



Superannuation Act 1990

Act No. 38 of 1990 as amended

This compilation was prepared on 25 July 2012
taking into account amendments up to Act No. 82 of 2012

The text of any of those amendments not in force
on that date is appended in the Notes section

The operation of amendments that have been incorporated may be
affected by application provisions that are set out in the Notes section

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An Act to make provision for and in relation to an occupational superannuation scheme for persons employed by the Commonwealth, and for certain other persons

Part 1—Preliminary

1 Short title [see Note 1]

This Act may be cited as the *Superannuation Act 1990*.

2 Commencement [see Note 1]

- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (2) Parts 3, 4 and 5, sections 35 to 42 (inclusive) and section 44 commence on 1 July 1990.

3 Interpretation

In this Act, unless the contrary intention appears:

accumulated funded contributions, in relation to a person who has ceased to be a member, means the sum of:

- (a) the person's accumulated member contributions (within the meaning of the Rules); and
- (b) the person's accumulated funded employer contributions (within the meaning of the Rules).

approved authority means:

- (a) an authority or body (other than Australian Airlines Limited) that was, immediately before the commencement of the Public Sector Superannuation Scheme, an approved authority for the purposes of the *Superannuation Act 1976* (other than any such authority or body declared, in writing, by the Minister not to be an approved authority for the purposes of this Act); and

- (b) an authority or body (not being an approved authority by virtue of paragraph (a)) that is declared, in writing, by the Minister to be an approved authority for the purposes of this Act and is:
 - (i) a body corporate incorporated for a public purpose by an Act or regulations made under an Act or by a law of a Territory; or
 - (ii) an authority or body, not being a body corporate, established for a public purpose by, or under, an Act or regulations made under an Act or by or under a law of a Territory; or
 - (iii) a company or other body corporate incorporated under an Act or a law of a State or Territory, being a company or body corporate in which the Commonwealth has a controlling interest; or
 - (iv) an authority or body (whether established by or under an Act or regulations made under an Act or by or under a law of a Territory or otherwise, and whether a body corporate or not) financed wholly or substantially, either directly or indirectly, by money provided by the Commonwealth; or
 - (v) a company or other body corporate incorporated under an Act or a law of a State or Territory, being a company or body corporate in which:
 - (A) an authority or body referred to in subparagraph (i), (ii), (iii) or (iv), or that is an approved authority by virtue of paragraph (a), has; or
 - (B) the Commonwealth and one, or more than one, such authority or body together have; or
 - (C) 2 or more such authorities or bodies together have;a controlling interest.

associate benefit means a benefit that is payable under provisions of the Trust Deed that are authorised by subsection 5A(1).

Board means the board, called the Australian Reward Investment Alliance, established by section 20, as in force before its repeal by item 216 of Schedule 1 to the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011*.

CSC (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

CSS has the same meaning as in the *Superannuation Act 1976*.

CSS Fund has the same meaning as in the *Superannuation Act 1976*.

designated employer has the meaning given by section 3AA.

permanent employee means a person employed in a permanent capacity by the Commonwealth or by an approved authority, but does not include a person who is engaged or appointed for employment outside Australia only, not being a person who is included in a class of persons approved by the Minister, in writing, for the purposes of this definition.

PSSAP has the same meaning as in the *Superannuation Act 2005*.

PSSAP Fund has the same meaning as in the *Superannuation Act 2005*.

PSS Fund means the Fund established, and vested in CSC, by the Trust Deed.

Note: From 1 July 2011, the Fund is vested in CSC.

PSS invalidity pensioner means a person who is an invalidity pensioner as defined by the Rules.

Public Sector Superannuation Scheme means the superannuation scheme established by the Trust Deed.

Rules means the Rules for the administration of the Public Sector Superannuation Scheme set out in the Schedule to the Trust Deed.

State authority means an authority or body, whether corporate or not, established by a State, or by or under a law of a State.

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statutory office means:

- (a) an office established by an Act, by regulations made under an Act or by a law of a Territory; or
- (b) an office declared, in writing, by the Minister to be a statutory office for the purposes of this Act.

temporary employee means a person employed, otherwise than in a permanent capacity, by the Commonwealth or by an approved authority, but does not include a person engaged or appointed for employment outside Australia only (other than such a person who is declared, in writing, by the Minister to be a person to whom this definition applies).

Trust Deed means the deed referred to in section 4 and includes that deed as subsequently amended.

3AA Designated employers

- (1) A reference in this Act to the designated employer of a member is a reference to:
 - (a) if the member is a permanent employee, or temporary employee, of the Commonwealth but is not an LWOP member or employed by an approved authority:
 - (i) if the remuneration in respect of his or her employment is paid wholly or mainly out of money appropriated by an annual Appropriation Act—the Department in respect of which the money is appropriated; or
 - (ii) if the remuneration in respect of his or her employment is paid wholly or mainly out of money appropriated by an Act other than an annual Appropriation Act—a Department determined by the Minister in writing; or
 - (b) if the member is the holder of a statutory office, but is not an LWOP member:
 - (i) if the remuneration in respect of the office is paid by an approved authority—the Authority; or
 - (ii) if subparagraph (i) does not apply—a Department or person determined by the Minister in writing; or
 - (c) if the member is an LWOP member—a person determined by the Minister in writing; or
 - (d) otherwise—the Authority or body by which the member is employed.

(2) In this section:

Department means:

- (a) an Agency within the meaning of the *Public Service Act 1999*; or
- (b) a Department of the Parliament established under the *Parliamentary Service Act 1999*.

LWOP member means a member who:

- (a) is on leave of absence without pay and:
 - (i) if the period of leave began before 1 July 1994—because of a direction given by CSC under the Rules as in force when the period of leave began, is required to make payments in respect of contributions falling due during the period of the leave; or
 - (ii) if the period of leave began or begins on or after that date—the period of the leave is longer than 6 fortnights and is an excluded period of leave of absence for the purposes of the Rules as in force when the period of leave began or begins; or
- (b) is on leave of absence without pay or other unpaid leave in relation to the birth of a child of the member, other termination of the pregnancy of the member or the adoption of a child by the member, and is making contributions in relation to the leave in accordance with an election made under the Rules.

3AB Members of ACT Fire Brigade

For the purposes of this Act, a person who was at any time before the commencement of this section, or is, a member of the Australian Capital Territory Fire Brigade, pursuant to an appointment made under the *Fire Brigade (Administration) Act 1974* of the Australian Capital Territory is taken to have been or to be employed by the Australian Capital Territory at all times from and including the time of his or her appointment under that Act or the commencement of this Act, whichever was or is the later, until he or she ceased or ceases to hold office under the appointment.

3A Application of Act

This Act applies both within and outside Australia.

3B Application of the *Criminal Code*

Chapter 2 of the *Criminal Code* applies to all offences against this Act.

Note: Chapter 2 of the *Criminal Code* sets out the general principles of criminal responsibility.

Part 2—The Trust Deed

4 Deed to establish Public Sector Superannuation Scheme etc.

Not later than 30 days after the commencement of this Act, the Minister must, for and on behalf of the Commonwealth, by deed:

- (a) establish an occupational superannuation scheme for the benefit of:
 - (i) persons employed by the Commonwealth and approved authorities; and
 - (ii) holders of statutory offices; and
 - (iii) other persons;who, on and after the commencement of Part 3, will be, under that Part, members of the scheme; and
- (b) establish, and vest in the Board, a fund for the purposes of the Public Sector Superannuation Scheme; and
- (c) set out the functions and powers of the Board.

5 Amendment of Trust Deed

- (1) The Minister may, by signed instrument, amend the Trust Deed.
- (1A) The Minister may not amend the Trust Deed unless:
 - (a) CSC has consented to the amendment; or
 - (b) the amendment:
 - (i) relates to a payment by an employer-sponsor within the meaning of the *Superannuation Industry (Supervision) Act 1993* that will, after the making of the amendment, be required or permitted to be made under this Act; or
 - (ii) relates solely to the termination of the PSS Fund; or
 - (iii) is made in circumstances covered by regulations made for the purposes of subparagraph 60(1)(b)(iii) of the *Superannuation Industry (Supervision) Act 1993*.
- (1B) For the purposes of subparagraph (1A)(b)(i), a payment under the Trust Deed or the Rules is taken to be a payment by an employer-sponsor referred to in that subparagraph.

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- (2) If compliance with a provision of the Trust Deed as amended under subsection (1) would have the effect that the Public Sector Superannuation Scheme:
- (a) would not be a regulated superannuation fund within the meaning of the *Superannuation Industry (Supervision) Act 1993*; or
 - (b) would not comply with that Act;
- that provision is invalid.

5A Amendments of Trust Deed to implement family law interest splitting

- (1) Without limiting subsection 5(1), amendments under that subsection:
- (a) may provide that, when a splitting agreement or splitting order is received by CSC in respect of a superannuation interest under this Act:
 - (i) the non-member spouse is entitled to benefits determined in accordance with the Rules; and
 - (ii) the benefits of the member spouse are reduced in accordance with the Rules; and
 - (b) may make any other provision that is related to, or consequential on, provisions referred to in paragraph (a).
- (2) Subsection 12(2) of the *Legislative Instruments Act 2003* does not apply to amendments referred to in subsection (1) of this section.
- (3) In this section:

member spouse has the same meaning as in Part VIII B of the *Family Law Act 1975*.

non-member spouse has the same meaning as in Part VIII B of the *Family Law Act 1975*.

splitting agreement means:

- (a) a superannuation agreement (within the meaning of Part VIII B of the *Family Law Act 1975*); or
- (b) a flag lifting agreement (within the meaning of Part VIII B of the *Family Law Act 1975*) that provides for a payment split (within the meaning of Part VIII B of the *Family Law Act 1975*).

splitting order has the same meaning as in Part VIII B of the *Family Law Act 1975*.

superannuation interest has the same meaning as in Part VIII B of the *Family Law Act 1975*.

Part 3—Members of Public Sector Superannuation Scheme

6 Membership of Public Sector Superannuation Scheme

- (1) Subject to subsections (2) and (4), each of the following persons is, by force of this subsection, a member of the Public Sector Superannuation Scheme:
- (a) a permanent employee;
 - (c) the holder of a statutory office who has made an election under section 7;
 - (d) a temporary employee whose election under section 8 has effect;
 - (e) the holder of a statutory office, or a temporary employee, who:
 - (i) immediately before being appointed to that office or being employed in his or her present employment was a PSS invalidity pensioner; and
 - (ia) immediately before he or she became a PSS invalidity pensioner was the holder of that office or engaged in that employment; and
 - (ii) has been declared, in writing, by CSC to be sufficiently restored to health to perform the duties of that office or to engage in that employment;
 - (f) the holder of a statutory office, or a temporary employee, who:
 - (i) immediately before being appointed to that office or being employed in his or her present employment was a person to whom a preserved benefit was applicable under the Rules; and
 - (ii) immediately before the preserved benefit became so applicable was the holder of that office or employed in the same employment;
 - (h) a person to whom Division 2 or 3 of the *Public Service Act 1922* applied immediately before the time (the *repeal time*) when that Act was repealed and who:

- (i) during the transitional period (within the meaning of Part 3 of the *Public Employment (Consequential and Transitional) Amendment Act 1999*) continues in eligible public employment (within the meaning of Part IV of the *Public Service Act 1922*, as in force immediately before the repeal time); or
 - (ii) after the end of that transitional period, continues in the same eligible public employment (within the meaning of Part IV of the *Public Service Act 1922*, as in force immediately before the repeal time) in which the person was engaged immediately before the end of that transitional period;
 - (j) a person declared, in writing, by the Minister to be a person to whom this section applies.
- (2) In spite of subsection (1), a person is not a member of the Public Sector Superannuation Scheme by force of that subsection if the person:
- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; or
 - (b) is a person to whom the *Judges' Pensions Act 1968* applies; or
 - (ba) is a person:
 - (i) to whom invalidity pension, or a deferred benefit by way of invalidity pension, is, or but for a suspension of payment would have been, payable to him or her under the *Superannuation Act 1976*; or
 - (ii) to whom a pension of a kind mentioned in section 64A or 65 of the *Superannuation Act 1922* as in force immediately before the repeal of that section, or a deferred benefit by way of a pension payable for the reason mentioned in subsection 119ZA(1) of that Act, is, or but for a suspension of payment would have been, payable to him or her; or
 - (iii) to whom deferred benefits are applicable under the *Superannuation Act 1976*; or
 - (iv) to whom deferred benefits are applicable under the *Superannuation Act 1922* and who has not become an eligible employee for the purposes of the *Superannuation Act 1976*; or
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- (v) who is a re-employed former contributor with preserved rights for the purposes of the *Superannuation Act 1976* and who has not become an eligible employee for the purposes of that Act;
other than such a person who is a casual employee within the meaning of the Rules or who became a member of the Public Sector Superannuation Scheme before the commencement of section 68 of the *Superannuation Legislation Amendment Act 1991* and has continued to be such a member; or
 - (c) is declared, in writing, by the Minister to be a person to whom this section does not apply.
- (3) Paragraph (2)(a) does not exclude a person from membership of the Public Sector Superannuation Scheme in relation to particular employment if the person is an eligible employee for the purposes of the *Superannuation Act 1976* in relation to other employment.

Closure of Public Sector Superannuation Scheme

- (4) Despite subsection (1), a person does not become a member of the Public Sector Superannuation Scheme by force of that subsection at a particular time (the *relevant time*) on or after 1 July 2005 unless:
- (a) at the relevant time, the person is already a member of the Public Sector Superannuation Scheme; or
 - (b) at the relevant time, the person is a former member of the Public Sector Superannuation Scheme (other than as a result of an election under section 6B) in respect of whom a preserved benefit under that scheme has not yet been paid; or
 - (c) at the relevant time, the person is a PSS invalidity pensioner; or
 - (d) the following conditions are satisfied:
 - (i) at the end of 30 June 2005, the person was the holder of a statutory office (other than the holder of such an office to whom paragraph (1)(e) or (f) applies);
 - (ii) the person has made an election under section 7 in relation to that office;
 - (iii) the election was made during a term of appointment that included 30 June 2005;
 - (iv) at the relevant time, the person is the holder of that office; or

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- (e) the following conditions are satisfied:
- (i) at the end of 30 June 2005, the person was a temporary employee in relation to particular employment (other than a temporary employee to whom paragraph (1)(e) or (f) applies);
 - (ii) the person has made an election under section 8 in relation to that employment;
 - (iii) the election has taken effect at or before the relevant time;
 - (iv) if the person's employment is for a fixed term—the election was made during a term of employment that included 30 June 2005, and the relevant time occurs in that term;
 - (v) if the person's employment is not for a fixed term—the election was made during a period of employment that included 30 June 2005, and the relevant time occurs in that period of employment; or
- (f) the following conditions are satisfied:
- (i) on a particular date before 1 July 2005, the person was a temporary employee (other than a temporary employee to whom paragraph (1)(e) or (f) applies);
 - (ii) on that date, the person made an election under section 8 in relation to that employment;
 - (iii) the election has taken effect at or before the relevant time;
 - (iv) if the person's employment is for a fixed term—the relevant time occurs in that term;
 - (v) if the person's employment is not for a fixed term—the relevant time occurs in that period of employment; or
- (g) on or after 1 July 2005, the person makes a declaration and election under section 244 of the *Superannuation Act 1976*.

Note: Paragraph (a) would cover, for example, a person who is already a member of the Public Sector Superannuation Scheme in respect of a different instance of employment or another office.

Special category of Public Sector Superannuation Scheme membership

- (5) Subject to subsection (6), a person is, by force of this subsection, a member of the Public Sector Superannuation Scheme at a particular time (the *relevant time*) on or after 1 July 2006 if:

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- (a) the person is not a member of that scheme by force of subsection (1); and
- (b) at the relevant time:
 - (i) the person is an APS employee; or
 - (ii) the person is specified in a written determination made by the Minister under this subparagraph; and
- (c) the person became an APS employee or a person covered by the determination, as the case may be, on or after 1 July 2006; and
- (d) immediately before the person became an APS employee or a person covered by the determination, as the case may be:
 - (i) the person was a former member of the Public Sector Superannuation Scheme (other than as a result of an election under section 6B) in respect of whom a preserved benefit under that scheme has not yet been paid; or
 - (ii) the person was a PSS invalidity pensioner; or
 - (iii) the person was covered by paragraph (2)(ba); and
- (e) at the relevant time, there is no chosen fund for the person (within the meaning of Part 3A of the *Superannuation Guarantee (Administration) Act 1992*); and
- (f) assuming that:
 - (i) the person were to become a member of the Public Sector Superannuation Scheme; and
 - (ii) the person's employer (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) were to make a contribution to the Public Sector Superannuation Scheme at the relevant time for the benefit of the person;the employer would rely on subsection 32C(2) or (6) of that Act to satisfy the choice of fund requirements in relation to the contribution.

Note: For specification by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

- (6) Despite subsection (5), a person is not a member of the Public Sector Superannuation Scheme by force of that subsection if the person is:
 - (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or

- (b) a person to whom the *Judges' Pensions Act 1968* applies; or
 - (c) covered by a declaration under paragraph (2)(c); or
 - (d) specified in a written determination made by the Minister under this paragraph.
- (7) A determination under subparagraph (5)(b)(ii) or paragraph (6)(d) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (8) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to an instrument under subparagraph (5)(b)(ii) or paragraph (6)(d) of this section.

6A Election by certain people to join CSS

- (1) This section applies to a person who:
- (a) is a member of the Public Sector Superannuation Scheme; and
 - (b) became such a member before the commencement of section 68 of the *Superannuation Legislation Amendment Act 1991*; and
 - (c) is a person, other than a casual employee within the meaning of the Rules, mentioned in subparagraph 6(2)(ba)(i), (ii), (iii), (iv) or (v).
- (2) A person to whom this section applies may in writing addressed to CSC before 1 October 1991 or such later date as CSC allows having regard to all the circumstances of the particular case:
- (a) declare that he or she wishes to become an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) elect to cease to be a member of the Public Sector Superannuation Scheme.
- (3) A person who makes an election under subsection (2) is taken to have ceased to be a member of the Public Sector Superannuation Scheme at the end of the day on which the election is made.
- (4) CSC must, as soon as practicable after a person makes an election under this section, pay to the CSS Fund the person's accumulated funded contributions.

6B Election by certain people to leave the Public Sector Superannuation Scheme [see Note 2]

- (1) A member of the Public Sector Superannuation Scheme, who is making member contributions (within the meaning of the Rules), may elect to cease to be a member of the Scheme if:
 - (a) the member is not precluded by or under the *Superannuation Act 2005* from being a member of PSSAP (other than by paragraph 13(2)(a) of that Act); or
 - (b) if paragraph (a) of this subsection does not apply—both of the following apply:
 - (i) the member wants a fund to be a chosen fund for the member (within the meaning of Part 3A of the *Superannuation Guarantee (Administration) Act 1992*);
 - (ii) the member's employer has not refused to accept the chosen fund; or
 - (c) if neither paragraph (a) nor (b) applies—the member's employer has agreed to make employer contributions to:
 - (i) a complying superannuation fund (within the meaning of the *Superannuation Industry (Supervision) Act 1993*); or
 - (ii) a retirement savings account (within the meaning of the *Retirement Savings Accounts Act 1997*).
- (2) The election must be given to CSC in writing.
- (3) After making an election, the member ceases to be a member of the Public Sector Superannuation Scheme:
 - (a) if paragraph (1)(a) applies—at the time when the member becomes a member of PSSAP; or
 - (b) if paragraph (1)(b) applies—at the time when the fund becomes a chosen fund for the member; or
 - (c) if paragraph (1)(c) applies—the later of the following times:
 - (i) when the member becomes a member of the complying superannuation fund, or begins to hold a retirement savings account, (as the case requires);
 - (ii) when the election is given to CSC.
- (4) If the member is a member of the Public Sector Superannuation Scheme as a result of holding more than one office or position of

employment, or as a result of holding an office or position of employment during more than one period:

- (a) the member is required to satisfy subsection (1) in respect of each membership in the Scheme; and
 - (b) the member must make an election to cease to be a member of the Scheme in respect of membership in the Scheme; and
 - (c) the member does not cease to be a member of the Scheme until the member has ceased to be a member under subsection (3) in respect of each membership of the Scheme.
- (5) For the purposes of section 32FA of the *Superannuation Guarantee (Administration) Act 1992* (employer's refusal to accept chosen fund), a member does not choose another fund merely because (as mentioned in subsection (3) of this section):
- (a) the member becomes a member of PSSAP; or
 - (b) a fund becomes a chosen fund for the member; or
 - (c) the member becomes a member of a complying superannuation fund or begins to hold a retirement savings account.

7 Election by holder of statutory office to be a member

- (1) The holder of a statutory office (other than the holder of such an office to whom paragraph 6(1)(e) or (f) applies) may elect, by writing in a form approved by CSC, to become a member of the Public Sector Superannuation Scheme in relation to that office.
- (2) The effect of making an election under subsection (1) is that the person becomes a member of the Public Sector Superannuation Scheme only in respect of the office to which the election relates.
- (3) This section does not prevent the person becoming a member of the Public Sector Superannuation Scheme in respect of other employment.

8 Election by temporary employee to be member

- (1) A person who is a temporary employee in relation to particular employment (other than a temporary employee to whom paragraph 6(1)(e) or (f) applies) may elect, by writing in a form approved by CSC, to become a member of the Public Sector Superannuation Scheme in relation to that employment.

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- (2) If a temporary employee who makes an election:
- (a) is employed under a contract for a term of not less than 3 months; or
 - (b) has, during the period of 2 years immediately before the election, been a temporary employee, a permanent employee or the holder of a statutory office for a period that is not less, or for periods that together are not less, than 3 months; or
 - (c) has a transfer value from another superannuation scheme (other than the scheme established under the *Superannuation Act 1976*) that the temporary employee intends to pay into the PSS Fund;
- the election has effect from and including the day on which it is made.
- (3) If subsection (2) does not apply in relation to the temporary employee, the election has effect immediately after the end of the day on which the temporary employee has completed:
- (a) if paragraph (b) does not apply—a period of employment of 3 months; or
 - (b) if during any period or periods within 2 years before the commencement of his or her present employment, the temporary employee was a permanent employee, a temporary employee or the holder of a statutory office—a period of employment that together with the first-mentioned period or periods is equal to 3 months.
- (4) The effect of making an election under subsection (1) is that the person becomes a member of the Public Sector Superannuation Scheme only in respect of the employment to which the election relates.
- (5) This section does not prevent the person becoming a member of the Public Sector Superannuation Scheme in respect of other employment.

9 Employees on probation

A person who is or becomes employed by the Commonwealth or by an approved authority is not taken, for the purposes of this Act, to be employed otherwise than in a permanent capacity only because the employment was or is on probation and has not been confirmed.

10 Australian Federal Police employees

For the purposes of this Act, an AFP employee (within the meaning of the *Australian Federal Police Act 1979*) is taken to be employed by the Commonwealth.

11 Director of company etc.

Where a person is a director of a company or other body corporate incorporated under a law of the Commonwealth or of a State or Territory (being a company or other body that is an approved authority):

- (a) if the person is a full-time director—the person is, unless the Minister in writing otherwise determines, for the purposes of this Act, a person employed by the company or other body;
or
- (b) if the person is not a full-time director—the person is, for the purposes of this Act, a person employed by the company or other body only if the Minister, in writing, so determines.

12 Cases where person taken not to have ceased to be a member

- (1) If a person ceases to be a member and, immediately after so ceasing, again becomes a member:
 - (a) the person is taken, for the purposes of this Act other than paragraph (b), not to have so ceased; but
 - (b) the person is not required or permitted to pay contributions in respect of the period between the time when the person ceased to be a member and the time when the person again becomes a member.
- (2) Subsection (1) does not prevent the Rules from making provision subject to which a person of a specified class who has ceased to be a member may, on again becoming a member, be taken not to have ceased to be a member.

13 Member not to be retired on grounds of invalidity without certificate from CSC

- (1) In spite of anything contained in any Act, industrial award or contract of employment, a member who is under the age of 60 is not capable of being retired from the employment or office by

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virtue of which he or she is a member on the ground that, because of any mental or physical condition, the member is unable to perform his or her duties, unless CSC has certified in writing that, if the member is so retired, the member will be entitled to receive invalidity benefits under the Public Sector Superannuation Scheme.

- (1A) CSC may only give a certificate in respect of a member under subsection (1) if CSC has approved the invalidity retirement of the member under the Rules.
- (2) In subsection (1), a reference to a member being retired from employment or office includes a reference to the services of the member being otherwise terminated.
- (3) In subsection (1), *industrial award* means an industrial award, determination or agreement made, approved, lodged or registered under a law of the Commonwealth, a State or a Territory.

Part 4—Contributions

14 Contributions of members to Public Sector Superannuation Scheme etc. to be deducted from salary

- (1) Any contribution payable by a member under the Rules may be deducted from the member's salary.
- (2) Where additional death and invalidity cover is applicable to the member under the Rules, the amount of any payment that the member is required to make under the Rules in respect of any premium payable in respect of the member for the purposes of the cover may be deducted from the member's salary and paid to CSC.

14A Deductions of contributions by designated employer

- (1) If the designated employer of a member deducts from the member's salary an amount that the employer is permitted by subsection 14(1) to deduct from that salary:
 - (a) the employer is to pay the amount deducted to CSC; and
 - (b) if an amount deducted is not paid to CSC on the day on which it is deducted and CSC directs that this paragraph is to apply in relation to the amount—the employer is to pay to CSC interest on the amount, at any rate that CSC determines from time to time, in respect of the period beginning on the day on which the amount is deducted and ending on the day immediately before the day on which the amount is paid.
- (2) CSC is to pay to the PSS Fund any interest paid to CSC under paragraph (1)(b).

15 Contributions to Public Sector Superannuation Scheme etc. by employer

- (2) The designated employer of a member must pay to CSC, in accordance with the Rules, all contributions that under the Rules are payable by the employer of the member in respect of the member.

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- (3) Where additional death and invalidity cover is applicable to a member under the Rules, the designated employer of the member is liable for any payment that, under the Rules, the employer of the member is required to make to CSC in respect of any premium payable in respect of the member for the purposes of the cover.
- (4) Where any amount payable by the designated employer of a member under subsection (2) or (3) remains unpaid after the day on which payment was due, the designated employer is liable to pay to CSC interest on any such amount that remains unpaid at such rate as CSC determines from time to time.
- (5) An authority that is required to make a payment under subsection (2), (3) or (4) may apply for that purpose any money under its control.

Part 5—Payments relating to benefits

16 Payments to and by Commonwealth in respect of benefits payable under Public Sector Superannuation Scheme

- (1) Subject to subsection (2), where benefits (other than a preserved benefit or a post-retirement commutation benefit) become payable under the Rules to, or in respect of, a person who has ceased to be a member:
 - (a) CSC must pay to the Commonwealth out of the PSS Fund an amount equal to the person's accumulated funded contributions; and
 - (b) the Commonwealth must pay the benefits to such person or persons as are appropriate under the Rules.
- (2) Where the only benefit that is payable under the Rules to, or in respect of, a person who has ceased to be a member is a lump sum benefit that does not exceed the person's accumulated funded contributions, subsection (1) does not apply in relation to the member.
- (3) Where partial invalidity pension is payable to a person who is a member:
 - (a) the Commonwealth must pay to the person an amount equal to each instalment of partial invalidity pension payable under the Rules to the person; and
 - (b) if, immediately before partial invalidity pension became payable to the person, the person was an invalidity pensioner—the Commonwealth must also pay to CSC:
 - (i) where, on the person's becoming an invalidity pensioner, a pension only became payable to him or her—an amount equal to the person's accumulated funded contributions at the time when he or she became an invalidity pensioner; or
 - (ii) where, on the person's becoming an invalidity pensioner, the person was entitled to receive a lump sum benefit and a pension—an amount equal to the difference between:

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- (A) the person's accumulated funded contributions at the time when he or she became an invalidity pensioner; and
 - (B) the amount of the lump sum benefit.
- (4) Subject to subsection (5), where a preserved benefit applicable to a person is payable under the Rules:
- (a) CSC must pay to the Commonwealth an amount equal to the balance of the person's accumulated funded contributions remaining in the PSS Fund; and
 - (b) the Commonwealth must pay the preserved benefit to such person or persons as are appropriate under the Rules.
- (5) Where the preserved benefit payable to or in respect of a person under the Rules consists only of a lump sum benefit that does not exceed the balance of the person's accumulated funded contributions remaining in the PSS Fund, subsection (4) does not apply in relation to the person.
- (6) CSC must pay into the PSS Fund any amount paid to it under subsection (3).
- (7) If a post-retirement commutation benefit becomes payable under the Rules to, or in respect of, a person who has ceased to be a member, the Commonwealth is liable to pay the benefit.
- (8) If:
- (a) a person becomes entitled to a post-retirement commutation benefit under the Rules; and
 - (b) the person has, under the Rules, requested that the amount of the benefit be:
 - (i) paid to the Commissioner of Taxation; and
 - (ii) wholly applied in payment of surcharge under an assessment;
- the liability to pay that benefit must be discharged by:
- (c) paying the amount of that benefit to the Commissioner of Taxation in accordance with the person's request; and
 - (d) informing the Commissioner of Taxation of the person's request that the amount be wholly applied in payment of surcharge under the assessment concerned.

(9) In this section:

assessment has the same meaning as in the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.

post-retirement commutation benefit means a lump sum benefit payable by way of the commutation of the whole or a part of a pension, where the amount of the benefit is to be wholly applied in payment of surcharge.

surcharge has the same meaning as in the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*.

16A Payments relating to associate benefits

- (1) Where an associate benefit becomes payable under the Rules, the Commonwealth must pay the benefit to such person or persons as are appropriate under the Rules.
- (2) CSC must pay to the Commonwealth, out of the PSS Fund, any amount that CSC is required under the Rules to pay to the Commonwealth in respect of an associate benefit.

17 Payments by Commonwealth to CSC when invalidity pensioner again becomes member

Where a person who, before reaching the age of 60, ceased to be a member on the grounds of invalidity again becomes a member, the Commonwealth must pay to CSC:

- (a) if, on retirement on the grounds of invalidity, a pension only became payable to the person—an amount equal to the person's accumulated funded contributions at the time when he or she became an invalidity pensioner; or
- (b) if, on retirement on the grounds of invalidity, the person was entitled to receive a lump sum benefit and a pension—an amount equal to the difference between:
 - (i) the person's accumulated funded contributions at the time when he or she became an invalidity pensioner; and
 - (ii) the amount of the lump sum benefit;and CSC must pay that amount into the PSS Fund.

18 Appropriation

Any payment by the Commonwealth under section 16, 16A or 17 is to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

19 Payment by approved authorities etc. to the Commonwealth in respect of benefits payable to members employed etc. by authorities

- (1) This section applies to:
 - (a) an approved authority; and
 - (b) an authority (other than an approved authority) or body:
 - (i) whose staff consists of persons engaged under the *Public Service Act 1999*; and
 - (ii) that has been declared, in writing, by the Minister to be an authority or body to which this section applies; and
 - (c) an authority or body (other than a State authority) whose employees include a person or persons mentioned in paragraph 6(1)(h) or (j) or subparagraph 6(5)(b)(ii).
- (2) If the Minister so determines, an authority or body to which this section applies must make payments to the Commonwealth in respect of any person who:
 - (a) is, or was at any time:
 - (i) in the case of an approved authority—employed by that authority; or
 - (ii) in the case of an authority or body referred to in paragraph (1)(b)—a member of the staff of the authority or body; or
 - (iii) in the case of an authority or body mentioned in paragraph (1)(c)—employed by that authority or body; and
 - (b) is a member, or was a member during the period when the person was employed by, or was a member of the staff of, the authority or body.
- (3) Payments that an authority or body is required to make in respect of a person under subsection (2) are to be made:
 - (a) at such times as the Minister determines; and

- (b) in such amounts, or at such rates, as the Minister determines, having regard to the benefits that are or may become payable, or have been paid, to or in respect of the person under the Rules.
- (4) An authority or body that is required to make a payment under subsection (2) may apply for that purpose any money under its control.
- (5) For the purposes of this section, the holder of a statutory office whose remuneration is paid by an authority or body is taken to be employed by that authority or body.

Part 6—CSC

22 Functions and powers

- (1) The functions and powers of CSC in relation to the Public Sector Superannuation Scheme and the PSS Fund are those set out in the Trust Deed.
- (2) CSC is also responsible for the general administration of this Act.

Note: For other functions of CSC, see section 8 of the *Governance of Australian Government Superannuation Schemes Act 2011*.

Part 8A—Transfers to approved and authorised superannuation schemes

Division 1—Preliminary

33A Statutory office holder

For the purposes of this Part, the holder of a statutory office whose remuneration is paid by an authority or body is taken to be employed by that authority or body.

Division 2—Approved superannuation schemes

33B Interpretation

In this Division, unless the contrary intention appears:

approved superannuation scheme means a superannuation scheme approved by the Minister under section 33C.

assets means property of any kind and, without limiting the generality of the foregoing, includes:

- (a) choses in action; and
- (b) rights, interests and claims of every kind in or to property, whether arising under or because of an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing.

investment assets of the PSS Fund means the assets of the PSS Fund or of CSC arising out of, or otherwise connected with, the exercise or proposed exercise by CSC of its power to invest money of the PSS Fund.

investment liabilities of the PSS Fund means liabilities of the PSS Fund or of CSC arising out of, or otherwise connected with, the exercise or proposed exercise by CSC of its power to invest money of the PSS Fund.

liabilities means liabilities of every kind and, without limiting the generality of the foregoing, includes obligations of every kind, whether arising under or because of an instrument or otherwise, and whether liquidated or unliquidated, certain or contingent, accrued or accruing.

33C Approval of superannuation schemes

- (1) The Minister may approve, in writing, for the purposes of this Division, a superannuation scheme that provides benefits for persons who are employed by, or are members of the staff of, an authority or body.
- (2) Where the Minister gives an approval under subsection (1), the Minister is to determine, in writing, the period within which, for

the purposes of this Division, a person who is a member of the Public Sector Superannuation Scheme and employed by, or a member of the staff of, the authority or body may become a member of the superannuation scheme as so approved.

33D Transfer of assets etc. to approved superannuation schemes

CSC must, at such times as CSC determines, transfer to the person or body administering an approved superannuation scheme:

- (a) such assets of the PSS Fund (including investment assets of the PSS Fund) as are determined by CSC to be assets that fairly and equitably represent the accumulated funded contributions of those persons who:
 - (i) have become members of the approved superannuation scheme within such period as, in relation to each of those persons, has been determined under subsection 33C(2); and
 - (ii) immediately before becoming such members, were members of the Public Sector Superannuation Scheme; and
- (b) such liabilities (if any) (including investment liabilities of the PSS Fund) as are determined by CSC to be liabilities relating to those assets.

33E Payments from Consolidated Revenue Fund

- (1) There must be paid to the person or body administering an approved superannuation scheme, at such times as the Minister determines, such amounts (if any) as are determined by the Minister having regard to:
 - (a) the amount of the payments (if any) made under section 19 by the authority or body that established the scheme in respect of the persons mentioned in paragraph 33D(a); and
 - (b) the amount of the accumulated member contributions (within the meaning of the Rules) of those persons; and
 - (c) the method of calculating final benefit accrual and preserved benefits under the Rules; and
 - (d) any relevant actuarial advice obtained by the Minister; and
 - (e) any other matters that the Minister considers relevant.

Part 8A Transfers to approved and authorised superannuation schemes

Division 2 Approved superannuation schemes

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- (2) Payments under subsection (1) are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

33F Exemption from tax etc.

No tax or charge is payable under any law of the Commonwealth (other than the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*) or any law of a State or of a Territory in respect of a transfer of assets or liabilities under section 33D.

Division 3—Authorised superannuation schemes

33G Authorisation of superannuation schemes for the purposes of the Rules

- (1) The Minister may, in writing, declare a superannuation scheme that provides benefits for persons who are employed by, or are members of the staff of, an authority or body to be an authorised superannuation scheme for the purposes of the Rules.
- (2) Where the Minister makes a declaration under subsection (1), the Minister is to determine, in writing, the period within which, for the purposes of the Rules, a person who is a member of the Public Sector Superannuation Scheme and employed by, or a member of the staff of, the authority or body may become a member of the superannuation scheme as so authorised.

Part 9—Miscellaneous

33H Establishment of new corporation for purposes of holding units

- (1) If:
- (a) CSC would otherwise hold the only unit, or all the units, in a unit trust; and
 - (b) CSC is also the trustee of the trust;
- then:
- (c) CSC is taken, for the purposes of holding a unit in the unit trust, to be a corporation by the name of “The Holding Board”; and
 - (d) CSC must hold a unit in the unit trust in that corporate name.

Note: This subsection gives CSC a new and separate legal personality for the purposes of holding a unit in the unit trust. This has the effect of preventing any merger of legal and equitable interests relating to the unit trust for the purposes of trust law.

- (2) If the unit trust referred to in subsection (1) is a pooled superannuation trust (within the meaning of the *Superannuation Industry (Supervision) Act 1993*), then, for the purposes of that Act, the *Income Tax Assessment 1936* and the *Income Tax Assessment Act 1997*, the corporation named as “The Holding Board” is taken to be a regulated superannuation fund (within the meaning of those Acts).

33AA CSC may rely on information supplied by employers or former employers

- (1) For the purposes of the Trust Deed in its application to or in respect of a person who is or has been a member of the Public Sector Superannuation Scheme, CSC may, but is not required to, presume that any information provided to CSC by an employer or former employer of the person is correct.
- (2) If a tribunal, authority or person is empowered to review a decision of CSC and vary, or make a decision in substitution for, CSC’s decision, the tribunal, authority or person is not bound by any presumption made by CSC under subsection (1).

34 Cost of administration of Act etc.

- (1) The costs of the administration of this Act and of the Trust Deed in relation to the Public Sector Superannuation Scheme, including the costs of and incidental to the management of the PSS Fund by CSC and the investment of its money, are to be paid as determined from time to time by the Minister.
- (1A) A determination for the purposes of subsection (1) is to be in writing and is to identify, whether by amount or otherwise:
 - (a) those costs payable by the Commonwealth; and
 - (b) those costs payable by CSC out of the PSS Fund.
- (1B) Costs determined by the Minister to be payable by the Commonwealth are to be paid out of money appropriated from time to time by Parliament for the purpose.
- (2) The cost of any medical examination, or of any test, that a person (other than a person referred to in section 36) is required to undergo under the Rules when the person proposes to become, or becomes, a member of the Public Sector Superannuation Scheme is taken to be part of the cost of the administration of the Trust Deed.

35 Certain authorities to pay part of costs of administration

- (1) For the purposes of this section, CSC may prepare an estimate of the costs referred to in subsection 34(1) that are likely to be incurred in respect of a financial year.
- (1A) CSC, if requested in writing to do so by the Minister, must prepare an estimate containing any information requested by the Minister in respect of any of those costs that are referred to in the request.
- (2) The Minister may, in writing, direct an authority or body that is or was, during the period specified in the direction, being a period that is included in, or is, a financial year in respect of which an estimate has been prepared under subsection (1):
 - (a) an approved authority that employs or employed members; or
 - (b) a declared authority:
 - (i) whose staff includes or included members; or
 - (ii) whose employees include or included members;to pay to the Commonwealth such part of the costs estimated by CSC in respect of that period as:

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- (c) is determined by the Minister having regard to such matters (if any) as are prescribed; and
 - (d) is specified in the direction.
- (3) An authority or body that is required to make a payment under subsection (2) may apply for that purpose any money under its control.
- (4) In subsection (2):
- declared authority** means:
- (a) an authority (other than an approved authority) or a body:
 - (i) whose staff consists of persons engaged under the *Public Service Act 1999*; and
 - (ii) that has been declared, in writing, by the Minister to be an authority or body to which this subsection applies; or
 - (b) an authority or body (other than a State authority) whose employees include a person or persons mentioned in paragraph 6(1)(h) or (j) or subparagraph 6(5)(b)(ii).

36 Cost of medical examination on entry into Public Sector Superannuation Scheme

Where a person who:

- (a) proposes to become, or is, employed by an approved authority; or
 - (b) is the proposed appointee to, or the holder of, a statutory office whose remuneration is paid by an approved authority; or
 - (c) proposes to become, or is, a member of the staff of an authority (other than an approved authority) or a body:
 - (i) whose staff consists of persons engaged under the *Public Service Act 1999*; and
 - (ii) that has been declared, in writing, by the Minister to be an authority to which this section applies; or
 - (d) proposes to become, or is, employed by an authority or body (other than a State authority) whose employees include a person or persons mentioned in paragraph 6(1)(h) or (j) or subparagraph 6(5)(b)(ii);
- is required under the Rules to undergo a medical examination or a test because the person proposes to become, or becomes, a member

of the Public Sector Superannuation Scheme, the cost of the examination or test is to be paid by the authority referred to in paragraph (a), (b) or (c) (as the case may be), and the authority may apply for that purpose any money under its control.

37 Costs—CSC being assisted by panel of persons

- (1) If, under the Rules, CSC engages a panel of persons to assist it to reach a decision:
 - (a) whether or not to approve invalidity retirement for a member who has not reached the age of 60; or
 - (b) in relation to the payment of preserved benefits; or
 - (ba) in relation to the payment of associate benefits; or
 - (c) in relation to the payment of an invalidity retirement benefit on the ground that a person was totally and permanently incapacitated on his or her last day as a member;any cost specified in subsection (2) is payable from the Consolidated Revenue Fund, which is appropriated accordingly.
- (2) Each of the following costs is specified for the purposes of subsection (1):
 - (a) any cost incurred in relation to the panel of persons;
 - (b) the cost of any medical examination that the person is required to undergo under the Rules to provide the panel with the medical evidence that it requires for the purpose of assisting CSC.
- (3) Where CSC decides not to approve invalidity retirement for a member, the cost of any rehabilitation program recommended for the member under the Rules and undertaken by the member is payable from the Consolidated Revenue Fund, which is appropriated accordingly.

37A CSC liable to pay surcharge under the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*

- (1) To remove any doubt, it is stated that:
 - (a) for the purposes of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*, CSC in its capacity as a superannuation provider is an entity distinct from the Commonwealth; and

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- (b) consequently, section 33 of that Act does not affect the liability of CSC under that Act to pay surcharge on the surchargeable contributions of members.
- (2) Amounts payable by CSC under subsection 16(6) of the *Superannuation Contributions Tax (Assessment and Collection) Act 1997* are to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.

38 Pre-assessment payments

- (1) The Commonwealth must pay to CSC an amount equal to any pre-assessment payment made by CSC to a member under the Rules.
- (2) Any payment by the Commonwealth under subsection (1) is to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

39 Recovery of unpaid contributions etc.

- (1) Any amount (including an amount of contributions) that is payable to CSC under this Act or the Rules may be recovered by CSC in a court of competent jurisdiction as a debt.
- (2) Any contribution payable by a person to CSC under the Rules that remains unpaid when the person ceases to be a member may be deducted from any payment or payments of benefit payable under the Rules to, or in respect of, the person.
- (3) Where for any reason (including the making of, or cancellation of, an election under the Rules), CSC has paid an amount of benefit that is, or has become, not payable:
 - (a) the amount so paid may be recovered by CSC in a court of competent jurisdiction as a debt; or
 - (b) where the person to whom that amount was paid is receiving, or is entitled to receive, a benefit under the Rules, the amount so paid, or such part of that amount as CSC determines, may, if CSC in its discretion so directs, be recovered by deduction from that benefit.

39A Recoverable payments

- (1) If, apart from this subsection, the Commonwealth does not have power under this Act to pay an amount (the *relevant amount*) to a person (the *recipient*) purportedly as a benefit under the Rules, then the Commonwealth may pay the relevant amount to the recipient.

Recovery

- (2) If a payment is made under subsection (1) to the recipient, the relevant amount:
- (a) is a debt due to the Commonwealth by the recipient; and
 - (b) may be recovered by the Chief Executive Officer of ComSuper, on behalf of the Commonwealth, in a court of competent jurisdiction.

Note: See also section 47 of the *Financial Management and Accountability Act 1997* (duty to pursue recovery of a debt).

- (3) If:
- (a) a payment is made under subsection (1) to the recipient; and
 - (b) the recipient is receiving, or is entitled to receive, a benefit under the Rules;
- then:
- (c) the relevant amount; or
 - (d) such part of the relevant amount as the Chief Executive Officer of ComSuper determines;
- may, if the Chief Executive Officer of ComSuper so directs, be recovered by deduction from that benefit.

Note: See also section 47 of the *Financial Management and Accountability Act 1997* (duty to pursue recovery of a debt).

Appropriation

- (4) For the purposes of section 18, a payment under subsection (1) of this section is taken to be a payment by the Commonwealth under section 16 or 16A.

39B Recoverable death payments

- (1) If, apart from this subsection, the Commonwealth does not have power under this Act to pay an amount (the *relevant amount*) in any of the following circumstances:
- (a) the relevant amount is deposited to an account kept in the name of a deceased person;
 - (b) the relevant amount is deposited to an account kept in the names of a deceased person and another person;
 - (c) the relevant amount is paid by way of a cheque made out to a deceased person;
- the Commonwealth may pay the relevant amount in the circumstances mentioned in paragraph (a), (b) or (c), so long as:
- (d) on the last day on which changes could reasonably be made to the payment of the relevant amount, the Chief Executive Officer of ComSuper did not know that the deceased person had died; and
 - (e) apart from this subsection, the relevant amount would have been payable as a benefit to the deceased person if the deceased person had not died.
- (2) If a payment is made under subsection (1), the relevant amount is taken to have been paid to the deceased person's estate.

Recovery

- (3) If a payment is made under subsection (1), the relevant amount:
- (a) is a debt due to the Commonwealth by the legal personal representative of the deceased person; and
 - (b) may be recovered by the Chief Executive Officer of ComSuper, on behalf of the Commonwealth, in a court of competent jurisdiction.

Note: See also section 47 of the *Financial Management and Accountability Act 1997* (duty to pursue recovery of a debt).

Appropriation

- (4) For the purposes of section 18, a benefit under subsection (1) of this section is taken to be a payment by the Commonwealth under section 16 or 16A.

39C Reports about recoverable payments and recoverable death payments

- (1) During the applicable publication period for a reporting period, the Chief Executive Officer of ComSuper must cause to be published, in such manner as the Chief Executive Officer thinks fit, a report that sets out:
 - (a) both:
 - (i) the number of payments made under subsection 39A(1) during the reporting period; and
 - (ii) the total amount of those payments; and
 - (b) both:
 - (i) the number of payments made under subsection 39B(1) during the reporting period; and
 - (ii) the total amount of those payments.
- (2) However, a report is not required if:
 - (a) the number mentioned in subparagraph (1)(a)(i) is zero; and
 - (b) the number mentioned in subparagraph (1)(b)(i) is zero.

Deferred reporting

- (3) Paragraph (1)(a) of this section does not require a report to deal with a payment unless, before the preparation of the report, a ComSuper official was aware the payment was made under subsection 39A(1).
- (4) Paragraph (1)(b) of this section does not require a report to deal with a payment unless, before the preparation of the report, a ComSuper official was aware the payment was made under subsection 39B(1).
- (5) For the purposes of this section, if:
 - (a) a payment was made under subsection 39A(1) or 39B(1) in a reporting period; and
 - (b) either:
 - (i) because of subsection (3) of this section, paragraph (1)(a) of this section did not require a report to deal with the payment; or

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- (ii) because of subsection (4) of this section, paragraph (1)(b) of this section did not require a report to deal with the payment; and
 - (c) during a later reporting period, a ComSuper official becomes aware that the payment was made under subsection 39A(1) or 39B(1), as the case may be;

the payment is subject to a *deferred reporting obligation* in relation to the later reporting period.
- (6) If one or more payments made under subsection 39A(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Chief Executive Officer of ComSuper must, during the applicable publication period for the later reporting period:
 - (a) prepare a report that sets out:
 - (i) the number of those payments; and
 - (ii) the total amount of those payments; and
 - (iii) the reporting period during which the payments were made; and
 - (b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and
 - (c) if paragraph (b) does not apply—publish, in such manner as the Chief Executive Officer thinks fit, the paragraph (a) report.
- (7) If one or more payments made under subsection 39B(1) during a reporting period are subject to a deferred reporting obligation in relation to a later reporting period, the Chief Executive Officer of ComSuper must, during the applicable publication period for the later reporting period:
 - (a) prepare a report that sets out:
 - (i) the number of those payments; and
 - (ii) the total amount of those payments; and
 - (iii) the reporting period during which the payments were made; and
 - (b) if a report is required under subsection (1) in relation to the later reporting period—include the paragraph (a) report in the subsection (1) report; and

- (c) if paragraph (b) does not apply—publish, in such manner as the Chief Executive Officer thinks fit, the paragraph (a) report.

Reporting period

- (8) For the purposes of this section, a **reporting period** is:
- (a) a financial year; or
 - (b) if a shorter recurring period is specified in a legislative instrument made by the Finance Minister—that period.

Applicable publication period

- (9) For the purposes of this section, the **applicable publication period** for a reporting period is the period of:
- (a) 4 months; or
 - (b) if a lesser number of months is specified, in relation to the reporting period, in a legislative instrument made by the Finance Minister—that number of months;
- beginning immediately after the end of the reporting period.

ComSuper official

- (10) For the purposes of this section, **ComSuper official** means an official (within the meaning of the *Financial Management and Accountability Act 1997*) who is in ComSuper or is part of ComSuper.

Finance Minister

- (11) For the purposes of this section, **Finance Minister** means the Minister who administers the *Financial Management and Accountability Act 1997*.

40 Payment of fees

- (1) Such fees as are prescribed are payable to the Commonwealth by a person who, under the Rules, requests CSC to reconsider one of its decisions.
- (2) The regulations may make provision for and in relation to the refund of any fees paid under subsection (1).

41 Assignment of benefits

No pension or other benefit payable under the Rules is capable of being assigned.

42 Member etc. bound by Rules

- (1) A person who is, or has ceased to be, a member is subject to the Rules to the extent that they are applicable in relation to the person.
- (1A) A person who is, or has ceased to be, an associate is subject to the Rules to the extent that they are applicable in relation to the person. For this purpose, *associate* means a person to whom an associate benefit is payable.
- (2) An authority or body who is, or has been, the employer of a member is subject to the Rules to the extent that they are applicable in relation to the authority or body.
- (3) The Commonwealth is subject to the Rules to the extent that they are applicable in relation to the Commonwealth because it is, or has been, the employer of a member.

42A CSC may require employers to distribute information etc. to members

- (1) CSC may:
 - (a) send to the designated employer of a member any document or written information that:
 - (i) under this Act; or
 - (ii) under any other Act;CSC is required to send to the member; and
 - (b) ask the designated employer to give the document or information to the member.
- (2) CSC must ensure that the confidentiality of any document or information sent to the designated employer for transmission to the member is preserved.
- (3) The designated employer of a member must comply with a request of CSC under subsection (1) unless doing so would breach Chapter 7 of the *Corporations Act 2001*.

43 Indemnification

- (1) Any matter or thing done, or omitted to be done, in good faith by a person who is a member of a Reconsideration Advisory Committee established under the Trust Deed in the performance of his or her functions under the Trust Deed in relation to the Public Sector Superannuation Scheme or the PSS Fund does not subject him or her personally to any action, liability, claim or demand.
- (2) Subsection (1) does not preclude CSC from being subject to any action, liability, claim or demand.

Note: See section 35 of the *Governance of Australian Government Superannuation Schemes Act 2011*.

44 Bank not liable in respect of certain payments out of account of deceased pensioner

- (1) In this section:

bank includes, but is not limited to, any body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959*.

primary pension means a pension payable to a pensioner.

- (2) Where:
 - (a) after the death of a retirement pensioner, an amount purporting to be an instalment of primary pension payable to the pensioner on a pension pay day not later than the 7th pension pay day after his or her death is paid into an account of the pensioner with a bank; and
 - (b) the bank pays, out of that account, to the spouse of the deceased pensioner an amount not exceeding the amount so paid into the account;

then, in spite of any other law, the bank is not liable to the Commonwealth, the personal representative of the deceased pensioner or anyone else for any loss incurred because of the payment of that amount to the spouse of the pensioner.

44A Declarations etc. by Minister or CSC

If a provision of this Act refers to a declaration or determination made or other thing done by the Minister or CSC and there is no

Section 45

other provision in this Act expressly authorising the Minister or CSC to make such a declaration or determination or do such a thing, the Minister or CSC, as the case may be, is, and is taken to have at all times been, authorised to make such a declaration or determination or do such a thing.

45 Legislative instruments

- (1) Each of the following instruments is a legislative instrument:
 - (a) a declaration for the purposes of paragraph (a) of the definition of *approved authority* in section 3;
 - (b) a declaration for the purposes of paragraph (b) of the definition of *approved authority* in section 3;
 - (c) a declaration for the purposes of paragraph (b) of the definition of *statutory office* in section 3;
 - (d) a declaration for the purposes of the definition of *temporary employee* in section 3;
 - (e) an instrument under subsection 5(1);
 - (f) a declaration under paragraph 6(1)(j);
 - (g) a declaration under paragraph 6(2)(c);
 - (h) a determination under section 11;
 - (i) a determination under subsection 33C(2);
 - (k) a determination under section 33E;
 - (l) a determination under subsection 33G(2).
- (2) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to an instrument referred to in subsection (1).
- (3) A declaration referred to in paragraph (1)(b) may be expressed to have taken effect from and including a day not earlier than 12 months before the making of the declaration.
- (4) A declaration referred to in paragraph (1)(c), (d) or (f) that is made after the commencement of this subsection may take effect on a day not earlier than 12 months before the making of the declaration.
- (5) If a declaration referred to in paragraph (1)(c), (d) or (f) is made after the commencement of this subsection, and before the start of

the period of 12 months immediately before the making of the declaration contributions were accepted from, or in respect of:

- (a) if a declaration is a declaration referred to in paragraph (1)(c)—the holder of the statutory office concerned; or
- (b) if the declaration is a declaration referred to in paragraph (1)(d) or (f)—a person to whom the declaration relates;

the declaration may take effect on a day not earlier than the earliest day on which contributions were so accepted.

- (6) Subsection 12(2) of the *Legislative Instruments Act 2003* does not apply in relation to an instrument referred to in paragraph (1)(e).

46 Exercise of certain powers by Minister

- (1) The Minister may not make a declaration or determination (other than a determination under section 33E), or issue an instrument, referred to in subsection 45(1), unless:
 - (a) CSC has consented to the making of the declaration or determination or the issue of the instrument; or
 - (b) the declaration, determination or instrument:
 - (i) relates to a payment by an employer-sponsor within the meaning of the *Superannuation Industry (Supervision) Act 1993* that will, after the making of the declaration or determination or the issue of the instrument, be required or permitted to be made under this Act; or
 - (ii) relates solely to the termination of the PSS Fund; or
 - (iii) is made or issued in circumstances covered by regulations made for the purposes of subparagraph 60(1)(b)(iii) of the *Superannuation Industry (Supervision) Act 1993*.
- (2) For the purposes of subparagraph (1)(b)(i), a payment under the Trust Deed or the Rules is taken to be a payment by an employer-sponsor referred to in that subparagraph.

47 Delegation by Minister

The Minister may, by signed instrument, delegate all or any of his or her powers under this Act or the regulations to:

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- (a) CSC; or
- (aa) a director (within the meaning of the *Governance of Australian Government Superannuation Schemes Act 2011*);
or
- (b) an officer of the Department; or
- (c) the CEO or a member of the staff of ComSuper in the performance of the CEO's functions in relation to this Act.

48 Regulations

- (1) The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that:
 - (a) are required or permitted to be prescribed by this Act; or
 - (b) are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Regulations may not be made after the commencement of this subsection unless:
 - (a) CSC has consented to the making of the regulations; or
 - (b) the regulations:
 - (i) relate to a payment by an employer-sponsor within the meaning of the *Superannuation Industry (Supervision) Act 1993* that will, after the making of the regulations, be required or permitted to be made under this Act; or
 - (ii) relate solely to the termination of the PSS Fund; or
 - (iii) are made in circumstances covered by regulations made for the purposes of subparagraph 60(1)(b)(iii) of the *Superannuation Industry (Supervision) Act 1993*.
- (3) For the purposes of subparagraph (2)(b)(i), a payment under the Trust Deed or the Rules is taken to be a payment by an employer-sponsor referred to in that subparagraph.

49 Regulations relating to the operation of the *Superannuation Industry (Supervision) Act 1993* and certain other laws

- (1) The regulations may make any provision that is necessary for the purpose of enabling the occupational superannuation scheme established by this Act to satisfy any condition or requirement of, or made under, an eligible regulatory law that is capable of applying in relation to the scheme.

(2) If regulations made for the purposes of subsection (1) are inconsistent with a provision of this Act, the regulations prevail and the provision, to the extent of the inconsistency, is of no effect.

(3) In this section:

eligible regulatory law means:

- (a) the *Superannuation Industry (Supervision) Act 1993*; or
- (b) the *Superannuation (Excluded Funds) Taxation Act 1987* (including a repealed provision of that Act which continues to apply because of the *Taxation Laws Amendment (Superannuation) Act 1992* or the *Occupational Superannuation Standards Amendment Act 1993*); or
- (ba) the *Financial Institutions Supervisory Levies Collection Act 1998*; or
- (c) the *Superannuation (Resolution of Complaints) Act 1993*; or
- (ca) the *Superannuation (Unclaimed Money and Lost Members) Act 1999*; or
- (cb) the *Family Law Act 1975*; or
- (d) the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*.

Table of Acts**Notes to the *Superannuation Act 1990*****Note 1**

The *Superannuation Act 1990* as shown in this compilation comprises Act No. 38, 1990 amended as indicated in the Tables below.

The *Superannuation Act 1990* is affected by section 38 of the *CSL Sale Act 1993*.

For application, saving or transitional provisions made by the *Corporations (Repeals, Consequentials and Transitional) Act 2001*, see Act No. 55, 2001.

All relevant information pertaining to application, saving or transitional provisions prior to 17 June 1999 is not included in this compilation. For subsequent information see Table A.

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Superannuation Act 1990</i>	38, 1990	7 June 1990	Parts 3–5 (ss. 6–19), ss. 35–42 and 44: 1 July 1990 Remainder: Royal Assent	
<i>Commonwealth Funds Management Limited Act 1990</i>	13, 1991	21 Jan 1991	Part 10 (ss. 65–69): 1 July 1991 (a)	Ss. 4 and 5
<i>Superannuation Legislation Amendment Act 1991</i>	130, 1991	2 Sept 1991	Ss. 10, 11 and 60: 1 Apr 1991 S. 26: 18 Dec 1986 Ss. 82–84: 1 July 1990 Remainder: Royal Assent	—
<i>Superannuation Legislation Amendment Act 1992</i>	187, 1992	18 Dec 1992	Ss. 56, 57, 58(1)(d), 58(2) and 61–65: Royal Assent (b) Ss. 58(1)(a)–(c), 59 and 60: 18 June 1993 (b)	S. 58(2)

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Qantas Sale Act 1992</i>	196, 1992	21 Dec 1992	Schedule (Part 4): 30 July 1995 (see <i>Gazette</i> 1995, No. S324) (c) Schedule (Parts 3 and 6): (c)	S. 2(6) (am. by 60, 1993, s. 4; 168, 1994, s. 3)
as amended by				
<i>Qantas Sale Amendment Act 1993</i>	60, 1993	3 Nov 1993	10 Mar 1993	—
<i>Qantas Sale Amendment Act 1994</i>	168, 1994	16 Dec 1994	S. 3 (item 17): Royal Assent (d)	—
<i>Superannuation Industry (Supervision) Consequential Amendments Act 1993</i>	82, 1993	30 Nov 1993	Ss. 1, 2, 14, 16(2), 41, 42, 45, 46, 48(1) and 52–64: 1 Dec 1993 Remainder: 1 July 1994	S. 51
<i>Superannuation Legislation Amendment Act 1994</i>	86, 1994	23 June 1994	Divs. 2–8 of Part 2 (ss. 4–63), ss. 66(a), (c), 79–87 and 92–98: 1 July 1994 Ss. 66(b) and 67: 1 July 1993 S. 69: 1 July 1992 S. 76: 1 July 1990 Remainder: Royal Assent	Ss. 78, 82(2), 88 and 90(2)
<i>Superannuation Legislation Amendment Act (No. 1) 1995</i>	54, 1995	23 June 1995	Schedule 4 (items 1–11, 13–16) and Schedule 5 (items 1–5): Royal Assent (e) Schedule 4 (items 12, 17): 1 July 1995 (e)	—
as amended by				
<i>Statute Law Revision Act 1996</i>	43, 1996	25 Oct 1996	Schedule 3 (item 116): 23 June 1995 (f)	—
<i>CFM Sale Act 1996</i>	58, 1996	20 Nov 1996	Schedule 2 (item 6): Royal Assent (g)	—
<i>Income Tax (Consequential Amendments) Act 1997</i>	39, 1997	17 Apr 1997	1 July 1997	—
<i>Audit (Transitional and Miscellaneous) Amendment Act 1997</i>	152, 1997	24 Oct 1997	Schedule 2 (items 1240, 1241): 1 Jan 1998 (see <i>Gazette</i> 1997, GN49) (h)	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Superannuation Legislation Amendment (Superannuation Contributions Tax) Act 1997</i>	187, 1997	7 Dec 1997	Schedule 2: Royal Assent (<i>i</i>)	—
<i>Financial Sector Reform (Consequential Amendments) Act 1998</i>	48, 1998	29 June 1998	Schedule 1 (items 179–181): 1 July 1998 (see <i>Gazette</i> 1998, No. S316) (<i>j</i>)	—
<i>Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999</i>	44, 1999	17 June 1999	Schedule 7 (items 216, 217): 1 July 1999 (see <i>Gazette</i> 1999, No. S283) (<i>k</i>) Schedule 8 (items 22, 23): Royal Assent (<i>k</i>)	S. 3(2)(e) (am. by 160, 2000, Sch. 4 [item 4]) Sch. 8 (items 22, 23) [see Table A]
as amended by				
<i>Financial Sector Legislation Amendment Act (No. 1) 2000</i>	160, 2000	21 Dec 2000	Schedule 1 (item 21): Royal Assent Remainder: 18 Jan 2001	—
<i>Superannuation (Unclaimed Money and Lost Members) Consequential and Transitional Act 1999</i>	128, 1999	13 Oct 1999	Schedule 1 (item 43): 13 Oct 1999 (<i>l</i>)	—
<i>Public Employment (Consequential and Transitional) Amendment Act 1999</i>	146, 1999	11 Nov 1999	Schedule 1 (items 883–889): 5 Dec 1999 (see <i>Gazette</i> 1999, No. S584) (<i>m</i>)	—
<i>Australian Federal Police Legislation Amendment Act 2000</i>	9, 2000	7 Mar 2000	2 July 2000 (see <i>Gazette</i> 2000, No. S328)	Sch. 3 (items 20, 33(2), 34, 35) [see Table A]
<i>Corporations (Repeals, Consequentials and Transitionals) Act 2001</i>	55, 2001	28 June 2001	Ss. 4–14: 15 July 2001 (see <i>Gazette</i> 2001, No. S285) Schedule 3 (item 495): (<i>n</i>)	Ss. 4–14 [see Note 1]
<i>Superannuation Legislation Amendment (Post-retirement Commutations) Act 2001</i>	98, 2001	22 Aug 2001	22 Aug 2001	—
<i>Finance and Administration Legislation Amendment (Application of Criminal Code) Act 2001</i>	109, 2001	17 Sept 2001	15 Oct 2001	S. 5 [see Table A]

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Act (No. 1) 2003</i>	64, 2003	30 June 2003	Schedule 2 (items 8, 14): 1 July 1995 Schedule 2 (items 9–13, 15–17): 1 July 2003	Sch. 2 (item 17) [see Table A]
<i>Superannuation Legislation Amendment (Family Law and Other Matters) Act 2004</i>	58, 2004	4 May 2004	Schedule 1: 18 May 2004 Remainder: Royal Assent	S. 4 [see Table A]
<i>Superannuation (Consequential Amendments) Act 2005</i>	81, 2005	29 June 2005	Schedule 1 (items 1–8): 29 June 2005 (see s. 2(1)) Schedule 1 (items 9–18): 1 July 2005 Schedule 1 (item 19): Royal Assent	Sch. 1 (item 4) [see Table A]
<i>Superannuation Legislation Amendment (Trustee Board and Other Measures) Act 2006</i>	51, 2006	9 June 2006	Schedule 1 (items 37–59, 66–84): 1 July 2006	Sch. 1 (items 66–84) [see Table A]
<i>Superannuation Legislation Amendment (Superannuation Safety and Other Measures) Act 2006</i>	112, 2006	23 Oct 2006	Schedule 1 (items 20–24): Royal Assent	—
as amended by				
<i>Superannuation Legislation Amendment (Trustee Board and Other Measures) Act 2006</i>	51, 2006	9 June 2006	Schedule 1 (item 65): (o)	—
<i>Superannuation Legislation Amendment Act 2007</i>	165, 2007	25 Sept 2007	Schedule 2 (items 1–3): 1 July 2008	—
<i>Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008</i>	26, 2008	23 June 2008	Schedule 2 (items 29–32) and Schedule 3: Royal Assent	—
<i>Fair Work (State Referral and Consequential and Other Amendments) Act 2009</i>	54, 2009	25 June 2009	Schedule 10 (items 9, 10): (p)	—
<i>Statute Law Revision Act 2011</i>	5, 2011	22 Mar 2011	Schedule 6 (item 133): 19 Apr 2011	—

Table of Acts

Act	Number and year	Date of Assent	Date of commencement	Application, saving or transitional provisions
<i>Acts Interpretation Amendment Act 2011</i>	46, 2011	27 June 2011	Schedule 2 (items 1082, 1083): (q)	—
<i>Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011</i>	58, 2011	28 June 2011	Schedule 1 (items 207–221, 247(3)): (r)	—
<i>Financial Framework Legislation Amendment Act (No. 2) 2012</i>	82, 2012	28 June 2012	Schedule 1 (item 123): 29 June 2012	—

Act Notes

- (a) The *Superannuation Act 1990* was amended by Part 10 (sections 65–69) only of the *Commonwealth Funds Management Limited Act 1990*, subsection 2(5) of which provides as follows:
- (5) If the provisions referred to in subsection (4) do not commence under that subsection before 1 July 1991, they commence on that day.
- (b) The *Superannuation Act 1990* was amended by sections 56–65 only of the *Superannuation Legislation Amendment Act 1992*, subsections 2(1) and (9) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (9) If paragraphs 58(1)(a), (b) and (c) and sections 59 and 60 do not commence under subsection (8) within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.
- (c) The *Superannuation Act 1990* was amended by the Schedule (Parts 3, 4 and 6) only of the *Qantas Sale Act 1992*, subsections 2(2), 3(b), (5) and (6) of which provide as follows:
- (2) Subject to subsection (3), the remaining provisions of this Act commence on a day or days to be fixed by Proclamation.
 - (3) A Proclamation may fix a day that is earlier than the day on which the Proclamation is published in the *Gazette* but only if:
 - (b) in the case of sections 22, 23, 26, 27, 29, 32, 33, 34, 42, 45, 46, 47, 48 and 49 and Parts 3 and 4 of the Schedule—the day is not earlier than the 50% sale day; and
 - (5) If, on the 100% sale day, Part 3 of the Schedule has not commenced, then, on the day on which Part 7 of the Schedule commences, Parts 3 and 6 of the Schedule are taken to have been repealed.
 - (6) If a provision of this Act has not commenced before 31 August 1995, the provision is taken to have been repealed on that day.
- The Schedule (Parts 3 and 6) are taken to have been repealed on 31 August 1995.
- (d) The *Qantas Sale Act 1992* was amended by section 3 (item 17) only of the *Qantas Sale Amendment Act 1994*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (e) The *Superannuation Act 1990* was amended by Schedule 4 (items 1–17) and Schedule 5 (items 1–5) only of the *Superannuation Legislation Amendment Act (No. 1) 1995*, subsections 2(1) and (3) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
 - (3) The amendments made by items 5, 11, 28, 36, 38, 39, 43, 47, 54, 55, 57, 58, 59, 72, 94, 95, 97, 100, 101, 102, 105, 107, 120, 137 and 138, paragraph (b) of item 145 and items 149 and 161 in Schedule 2, and the amendments made by items 12 and 17 in Schedule 4, take effect on 1 July 1995.
- (f) The *Superannuation Legislation Amendment (No. 1) Act 1995* was amended by Schedule 3 (item 116) only of the *Statute Law Revision Act 1996*, subsection 2(3) of which provides as follows:
- (3) Each item in Schedule 3 is taken to have commenced when the Act containing the provision amended by the item received the Royal Assent.
- (g) The *Superannuation Act 1990* was amended by Schedule 2 (item 6) only of the *CFM Sale Act 1996*, subsection 2(1) of which provides as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

Act Notes

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- (h) The *Superannuation Act 1990* was amended by Schedule 2 (items 1240 and 1241) only of the *Audit (Transitional and Miscellaneous) Amendment Act 1997*, subsection 2(2) of which provides as follows:
- (2) Schedules 1, 2 and 4 commence on the same day as the *Financial Management and Accountability Act 1997*.
- (i) The *Superannuation Act 1990* was amended by Schedule 2 only of the *Superannuation Legislation Amendment (Superannuation Contributions Tax) Act 1997*, subsection 2(1) of which provides as follows:
- (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.
- (j) The *Superannuation Act 1990* was amended by Schedule 1 (items 179–181) only of the *Financial Sector Reform (Consequential Amendments) Act 1998*, subsection 2(2) of which provides as follows:
- (2) Subject to subsections (3) to (14), Schedules 1, 2 and 3 commence on the commencement of the *Australian Prudential Regulation Authority Act 1998*.
- (k) The *Superannuation Act 1990* was amended by Schedule 7 (items 216 and 217) only of the *Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999*, subsections 3(1), (2)(e) and (16) of which provide as follows:
- (1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.
- (2) The following provisions commence on the transfer date:
- (e) subject to subsection (12), Schedule 7, other than items 43, 44, 118, 205 and 207 (the commencement of those items is covered by subsections (10), (11) and (13)).
- (16) The Governor-General may, by Proclamation published in the *Gazette*, specify the date that is to be the transfer date for the purposes of this Act.
- (l) The *Superannuation Act 1990* was amended by Schedule 1 (item 43) only of the *Superannuation (Unclaimed Money and Lost Members) Consequential and Transitional Act 1999*, subsections 2(1) and (2) of which provides as follows:
- (1) In this section, **commencing time** means the time when the *Superannuation (Unclaimed Money and Lost Members) Act 1999* commences.
- (2) Subject to this section, this Act commences at the commencing time.
- (m) The *Superannuation Act 1990* was amended by Schedule 1 (item 883–889) only of the *Public Employment (Consequential and Transitional) Amendment Act 1999*, subsections 2(1) and (2) of which provide as follows:
- (1) In this Act, **commencing time** means the time when the *Public Service Act 1999* commences.
- (2) Subject to this section, this Act commences at the commencing time.
- (n) The *Income Tax Assessment Act 1997* was amended by Schedule 3 (item 495) only of the *Corporations (Repeals, Consequentials and Transitionals) Act 2001*, subsection 2(9) of which provides as follows:
- (9) Item 495 of Schedule 3 commences on the later of:
- (a) the time when the *Corporations Act 2001* commences; or
- (b) the time when item 14 of Schedule 1 to the *Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Act 2001* commences.

The *Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Act 2001* has not been enacted. Therefore these amendments do not commence.

Act Notes

(o) Subsection 2(1) (item 3) of the *Superannuation Legislation Amendment (Trustee Board and Other Measures) Act 2006* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
3. Schedule 1, Part 2	Immediately before the commencement of Schedule 1 to the <i>Superannuation Legislation Amendment (Superannuation Safety and Other Measures) Act 2006</i> . However, the provision(s) do not commence at all if that Schedule commences before 1 July 2006.	23 October 2006

(p) Subsection 2(1) (item 32) of the *Fair Work (State Referral and Consequential and Other Amendments) Act 2009* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
32. Schedule 10	Immediately after the commencement of Part 2-4 of the <i>Fair Work Act 2009</i> .	1 July 2009

(q) Subsection 2(1) (item 8) of the *Acts Interpretation Amendment Act 2011* provides as follows:

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
8. Schedule 2, items 1075 to 1083	At the same time as the provision(s) covered by table item 2. However, if item 183 of Schedule 1 to the <i>Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011</i> commences at or before that time, the provision(s) do not commence at all.	Do not commence

Act Notes

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- (r) Subsection 2(1) (item 2) of the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011* provides as follows:
- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Provision(s)	Commencement	Date/Details
2. Schedules 1 and 2	Immediately after the commencement of section 2 of the <i>Governance of Australian Government Superannuation Schemes Act 2011</i> .	1 July 2011

Table of Amendments**Table of Amendments**

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Part 1	
S. 3	am. Nos. 13 and 130, 1991; Nos. 187 and 196, 1992; No. 86, 1994; No. 54, 1995; No. 146, 1999; No. 64, 2003; No. 58, 2004; No. 81, 2005; No. 51, 2006; No. 58, 2011
S. 3AA.....	ad. No. 54, 1995 am. Nos. 5 and 58, 2011
S. 3AB.....	ad. No. 54, 1995
S. 3A	ad. No. 13, 1991
S. 3B	ad. No. 109, 2001
Part 2	
Heading to s. 4	am. No. 54, 1995
S. 4	am. No. 54, 1995; No. 26, 2008
S. 5	am. No. 82, 1993; No. 86, 1994; No. 54, 1995; No. 51, 2006; No. 58, 2011
S. 5A	ad. No. 58, 2004 am. No. 26, 2008; No. 58, 2011
Part 3	
Heading to Part 3	am. No. 54, 1995
Heading to s. 6	am. No. 54, 1995
S. 6	am. No. 130, 1991; No. 187, 1992; No. 54, 1995; No. 146, 1999; No. 81, 2005; No. 165, 2007; No. 58, 2011
Heading to s. 6A.....	am. No. 51, 2006
S. 6A	ad. No. 130, 1991 am. No. 51, 2006; No. 58, 2011
S. 6B	ad. No. 165, 2007 am. No. 58, 2011
S. 7	rs. No. 187, 1992 am. No. 54, 1995; No. 58, 2011
S. 8	am. No. 187, 1992; No. 54, 1995 (as am. by No. 43, 1996); No. 58, 2011
Heading to s. 10	rs. No. 9, 2000
S. 10	am. No. 9, 2000
S. 11	rs. No. 130, 1991
S. 12	rs. No. 54, 1995
Heading to s. 13.....	am. No. 58, 2011
S. 13	am. No. 130, 1991; No. 54, 1995; No. 54, 2009; No. 58, 2011
Part 4	
Heading to s. 14.....	am. No. 54, 1995
S. 14	am. No. 54, 1995; No. 58, 2011
S. 14A	ad. No. 54, 1995 am. No. 58, 2011

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to s. 15	am. No. 54, 1995
S. 15	am. No. 187, 1992; No. 54, 1995; No. 58, 2011
Part 5	
Heading to s. 16	am. No. 54, 1995
S. 16	am. No. 187, 1992; No. 54, 1995; No. 98, 2001; No. 58, 2011
S. 16A	ad. No. 58, 2004 am. No. 58, 2011
Heading to s. 17	am. No. 58, 2011
S. 17	am. No. 54, 1995; No. 58, 2011
S. 18	am. No. 58, 2004
S. 19	am. No. 130, 1991; No. 146, 1999; No. 81, 2005
Part 6	
Heading to Part 6	am. No. 54, 1995 rs. No. 51, 2006; No. 58, 2011
Part 6	rs. No. 58, 2011
S. 20	am. No. 54, 1995; No. 51, 2006 rep. No. 58, 2011
Note to s. 20	ad. No. 51, 2006 rep. No. 58, 2011
S. 21	am. No. 152, 1997 rep. No. 58, 2011
S. 22	am. No. 81, 2005 rs. No. 58, 2011
Note to s. 22	ad. No. 81, 2005 am. No. 51, 2006 rs. No. 58, 2011
S. 23	am. No. 51, 2006 rep. No. 58, 2011
S. 24	rep. No. 58, 2011
S. 25	am. No. 81, 2005 rep. No. 58, 2011
S. 26	am. No. 54, 1995; Nos. 39 and 187, 1997; No. 81, 2005 rep. No. 58, 2011
S. 27	rs. No. 152, 1997 rep. No. 58, 2011
S. 27A	ad. No. 152, 1997 am. No. 109, 2001; No. 51, 2006 rep. No. 58, 2011
Note to s. 27A(3)	ad. No. 109, 2001 rep. No. 58, 2011
S. 27B	ad. No. 152, 1997 rep. No. 58, 2011
S. 28	am. No. 86, 1994; No. 54, 1995; No. 81, 2005 rep. No. 58, 2011

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
S. 28A	ad. No. 130, 1991 am. Nos. 51 and 112, 2006 rep. No. 58, 2011
Part 7	rep. No. 58, 2011
S. 29	am. No. 54, 1995; No. 81, 2005 rep. No. 58, 2011
S. 30	rep. No. 58, 2011
Part 8	rep. No. 13, 1991
Ss. 31, 32.....	rep. No. 13, 1991
Part 8A	
Part 8A	ad. No. 130, 1991
Division 1	
S. 33A	ad. No. 130, 1991
Division 2	
S. 33B	ad. No. 130, 1991 am. No. 54, 1995; No. 58, 2011
S. 33C.....	ad. No. 130, 1991 am. No. 54, 1995
S. 33D.....	ad. No. 130, 1991 am. No. 86, 1994; No. 54, 1995; No. 64, 2003; No. 58, 2011
S. 33E	ad. No. 130, 1991 am. No. 54, 1995
S. 33F	ad. No. 130, 1991 am. No. 39, 1997
Division 3	
Heading to s. 33G	am. No. 54, 1995
S. 33G.....	ad. No. 130, 1991 am. No. 54, 1995; No. 64, 2003
Part 9	
S. 33	rs. No. 13, 1991 am. No. 54, 1995 rep. No. 58, 1996
S. 33H.....	ad. No. 51, 2006 am. No. 58, 2011
Note to s. 33H(1).....	am. No. 58, 2011
Heading to s. 33AA	am. No. 58, 2011
S. 33AA.....	ad. No. 54, 1995 am. No. 58, 2011
S. 34	am. No. 187, 1992; No. 54, 1995; No. 51, 2006; No. 58, 2011
S. 35	am. No. 130, 1991; No. 187, 1992; No. 86, 1994; No. 146, 1999; No. 81, 2005; No. 58, 2011
Heading to s. 36	am. No. 54, 1995
S. 36	am. No. 130, 1991; No. 54, 1995; No. 146, 1999; No. 81, 2005

Table of Amendments

ad. = added or inserted am. = amended rep. = repealed rs. = repealed and substituted

Provision affected	How affected
Heading to s. 37	am. No. 58, 2011
S. 37	rs. No. 187, 1992 am. No. 58, 2004; No. 58, 2011
Heading to s. 37A.....	am. No. 58, 2011
S. 37A	ad. No. 187, 1997 am. No. 58, 2011
S. 38	am. No. 54, 1995; No. 58, 2011
S. 39	am. No. 58, 2011
S. 39A	ad. No. 82, 2012
S. 39B	ad. No. 82, 2012
S. 39C.....	ad. No. 82, 2012
S. 40	am. No. 58, 2011
S. 42	am. No. 58, 2004
Heading to s. 42A.....	am. No. 58, 2011
S. 42A	ad. No. 64, 2003 am. No. 112, 2006; No. 58, 2011
Heading to s. 43.....	am. No. 58, 2011
S. 43	am. No. 130, 1991; No. 54, 1995; No. 64, 2003; No. 81, 2005; No. 51, 2006; No. 58, 2011
Note to s. 43(2)	ad. No. 58, 2011
Heading to s. 44	am. No. 44, 1999
S. 44	am. No. 48, 1998; No. 44, 1999
Heading to s. 44A.....	am. No. 58, 2011
S. 44A	ad. No. 86, 1994 am. No. 58, 2011
Heading to s. 45.....	am. No. 26, 2008
S. 45	am. No. 130, 1991; No. 86, 1994; No. 64, 2003; No. 26, 2008
S. 46	rs. No. 86, 1994 am. No. 54, 1995; No. 58, 2011
S. 47	am. No. 58, 2011
S. 48	am. No. 86, 1994; No. 54, 1995; No. 58, 2011
S. 49	ad. No. 86, 1994 am. No. 39, 1997; No. 48, 1998; No. 128, 1999; No. 58, 2004
Schedule.....	rep. No. 26, 2008

Note 2

Paragraph 6B(1)(a)—Schedule 1 (item 215) of the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011* (No. 58, 2011) provides as follows:

Schedule 1

215 Paragraph 6B(1)(a)

Omit “a member of the PSSAP (other than by paragraph 13(2)(a) of that Act)”, substitute “an ordinary employer-sponsored member of PSSAP (within the meaning of that Act), other than by paragraph 13(2)(a) of that Act”.

The proposed amendment was misdescribed and is not incorporated in this compilation.

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Application, saving or transitional provisions

Financial Sector Reform (Amendments and Transitional Provisions) Act (No. 1) 1999 (No. 44, 1999)

Schedule 8

22 Regulations may deal with transitional, saving or application matters

- (1) The regulations may deal with matters of a transitional, saving or application nature relating to:
- (a) the transition from the application of provisions of the replaced legislation to the application of provisions of the *Banking Act 1959*, the *Life Insurance Act 1995*, the *Financial Sector (Transfers of Business) Act 1999*, the *Financial Sector (Shareholdings) Act 1998* or the *Australian Prudential Regulation Authority Act 1998*; or
 - (b) the transition, for The Cairns Cooperative Weekly Penny Savings Bank Limited, from the application of provisions of the *Financial Intermediaries Act 1996* of Queensland to the application of provisions of any of the Acts referred to in paragraph (a); or
 - (c) the amendments and repeals made by the Schedules to this Act.
- (2) Without limiting subitem (1), the regulations may provide for a matter to be dealt with, wholly or partly, in any of the following ways:
- (a) by applying (with or without modifications) to the matter:
 - (i) provisions of a law of the Commonwealth, or of a State or Territory; or
 - (ii) provisions of a repealed or amended law of the Commonwealth, or of a State or Territory, in the form that those provisions took before the repeal or amendment; or
 - (iii) a combination of provisions referred to in subparagraphs (i) and (ii);
 - (b) by otherwise specifying rules for dealing with the matter;

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- (c) by specifying a particular consequence of the matter, or of an outcome of the matter, for the purposes of a law of the Commonwealth.
- (3) Without limiting subitems (1) and (2), the regulations may provide for the continued effect, for the purposes of a provision of a law of the Commonwealth, of a thing done or instrument made, or a class of things done or instruments made, before the transfer date under or for the purposes of a provision of a law of a State or Territory. In the case of an instrument or class of instruments, the regulations may provide for the instrument or instruments to continue to have effect subject to modifications.
- (4) Without limiting subitem (3), regulations providing for the continued effect of things done or instruments made may permit all or any of the following matters to be determined in writing by a specified person, or by a person included in a specified class of persons:
- (a) the identification of a thing done or instrument made, or a class of things done or instruments made, that is to continue to have effect;
 - (b) the purpose for which a thing done or instrument made, or a class of things done or instruments made, is to continue to have effect;
 - (c) any modifications subject to which an instrument made, or a class of instruments made, is to continue to have effect.
- (5) Despite subsection 48(2) of the *Acts Interpretation Act 1901*, regulations for the purposes of this item:
- (a) may be expressed to take effect from a date before the regulations are notified in the *Gazette*; and
 - (b) may provide for a determination of a kind referred to in subitem (4) to take effect from a date before the determination is made (including a date before the regulations are notified in the *Gazette*).
- (6) In this item, a reference to a *law*, whether of the Commonwealth or of a State or Territory, includes a reference to an instrument made under such a law.
- (7) In this item:
- replaced legislation*** means:
- (a) the AFIC Codes; and
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Table A

- (b) the Financial Institutions Codes; and
- (c) the Friendly Societies Codes; and
- (d) the *Australian Financial Institutions Commission Act 1992* of Queensland, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in section 21 of the *Australian Financial Institutions Commission Act 1992* of Queensland; and
- (e) the *Financial Institutions (Queensland) Act 1992* of Queensland, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in section 30 of the *Financial Institutions (Queensland) Act 1992* of Queensland; and
- (f) the **Friendly Societies (Victoria) Act 1996** of Victoria, and any Act of another State or of a Territory that provides for the application, as a law of the State or Territory, of the Code set out in the Schedule to the **Friendly Societies (Victoria) Act 1996** of Victoria; and
- (g) the *Friendly Societies (Western Australia) Act 1999*; and
- (h) any other law of a State or Territory prescribed by the regulations for the purposes of this definition.

23 Power to make regulations

The Governor-General may make regulations, not inconsistent with this Act, prescribing matters required or permitted by this Act to be prescribed.

Australian Federal Police Legislation Amendment Act 2000 (No. 9, 2000)

Schedule 3

20 Definition

In this Part:

commencing time means the time when this Part commences.

Table A**33 Former members or staff members become permanent employees for the purposes of the Superannuation Acts at the commencing time***Superannuation Act 1990*

- (2) If subitem 2(1), (2) or (3) of Part 1 of this Schedule applies to the engagement of a person who, immediately before the commencing time, was covered by subsection 39E(3) of the *Australian Federal Police Act 1979* as in force at that time, then, for the purposes of the application of the *Superannuation Act 1990* in relation to that engagement, the person is taken to be a permanent employee during that engagement.

34 Warrants or writs etc. may continue to be executed

If, immediately before the commencing time, any warrant, writ, order, permission or other instrument (the *authority*) issued under a law of the Commonwealth, a State or a Territory could be executed by a person who was at that time a member, staff member or special member of the Australian Federal Police, the authority continues to be able to be executed at and after the commencing time by the person in his or her capacity as:

- (a) the Commissioner of the Australian Federal Police; or
- (b) a Deputy Commissioner of the Australian Federal Police; or
- (c) an AFP employee; or
- (d) a special member of the Australian Federal Police;

(all within the meaning of the *Australian Federal Police Act 1979* as in force at and after the commencing time).

Note: A person who is a member or staff member of the Australian Federal Police immediately before the commencing time is taken to be engaged as an AFP employee. Similarly, a person who is a special member of the Australian Federal Police immediately before the commencing time is taken to be appointed as a special member. See item 2 of this Schedule.

35 Regulations dealing with matters of a transitional or saving nature

- (1) The Governor-General may make regulations, not inconsistent with any other provision of this Schedule, prescribing matters of a transitional or saving nature in relation to the amendments made by Schedule 1 or 2.
- (2) Regulations made under this item within one year after the commencement of this item may commence on a day earlier than the

Table A

day on which they are made, but not earlier than the commencement of this item.

Finance and Administration Legislation Amendment (Application of Criminal Code) Act 2001 (No. 109, 2001)

5 Application of amendments generally

- (1) Each amendment made by this Act applies to acts and omissions that take place after the amendment commences.
- (2) For the purposes of this section, if an act or omission is alleged to have taken place between 2 dates, one before and one on or after the day on which a particular amendment commences, the act or omission is alleged to have taken place before the amendment commences.

Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Act (No. 1) 2003 (No. 64, 2003)

Schedule 2

17 Commencement of certain provisions of Tenth Amending Deed

- (1) Subclauses 3.13, 3.14, 3.15, 3.16, 3.17, 3.18, 3.29, 3.44 and 3.46 of the Tenth Amending Deed are taken to have commenced immediately after the commencement of the Ninth Amending Deed.
- (2) In this item:
Ninth Amending Deed means the deed:
 - (a) amending the Trust Deed under subsection 5(1) of the *Superannuation Act 1990*; and
 - (b) notified in the *Gazette* of 28 June 1995 (*Gazette* No. GN25).***Tenth Amending Deed*** means the deed:
 - (a) amending the Trust Deed under subsection 5(1) of the *Superannuation Act 1990*; and
 - (b) notified in the *Gazette* of 1 February 1996 (*Gazette* No. S41).

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Trust Deed has the same meaning as in the *Superannuation Act 1990*.

Superannuation Legislation Amendment (Family Law and Other Matters) Act 2004 (No. 58, 2004)

4 Application of family law interest-splitting amendments

(1) The family law interest-splitting amendments apply to:

- (a) any splitting agreement, or splitting order, that has an operative time after the commencement of Schedule 1; and
- (b) a splitting agreement, or splitting order, with an earlier operative time, if no benefits had become payable before the commencement of Schedule 1 in respect of the superannuation interest to which the agreement or order relates.

(2) In this section:

family law interest-splitting amendments means the amendments made by Schedule 1, other than items 24 and 34.

Superannuation (Consequential Amendments) Act 2005 (No. 81, 2005)

Schedule 1

4 Transitional—section 26 of the *Superannuation Act 1990*

The amendment of section 26 of the *Superannuation Act 1990* made by this Part does not affect the continuity of any regulations made for the purposes of subsection 26(3) of that Act before the commencement of this item.

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Superannuation Legislation Amendment (Trustee Board and Other Measures) Act 2006 (No. 51, 2006)

Schedule 1

66 Definitions

(1) In this Part:

acquisition of property has the same meaning as in paragraph 51(xxxi) of the Constitution.

amend includes repeal and remake.

asset means:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; and
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

assets official, in relation to an asset other than land, means the person or authority who, under a law of the Commonwealth, a State or a Territory, under a trust instrument or otherwise, has responsibility for keeping a register in relation to assets of the kind concerned.

Australian Reward Investment Alliance means the board established under section 20 of the *Superannuation Act 1990* immediately after the commencement time.

commencement time means the time when this Part commences.

CSS Board means the CSS Board established under section 27A of the *Superannuation Act 1976* immediately before the commencement time.

financial liability means a liability to pay a person an amount, where the amount, or the method for working out the amount, has been determined.

instrument:

- (a) includes:
 - (i) a contract, deed, undertaking or agreement; and
 - (ii) a notice, authority, order or instruction; and
 - (iii) an instrument made under an Act or regulations; and
 - (iv) regulations; but
- (b) does not include an Act.

Table A

just terms has the same meaning as in paragraph 51(xxxi) of the Constitution.

land means any legal or equitable estate or interest in real property, whether actual, contingent or prospective.

land registration official, in relation to land, means the Registrar of Titles or other proper officer of the State or Territory in which the land is situated.

liability means any liability, duty or obligation, whether actual, contingent or prospective.

- (2) Subject to subitem (1), an expression used in this Part that is also used in the *Superannuation Act 1976*, the *Superannuation Act 1990*, or the *Superannuation Act 2005*, as amended by this Schedule, has the same meaning in this Part as it has in that Act.

67 Vesting of assets of CSS Board

- (1) This item applies to the assets of the CSS Board (whether the assets are in Australia or elsewhere) immediately before the commencement time.
- (2) At the commencement time, the assets to which this item applies cease to be assets of the CSS Board and become assets of the Australian Reward Investment Alliance without any conveyance, transfer or assignment. The Australian Reward Investment Alliance becomes the successor in law in relation to these assets.

68 Vesting of liabilities of CSS Board

- (1) This item applies to the liabilities of the CSS Board (whether the liabilities arose in Australia or elsewhere) immediately before the commencement time.
- (2) At the commencement time, the liabilities to which this item applies cease to be liabilities of the CSS Board and become liabilities of the Australian Reward Investment Alliance without any conveyance, transfer or assignment. The Australian Reward Investment Alliance becomes the successor in law in relation to these liabilities.

69 Certificates relating to vesting of land

- (1) This item applies if:
- (a) any land vests in the Australian Reward Investment Alliance under this Part; and

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- (b) there is lodged with a land registration official a certificate that:
 - (i) is signed by the Chairperson; and
 - (ii) identifies the land, whether by reference to a map or otherwise; and
 - (iii) states that the land has become vested in the Australian Reward Investment Alliance under this Part.

Note: Certificates under paragraph (1)(b) are presumed to be authentic: see item 85.

- (2) The land registration official may:
 - (a) register the matter in a way that is the same as, or similar to, the way in which dealings in land of that kind are registered; and
 - (b) deal with, and give effect to, the certificate.

70 Certificates relating to vesting of assets other than land

- (1) This item applies if:
 - (a) any asset other than land vests in the Australian Reward Investment Alliance under this Part; and
 - (b) there is lodged with an assets official a certificate that:
 - (i) is signed by the Chairperson; and
 - (ii) identifies the asset; and
 - (iii) states that the asset has become vested in the Australian Reward Investment Alliance under this Part.

Note: Certificates under paragraph (1)(b) are presumed to be authentic: see item 85.

- (2) The assets official may:
 - (a) deal with, and give effect to, the certificate as if it were a proper and appropriate instrument for transactions in relation to assets of that kind; and
 - (b) make such entries in the register as are necessary having regard to the effect of this Part.

71 Substitution of Australian Reward Investment Alliance as a party to pending proceedings

If any proceedings to which the CSS Board was a party were pending in any court or tribunal immediately before the commencement time, the Australian Reward Investment Alliance is substituted for the CSS Board, from the commencement time, as a party to the proceedings.

Table A**72 Transfer of custody of CSS Board records**

- (1) This item applies to any records or documents that, immediately before the commencement time, were in the custody of the CSS Board.
- (2) The records and documents are to be transferred into the custody of the Australian Reward Investment Alliance at or after the commencement time.

73 Continuity of the Australian Reward Investment Alliance

The amendments made by Part 1 of this Schedule do not affect:

- (a) the continuity, after that Part commences, of the existence of the body that is renamed by those amendments as the Australian Reward Investment Alliance; or
- (b) the continuing validity of the appointment of the trustees.

74 Membership of the Australian Reward Investment Alliance*Employer representative*

- (1) The person who is the member of the CSS Board referred to in subsection 27F(2) of the *Superannuation Act 1976* immediately before the commencement time:
 - (a) is taken to have been duly appointed to the Australian Reward Investment Alliance by the Minister under paragraph 4.1(a) of the Trust Deed (within the meaning of the *Superannuation Act 1990*) for the balance of the person's term of appointment; and
 - (b) is taken to have been so appointed on the same terms and conditions as applied to the person immediately before the commencement time.

Employee representative

- (2) The person who is the member of the CSS Board referred to in subsection 27F(3) of the *Superannuation Act 1976* immediately before the commencement time:
 - (a) is taken to have been duly appointed to the Australian Reward Investment Alliance by the Minister under paragraph 4.1(b) of the Trust Deed (within the meaning of the *Superannuation Act 1990*) for the balance of the person's term of appointment; and

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- (b) is taken to have been so appointed on the same terms and conditions as applied to the person immediately before the commencement time.

Variation of terms and conditions

- (3) Paragraphs (1)(b) and (2)(b) do not prevent a person's terms and conditions from being varied after the commencement time:
 - (a) in accordance with those terms and conditions; or
 - (b) by or under a law, award, determination or agreement.
- (4) In this item:
 - vary*, in relation to terms and conditions, includes:
 - (a) omitting any of those terms and conditions; or
 - (b) adding to those terms and conditions; or
 - (c) substituting new terms or conditions for any of those terms and conditions.

75 References in Acts and instruments to the CSS Board

If:

- (a) an Act or instrument is in force immediately before the commencement time; and
- (b) the Act or instrument contains a reference to the CSS Board;

the Act or instrument has effect from the commencement time as if the reference to the CSS Board were a reference to the Australian Reward Investment Alliance.

Note: During the first year after this item commences, instruments can retrospectively amend references to the CSS Board: see item 83.

76 Operation of laws

- (1) If, before the commencement time, a thing was done by, or in relation to, the CSS Board, then, for the purposes of the operation of any law of the Commonwealth after the commencement time, the thing is taken to have been done by, or in relation to, the Australian Reward Investment Alliance.
- (2) For the purposes of subitem (1), a thing done before the commencement time under a provision that is amended by this Act has effect from that time as if it were done under that provision as amended. However, this is not taken to change the time at which the thing was actually done.

Table A*Meaning of doing*

- (3) To avoid doubt, for the purposes of this item, *doing* a thing includes making an instrument.

77 Continued effect of delegations made under the old law

- (1) A delegation made under section 27Q of the *Superannuation Act 1976* that is in force immediately before the commencement time continues in effect after that time as if it had been made under section 27Q of that Act, as amended by this Schedule.
- (2) The amendments made to:
- (a) section 165 of the *Superannuation Act 1976*; or
 - (b) section 28A of the *Superannuation Act 1990*;
- do not affect the continuity of a delegation or sub-delegation made under that section.

78 Financial statements and other reporting requirements*Reporting requirements*

- (1) If:
- (a) immediately before the commencement time, a law required the CSS Board to provide a report (whether financial statements or otherwise) for a period; and
 - (b) the period ends after the commencement time;
- the Australian Reward Investment Alliance must provide the report, as required, for so much of the period as occurs before the commencement time.
- (2) If:
- (a) under subitem (1), the Australian Reward Investment Alliance is required to provide a report for a part of a period; and
 - (b) the Australian Reward Investment Alliance is also required to provide a similar report for the remainder of the period;
- the Australian Reward Investment Alliance may meet the requirements in a single report for the period.

Table A

Outstanding reporting requirements

- (3) If:
- (a) a law required the CSS Board to provide a report (whether financial statements or otherwise) for a period that ended before the commencement time; and
 - (b) the report has not been provided by the commencement time;
- the Australian Reward Investment Alliance must provide the report as required.

79 CGT roll-over—transfer of CSS Fund assets to pooled superannuation trust

Object

- (1) The object of this item is to provide for a CGT roll-over so as to facilitate the exercise by the Australian Reward Investment Alliance of its powers under section 27C of the *Superannuation Act 1976* in relation to the CSS Fund to operate a pooled superannuation trust, known as the PSS Investments Trust, that is used for investing the assets of the CSS Fund.

Roll-over

- (2) There is a roll-over if:
- (a) one or more CGT events happen because the Australian Reward Investment Alliance ceases to hold all of the CGT assets of the CSS Fund; and
 - (b) because of the cessation, CGT assets (the *identical assets*) that, together, are identical to all the CGT assets of the CSS Fund just before the happening of the CGT events start to be held by the trustee (the *transferee trustee*) of the PSS Investments Trust (whether or not all the identical assets were assets of the CSS Fund just before the CGT events); and
 - (c) the cessation is part of a scheme under which CGT assets of the CSS Fund are replaced with units in the PSS Investments Trust.

Note: The transferee trustee may be the Australian Reward Investment Alliance: see subsection 960-100(3) of the *Income Tax Assessment Act 1997*.

Table A

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- (3) A capital gain or capital loss the Australian Reward Investment Alliance makes from each of the CGT events is disregarded.
- (4) For the transferee trustee, the first element of the cost base of each of the identical assets the transferee trustee holds is the cost base of the corresponding asset for the Australian Reward Investment Alliance at the time of the relevant CGT event.
- (5) For the transferee trustee, the first element of the reduced cost base of each of the identical assets the transferee trustee holds is the reduced cost base of the corresponding asset for the Australian Reward Investment Alliance at the time of the relevant CGT event.
- (6) For the purposes of the *Income Tax Assessment Act 1997*, a roll-over covered by this item is taken to be a same-asset roll-over.

Interpretation

- (7) An expression used in this item and in the *Income Tax Assessment Act 1997* has the same meaning in this item as it has in that Act.

80 References in Acts and instruments to PSS Board

If:

- (a) an Act or an instrument is in force immediately before the commencement time; and
- (b) the Act or instrument contains a reference to the PSS Board;

the Act or instrument has effect from the commencement time as if the reference to the PSS Board were a reference to the Australian Reward Investment Alliance.

Note: During the first year after this item commences, instruments can retrospectively amend references to the PSS Board: see item 83.

81 Amending instruments may be retrospective

(1) If:

- (a) an instrument is made within the period of 12 months beginning on the day on which this item commences; and
- (b) a provision of the instrument amends a reference to the PSS Board or the CSS Board in any other instrument;

the provision may be expressed to take effect from the day that this item commences, or a later day in the period referred to in paragraph (a), that occurs before the instrument is made.

Table A

- (2) This item has effect despite subsection 12(2) of the *Legislative Instruments Act 2003*.

82 Constitutional safety net—acquisition of property

- (1) If the operation of this Part would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

83 Certificates taken to be authentic

A document that appears to be a certificate made or issued under a particular provision of this Part:

- (a) is taken to be such a certificate; and
- (b) is taken to have been properly given;

unless the contrary is established.

84 Regulations

- (1) The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Part to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Part.
- (2) In particular, regulations may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Act.

Note: During the first year after this item commences, regulations can retrospectively amend references to the CSS Board or the PSS Board: see item 83.