

Legislation update table as 21 January 2021

Awaiting passage			
Bill	Description	Status	Proposed start date
Treasury Laws Amendment (2020 Measures No. 4) Bill 2020	The Bill amends the AFCA Act to assist in the closure of the SCT and to facilitate any transitional arrangements associated with the transfer of superannuation complaints to AFCA.	Before the House of Representatives.	Day of Royal Assent
Treasury Laws Amendment (Reuniting More Superannuation) Bill 2020	Amends the SIS Act, RSA Act and SUMLM Act, to facilitate the closure of eligible rollover funds by 30 June 2022 and allow the Commissioner to reunite amounts he or she receives from eligible rollover funds with a member's active account. In the 2020-21 Budget Treasury announced that the date by which ERFs are required to transfer accounts below \$6,000 to the ATO to 30 June 2021. The government also announced the transfer date of remaining accounts will be 31 January 2022. The Bill also permits trustees to transfer any account to the ATO where it is in the member's best interest.	Before the Senate	Cessation of transfers to ERF (1 May 2021) ERF transfer of accounts below \$6,000 to ATO (30 June 2021) ERF transfer of remaining accounts to ATO (31 January 2022)
Treasury Laws Amendment (More Flexible Superannuation) Bill 2020	The Bill partially implements the <i>improved flexibility for older Australians</i> measures announced in the 2019-2020 Budget. Specifically, the Bill extends the bring forward rule by enabling individuals aged 65 and 66 to make up to three years of non-concessional contributions under the bring forward rule.	Before the Senate	1 July 2020
Treasury Laws Amendment (Self Managed)	Will increase the maximum number of members that Self-managed superannuation funds	Before the Senate	Proposed that the law will take effect (start) from the first

Superannuation Funds) Bill 2020	(SMSF) and Small APRA funds (SAF) can have from four to six.		day of the quarter after it receives royal assent.
Security Legislation Amendment (Critical Infrastructure) Bill 2020	The draft bill includes an additional positive security obligation for critical infrastructure assets. This includes the requirement to develop a risk management program as well as mandatory cyber incident reporting.	Before the House of Representatives.	The day the Act receives Royal Assent.
Consultation			
Exposure draft	Description	Status	Proposed start date
Treasury Laws Amendment (Measures for a later sitting) Bill 2020: Best Financial Interests Duty	<p>Amends the SIS Act to introduce a best financial interests duty on trustees/directors</p> <p>Allows regulations to be made to prohibit certain payments or investments regardless of whether they are considered in the financial interests of beneficiaries</p> <p>Introduces a new strict liability offence around record keeping obligations</p> <p>Puts the evidential burden of proof for the best financial interests duty on the trustee</p>	Consultation closes 24 December	Day after royal assent
Treasury Laws Amendment (Measures for consultation) Bill 2020: Single default account	<p>Amends the SIS Act so that an employer can only meet choice of fund requirements for new employees by paying super contributions to a “stapled fund” where one exists</p> <p>Paying into a default fund no longer satisfies the choice of fund requirements where there is a stapled fund</p>	Consultation closes 24 December	1 July 2021

<p>Treasury Laws Amendment (Measures for a later sitting) Bill 2020: Addressing underperformance in superannuation</p>	<p>Amends the SIS Act to introduce an annual performance test for MySuper products only</p> <p>Leaves performance tests for choice products including Trustee Directed Products to be introduced by regulation</p> <p>Introduces a prohibition for funds accepting new beneficiaries when they fail the performance test</p> <p>Introduces requirements for funds to notify members of underperformance, though the detail of this is left to regulation</p> <p>Makes failing to comply with the notice requirements or prohibition on accepting new members a contravention of covenant</p> <p>Leaves the methodology and criteria for performance assessment to be determined by regulation – without including administration fees in this</p> <p>Allows regulations to be made that will prohibit funds creating new products to avoid being subject to a performance test</p>	<p>Consultation closes 24 December</p>	<p>1 July 2021 (MySuper)</p> <p>1 July 2022 (other products to be defined in regs)</p>
<p>Miscellaneous amendments to Treasury portfolio laws 2020</p>	<p>The amendments propose a change to the MySuper charging rules under section 29VA of the SIS Act for Lifecycle products, allowing different investment fees to be charged to each subclass of members that a fund is permitted to stream different gains and losses to. MySuper legislation currently limits the number of investment fee levels that funds can charge differing age cohorts of MySuper lifecycle members to four. This is because MySuper products were</p>	<p>Consultation expired 17 November.</p>	<p>After the day of Royal assent</p>

	<p>introduced under the principle of having simple and comparable fee structures. The proposed legislation also includes amendments that recognise that an account is not an 'inactive low balance account' if the member has elected to maintain insurance on that account.</p>		
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Passed			
Bill	Description	Status	Start date
Treasury Laws Amendment (2020 Measures No. 6) Bill 2020	<p>The Bill seeks to amend the sectoral assessment and rule making process under the Consumer Data Right regime. The Bill further empowers the Minister to make rules for designated sectors.</p> <p>The Bill amends section 23(12) of the <i>Superannuation Guarantee (Administration) Act 1992</i> to clarify that ordinary time earnings base is only reduced by an amount of excluded salary or wages if that amount has been included as part of the ordinary time earnings base.</p> <p>The Bill propose a change to the MySuper charging rules under section 29VA(9) of the SIS Act for Lifecycle products, allowing different investment fees to be charged to each subclass of members that a fund is permitted to stream different gains and losses to.</p>	Assent – 17 December 2020	Day after Royal Assent – 18 December 2020
Treasury Laws Amendment (2020 Measures No. 5) Bill 2020	The Bill will improve the operation of the Trans-Tasman retirement savings portability arrangement established between Australia and New Zealand by allowing the ATO to transfer the unclaimed super of New Zealand residents directly to KiwiSaver funds	Assent – 11 December 2020	<p>Schedule 1 and 2 – The day of Royal Assent – 11 December 2020</p> <p>Schedule 3 – 1 January 2021</p>
Financial sector reform (Hayne royal commission response) bill 2020 <i>Corporations (fees) amendment</i>	<p>Bill addresses a range of Royal Commission recommendations.</p> <p>Superannuation trustees and trustee directors cannot use trust assets to pay a criminal, civil or administrative penalty incurred in relation to a breach of Commonwealth law in circumstances where the breach</p>	Passed House of Representatives on 9 December 2020 Passed Senate with amendment on 10 December 2020.	Most reforms have a start date of 1 Jan 2021 but the amendment allows for a start of 1 Jan 2022 for section 56 reforms concerning trustee liabilities.

<i>(Hayne royal commission response) Bill 2020</i>	did not previously warrant disentitlement based on the principles in section 56.	Assent 17 December 2020	
<u>Family Law Amendment (Western Australia De Facto Superannuation Splitting and Bankruptcy) Bill 2020</u>	<p>Courts in Western Australia are required to assess other assets that may be split between the parties and make adjustments in favour of the party with less superannuation.'</p> <p>The law will also allow de facto couples with family law and bankruptcy proceedings to have both matters heard concurrently in a single court. Previously, they would have to be heard in two different courts</p>	<p>Passed both houses on 3 December 2020</p> <p>Assent 8 December 2020</p>	<p>A single day to be fixed by Proclamation. A Proclamation must not specify a day that occurs before the day section 4 of the <i>Commonwealth Powers (De Facto Relationships) Act 2006 (WA)</i> commences.</p>
<u>Payment Times Reporting Bill 2020</u>	<p>Requires businesses and government enterprises with an annual total income of over \$100 million to biannually report on their payment terms and practices for their small business suppliers.</p> <p>Super funds are covered by the definition of constitutionally covered entity (for example, a constitutional corporation, a foreign entity, a body corporate in a Territory, a corporate Commonwealth) and fit the criteria of a reporting entity (section 7 of the Bill).</p>	<p>Agreed in House of Representative 11 June 2020</p> <p>Passed by Senate on 3 Sept 2020 with amendments. Will return to House of Reps, expected to occur as part of the Budget sittings</p> <p>Passed both Houses 7 Oct 2020</p> <p>Assent 14 Oct 2020</p>	1 January 2021
<u>Treasury Laws Amendment (Your Superannuation, Your Choice) Bill 2019</u>	Amends the Superannuation Guarantee (Administration) Act 1992 to: provide that employees under workplace determinations or enterprise agreements made on or after 1 July 2018 have the right to choose their superannuation fund	<p>Passed both houses 25 Aug 2020 with amendments</p> <p>Assent – 3 Sept 2020</p>	1 January 2021

<p><u>Treasury Laws Amendment (2020 Measures No. 2) Bill 2020</u></p>	<p>There are Six Schedules to this Bill making amendments to a number of Acts. This includes the hybrid mismatch rules, broaden the amounts that employers can voluntarily report under the Single Touch Payroll rules, ensures that if employers choose to report under Single Touch Payroll to the Commissioner of Taxation, they do not also have to report the amounts to the Child Support Registrar & allows additional entities to be deductible gift recipients under income tax law, including Superannuation Consumers' Centre Ltd.</p>	<p>Passed both houses 25 Aug 2020</p> <p>Assent – 3 Sept 2020</p>	<p>Majority of amendments due to commence from 1 July 2020</p>
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