers on an individual basis, measures are undertaken to improve overall compliance in that 'risk profile'.

For each target 'group' identified from the analysis, the following compliance 'outcomes' will be pursued:

- Assisting employers who seek to voluntarily comply, to contribute at the correct rate for all their employees. This was identified as a significant area of non-compliance in the survey on compliance in 1998 and 1999, especially for large employers.
- Ensuring compliant employers remain compliant. Regular reminder strategies through notices and outbound calls are used to essentially maintain compliant behaviour.
- Ensuring new employers are informed of their obligations and are able to comply from commencement. Education through established communication channels in industry, employer associations or the superannuation funds themselves are being explored in a range of industries.
- Ensuring employees are aware of their entitlements. The education campaign undertaken by the ATO last year with the key message "Super – It pays to take an interest" is an example of a strategy to inform employees as a way of improving compliance by employers.
- Intervention through audit and prosecution action where the employer refuses to comply.



A combination of service, public education and audit skills are deployed to undertake these projects. As workloads permit, resources from our Super Helpline enquiry and correspondence service are also utilised.

The measures undertaken during SG compliance projects all follow the ATO Compliance Model. For example, a typical project will include strategies such as liaison with employer associations and industry funds, as well as reminder calls and where appropriate desk and field audit action. These approaches enable a more comprehensive coverage of the employer population than more traditional audit intensive programs.

## **Examples of Current projects**

### **Previous Super Guarantee Debtors**

This project was initiated to test the hypothesis that the majority of employers continue or commence to meet their SG obligations after an SG debt has been established in an earlier year. During this project 520 cases were selected from ATO records where previous SG debts of over \$5,000 existed.

Whilst the project is still in progress, it is estimated that in approximately 30% of cases a shortfall for SG exists for current year obligations. The total Superannuation Guarantee Charge raised from this project as at 9 November 1999 was over \$1 million. In addition, the project has led to over \$14 million in contributions being made to the funds of employees of the targeted employers.

### **Retail Industry**

This project's creation is an example of an industry that has been identified by analysis of the SG database. This analysis indicated that the retail industry was an above average risk to SG compliance. Within this project there are a number of activities that are carried out to improve the compliance levels. Desk audits are one strategy used to deal with the large number of employee notifications received in this industry. In addition, contact was initiated with the relevant industry superannuation fund and the Australian Retailers Association. Flyers were also issued to the major shopping centres nationally as an education strategy for employers and employees in this industry.

The project identified that small employers were the highest risk to SG compliance and this is being combined with further analysis of the SG database to initiate a new scoping project on specific segments within this industry.

## **Burnie Outbound Call Centre**

The ATO's Burnie Outbound call centre is being heavily utilised by the ATO in its SG Compliance strategy. From the outbound call centre, over 37,000 calls have been made to employers regarding SG compliance. These calls were made to those employers who were included in SG Compliance projects, employers in regional areas, new employers, and employers who were subject to employee notifications.

Participation in the outbound calls conducted from the centre are voluntary, however over 76% of employers contacted were willing to take part. Of these employers, the majority were found to be fully compliant, 25% were found to be partially compliant and less than 2% were found to be fully non-compliant. The results from the calls from the outbound call centre closely match the results from the more stringent SG CRS 99 survey.

The outbound calls can be used for a number of purposes including strategies such as survey, education, information, reminder and audit. The calls are also a valuable tool in risk assessing employers that are loaded on the SG database to determine the necessary follow up action to pursue.

### **Employee Notifications:**

Employee notification of insufficient employer contributions are a mechanism provided for employees to inform the ATO of their employers' possible non-compliance with their SG obligations. Each year, the ATO receives around 10,000 notifications from employees regarding SG non-compliance. These notifications are input into the ATO's SG database. All specific employee notifications loaded onto the SG database are actioned.

After making initial contact with the employer from the Burnie outbound call centre, the ATO uses risk assessment methods to allocate the most efficient strategy to deal with the notification received. Different types of follow up are determined depending on the risk assessment of the case.

Risk assessment is determined on the basis of:

- *High risk:* Employer confirms that superannuation contributions have not been made.
- *Low Risk:* Employer confirms that they have paid the required superannuation contributions.

Those employee notifications which are assessed as high risk from the initial contact are sent an SG statement which is to be returned to the ATO within four weeks. Follow up is then undertaken by the ATO to ensure the statement has been lodged. If the employer fails to return the statement, a default assessment is raised.

Those complaints assessed as low risk will have a letter sent to the notifier indicating the details of the superannuation fund where the contributions have been made.

## **External Placements**

The ATO currently has staff deployed in major organisations in the superannuation system. At present, there are members of the ATO working at the following institutions:

- Association of Superannuation Funds of Australia (ASFA);
- Australian Prudential Regulation Authority (APRA); and
- Job Watch (a community legal service).

The placement of these staff give the ATO the ability to promote employee awareness and to help understand the community's beliefs and thinking on SG issues.

## **Summary**

In summary, the ongoing strategy for SG compliance will enable the ATO to maximise the compliance of employers through intelligence and analysis, and targeted compliance projects including a range of activities from education and service oriented measures to reminders and audits. The outcome sought is an increase in the compulsory superannuation coverage for all employees.

## **ANAO Report**

The Australian National Audit Office (ANAO) completed a performance audit of the ATO's administration of SG recently. The report was tabled in Parliament in November 1999.

The objective of the performance audit was to review the ATO's administration of the SG Act and to identify relevant opportunities for improvement. The ANAO assessed the ATO's administration of SG using a risk management framework.

In the report, the ANAO concluded overall that the ATO's administration of SG is sound. In relation to the ATO's approach to SG compliance, the ANAO reviewed the effectiveness of the ATO's current audit strategies with particular emphasis on the SG compliance projects and the annual SG compliance survey.

Specifically for the SG compliance projects, the ANAO considered that the risk-based approach to audits being adopted by ATO is an effective use of resources and will lead to improvements in overall compliance levels. The ANAO positively endorsed the ATO's approach in this area.

In relation to the annual SG compliance survey, the ANAO supported this approach to measuring SG compliance levels. The ANAO provided support to the ATO's plans to ensure that the design of future surveys will enable trend comparisons of SG compliance.

In the report, the ANAO identified some potential areas where improvements are possible. They include:

- Ensuring that the Superannuation Business Line of the ATO reviews compliance analysis performed by other areas of the ATO, particularly the Small Business Line because SG employers are usually clients of both business lines, in its SG risk assessment processes.
- Coordinating audit activities between the Small Business and Superannuation areas of the ATO where the same clients are involved.
- Supplementing current high level SG performance indicators to provide a more complete picture of SG compliance.
- Investigating options for reducing the amount of manual processing necessary for SG forms.
- Exploring options that may be available to reduce the number and value of unredeemed vouchers.
- Taking steps to ensure that staff are using the correct reference material when providing definitions to employers and employees on who is an employee for SG purposes.
- Developing an effective prosecution strategy for SG.

Since the release of the ANAO report, a working party has been established between the Small Business and Superannuation lines of the ATO to ensure coordinated audit activities. The other areas identified are being analysed by the ATO in order to further improve the administration of SG.

## **Money in the SG System**

### **Employer & Member Contributions**

Source: APRA Bulletin (June 1999)

<b>Smillion</b>	<b>1998/99</b>	<b>1997/98</b>	<b>1996/97</b>	<b>1995/96</b>
<b>Employer Contributions</b>	31,214	20,936	19,083	19,103
<b>Member Contributions</b>	16,131	13,014	9,927	8,186
<b>TOTAL</b>	47,345	33,950	29,010	27,289

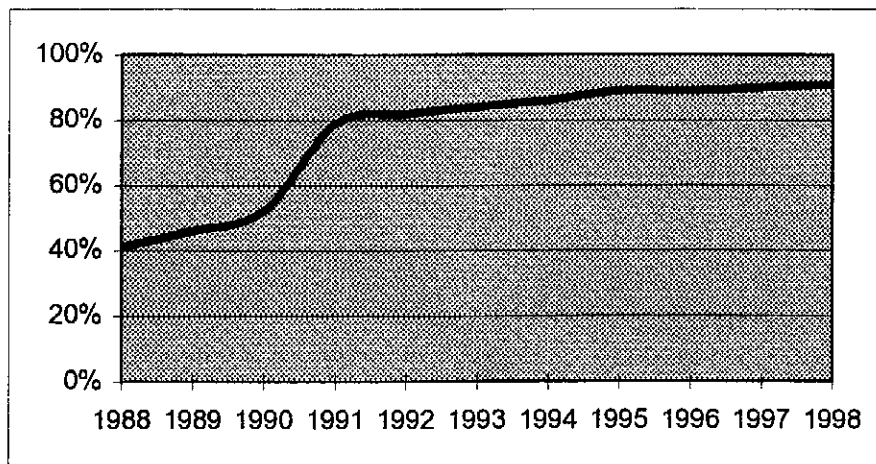
Whilst its not the single method with which we can measure our performance, a key indicator for the health of the SG system is the amount of money which has entered the superannuation system.

Statistics from the APRA bulletin (June 1999), indicate that Employer Contributions have risen by 49% to \$31.2 billion in the year to June 1999 compared to the previous period. Whilst taking into account that three public sector funds received \$8.4 billion in exceptional employer contributions, and the rise in the rate from 6% to 7% during this period, this is still a large increase on the previous period. In addition, Member Contributions have risen by 24% to \$16.1 billion in the year to June 1999.

### **Employee Superannuation Coverage**

In 1988, 41% of employees had superannuation. By 1991, after the introduction of compulsory award based superannuation, 79% of employees had superannuation. By 1998, six years after the introduction of SG, 91% of employees had superannuation coverage. (See Figure 2)

**Figure 2: Employee Superannuation Coverage**



## **Conclusion**

The ATO's approach to SG compliance is a wide ranging process that devotes its attention towards ensuring that employers comply with their compulsory superannuation obligations. This is achieved by a variety of methods which are all tailored towards ensuring that the Government's retirement income policy meets its objective of reducing the reliance on the age pension as a method for funding retirement for individuals.

The ATO would welcome the opportunity to appear before the Senate Select Committee on Superannuation and Financial Services to discuss these issues. We would also be pleased to demonstrate to the Committee on site particular areas of our compliance approach.

Leo Bator  
DEPUTY COMMISSIONER OF TAXATION

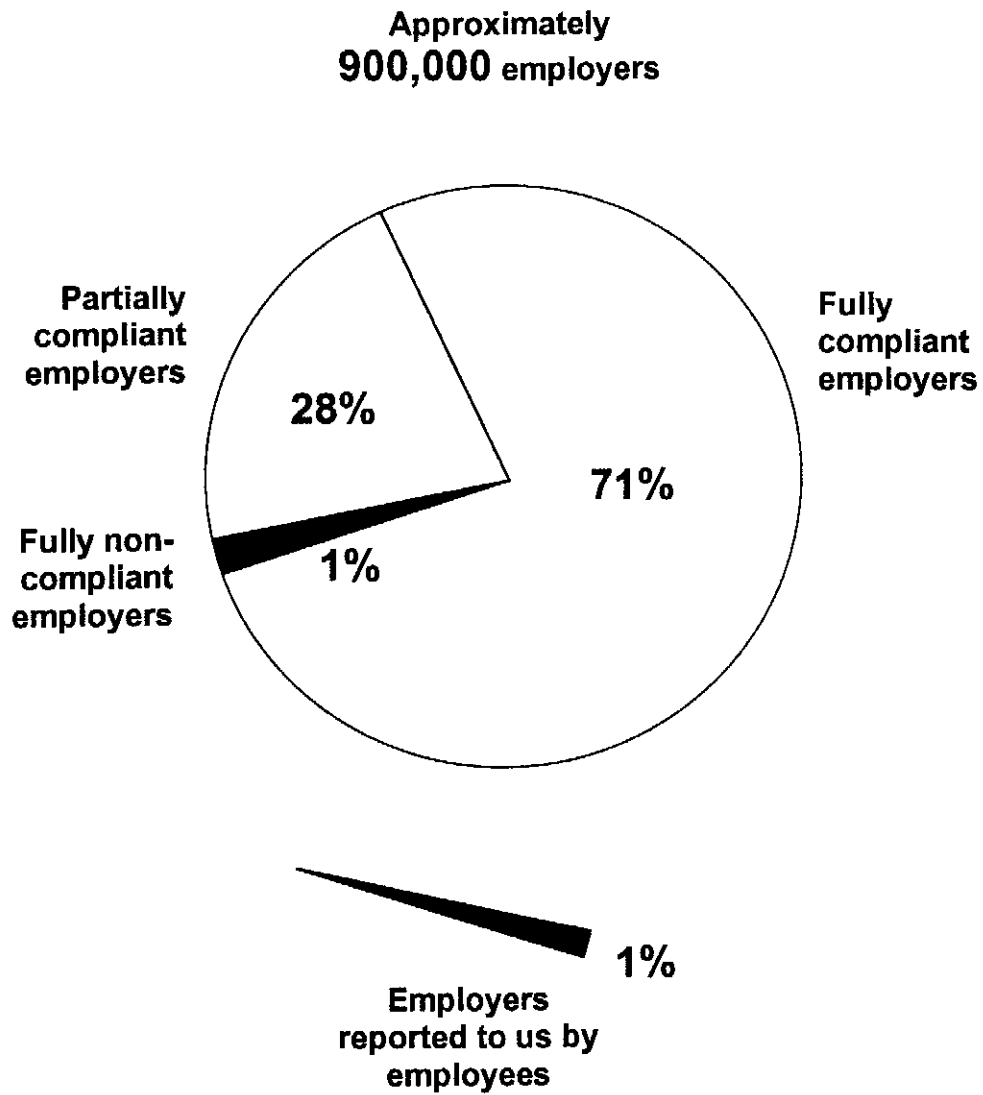
### Contact Officers:

David Diment (03) 9275 5022  
ASSISTANT COMMISSIONER  
SUPERANNUATION

Wade Britnell (03) 9275 5162  
STRATEGIC RESEARCH & COMPLIANCE  
SUPERANNUATION

# Attachment A

## The SG Compliance Task: CONTEXT



## **Attachment B**

### **SG Compliance Projects**

- Financial Risk Analysis
- Hairdressers and Beauty Salons
- Previous Super Guarantee Debtors
- Short Term Employees
- Retailers
- Large Employers
- Kalgoorlie, Coolgardie, Boulder
- Employment Agencies
- Hospitality – Hotels
- Hospitality – Restaurants
- Child Care Services
- Shopping Centre
- Cleaning Industry – National
- Office Workers – NSW
- NSW Regionals
- Financial Risk Analysis II
- Financial Risk Analysis III (NT)
- Cleaners (VIC)
- Office Workers (Legal & Others)
- Un-allocated Non-Project ENs
- Geographical Regions (including Cairns project)
- Manufacturing
- Voucher Finalisation
- Fruit & Vegetables
- Cafes & Restaurants
- Burnie Results Validation
- SG99 & FRA Non-Response
- New Business
- PLAWN Letter Strategy Review
- Surcharge Matching
- Multiple Complaints
- Security Industry - National
- Care/ Nursing Homes
- Small Group Employers
- Referrals
- Superannuation Validation Project
- SG 99 Follow-Up
- EN Database (General)
- Panel Beaters
- Queensland Regionals
- Retailers II
- BIZSTART Evaluation and Enhancement