



SCHEDULE A: SUPERANNUATION GUARANTEE FOR INDIVIDUALS GUIDELINES

This Schedule is made pursuant to the Contractors and Consultants procedure.

Commonwealth legislation requires an employer to make superannuation contributions for their employees into a complying superannuation fund. The definition of 'employees' includes a person who works under a contract/agreement that is wholly or principally for their labour. The Superannuation Guarantee (SG) charge can therefore potentially apply when the University is entering into an engagement with a contractor. The following guidelines are in accordance with the legislation.

- 1 Payments to individual contractors are generally exempt from the SG when the contractor has the power to delegate the work under the agreement. **However for the exemption to apply the individual consultancy written agreement must reflect this.**
- 2 Where the University does not require a written agreement (e.g. where the value of the service is \$25,000 or less (excluding GST)) and:
 - 2.1 the University has no issue with the work being sub-contracted out, and
 - 2.2 an exemption from SG is not applicable (refer to Clauses 4.1 - 4.7),
 - 2.3 the contractor must provide to the University a signed statement on business letterhead that the contractor has the power to delegate the work under the agreement. The Contractor Officer must request and obtain this statement.
- 3 Payments to individual contractors are subject to the SG when **all** of the following apply (unless an exemption applies):
 - the individual is paid (either wholly or principally) for their personal labour and skills (principally means at least 50%, labour includes mental and artistic effort as well as physical work); **and**
 - the individual must perform the contractual work personally (there is no right of delegation); **and**
 - the individual is not paid to achieve a result (contractors are typically engaged to produce a result and so the SG will not apply where it is clear the individual is being paid to achieve a result).

The production of a given result is taken to mean where the individual is free to employ their own means (such as plant and equipment, third party labour) to achieve the contractually specified outcome. Satisfactory completion of the specified services is the 'result' for which the parties have agreed. The consideration is often a fixed sum on completion of the services. If remuneration is payable, it is only when the contractual conditions have been fulfilled and the remuneration is made for producing a given result.

- 4 Payments to individual contractors will be exempt from the SG if **any** of the following apply:
Contractor Officers must document and retain a record of the exemption.
 - 4.1 payments are to a part-time (i.e. not more than 30 hours per week) person under 18 years of age
 - 4.2 payments are to a person who is 70 years of age or over
 - 4.3 payments in total are less than \$450 in a particular month
 - 4.4 payments are to non-resident contractors who are paid for work undertaken outside Australia
 - 4.5 the agreement is with a partnership, company or trust
 - 4.6 the individual who is paid is not the individual who performs the work, or has the power to delegate the work under the agreement. For the exemption to apply the individual consultancy written agreement must reflect this (clause 1), or where there is no written agreement, a contractor statement must be obtained (clause 2); or

- 4.7 where **all** of the following apply:
- the individual is assessed as a contractor using the Contractor Checklist and Certification for Individuals; **and**
 - the payment is for a quoted price or fixed sum for an agreed or predetermined result; **and**
 - the individual provides their own equipment to perform their work (n/a where no equipment is required); **and**
 - the individual is responsible for fixing any problems, defects or damage they cause at their own cost.
- 5 Where payments are subject to SG, budget centres must provide a minimum level of superannuation support, which is 9.5% of the contractor's earnings base.
- 6 Contractor Officers must arrange contributions to a nominated contractor superannuation fund or retirement savings account (RSA), making sure all the following steps are taken:
- 6.1 The contribution (GST not applicable) for the SG is to be paid via accounts payable payment voucher (no tax invoice is required) against natural account 6191, based on the labour component (the earnings base).
- 6.2 Where the labour component is not detailed in an agreement, the University must use market values, taking into consideration the normal practices within the particular industry. Where the labour component cannot be ascertained, the superannuation contribution is to be based on the total value of the agreement.
- 6.3 Payment of the SG contribution is to be made on or after the invoice payment for contractor services, and no later than the relevant SG quarterly deadline. The deadlines are 28 October, 28 January, 28 April and 28 July, for the preceding financial quarter. For example, if the payment for contractor services was made on 30 June, the SG payment must be paid between 30 June and 28 July.
- 7 Guidance is available from the Taxation Manager, Corporate Finance.