



Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008

No. 26, 2008

**An Act to amend the law relating to
superannuation, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

Contents

1	Short title	1
2	Commencement	2
3	Schedule(s)	3
Schedule 1—Main amendments		4
	<i>Administrative Appeals Tribunal Act 1975</i>	4
	<i>Auditor-General Act 1997</i>	6
	<i>Australian Crime Commission Act 2002</i>	7
	<i>Australian Federal Police Act 1979</i>	9
	<i>Australian Film Commission Act 1975</i>	10
	<i>Australian Prudential Regulation Authority Act 1998</i>	11
	<i>Australian Radiation Protection and Nuclear Safety Act 1998</i>	12
	<i>Australian Securities and Investments Commission Act 2001</i>	12
	<i>Building and Construction Industry Improvement Act 2005</i>	13
	<i>Classification (Publications, Films and Computer Games) Act 1995</i>	14
	<i>Crimes (Superannuation Benefits) Act 1989</i>	16
	<i>Defence Force Retirement and Death Benefits Act 1973</i>	17
	<i>Director of Public Prosecutions Act 1983</i>	17
	<i>Family Law Act 1975</i>	18
	<i>Federal Court of Australia Act 1976</i>	19
	<i>Gene Technology Act 2000</i>	20
	<i>Inspector-General of Taxation Act 2003</i>	21
	<i>Intelligence Services Act 2001</i>	22
	<i>Law Officers Act 1964</i>	22
	<i>National Blood Authority Act 2003</i>	23
	<i>Native Title Act 1993</i>	23
	<i>Ombudsman Act 1976</i>	26
	<i>Parliamentary Contributory Superannuation Act 1948</i>	27
	<i>Productivity Commission Act 1998</i>	27
	<i>Renewable Energy (Electricity) Act 2000</i>	28
	<i>Social Security (Administration) Act 1999</i>	29
	<i>Superannuation (Consequential Amendments) Act 2005</i>	30

<i>Veterans' Entitlements Act 1986</i>	31
<i>Workplace Relations Act 1996</i>	32
Schedule 2—Technical amendments relating to legislative instruments	34
<i>Parliamentary Contributory Superannuation Act 1948</i>	34
<i>Superannuation Act 1922</i>	34
<i>Superannuation Act 1976</i>	34
<i>Superannuation Act 1990</i>	38
<i>Superannuation (Productivity Benefit) Act 1988</i>	38
Schedule 3—Repeal of Schedule to the Superannuation Act 1990	40
<i>Superannuation Act 1990</i>	40
Schedule 4—Amendments relating to the Superannuation Guarantee (Administration) Act 1992	41
<i>Superannuation Act 1976</i>	41
<i>Superannuation (Productivity Benefit) Act 1988</i>	41



Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008

No. 26, 2008

An Act to amend the law relating to superannuation, and for related purposes

[Assented to 23 June 2008]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Act 2008*.

*Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential
Amendments) Act 2008 No. 26, 2008 1*

2 Commencement

- (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.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	23 June 2008
2. Schedule 1, items 1 to 28	The day on which this Act receives the Royal Assent.	23 June 2008
3. Schedule 1, items 29 to 31	The day on which this Act receives the Royal Assent. However, if Schedule 1 to the <i>Screen Australia and the National Film and Sound Archive (Consequential and Transitional Provisions) Act 2008</i> commences on or before the day on which this Act receives the Royal Assent, the provision(s) do not commence at all.	23 June 2008
4. Schedule 1, items 32 to 140	The day on which this Act receives the Royal Assent.	23 June 2008
5. Schedules 2 and 3	The day on which this Act receives the Royal Assent.	23 June 2008
6. Schedule 4, items 1 and 2	The day on which this Act receives the Royal Assent.	23 June 2008
7. Schedule 4, items 3 to 7	1 July 2008.	1 July 2008

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.
-

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Main amendments

Administrative Appeals Tribunal Act 1975

1 After paragraph 13(9)(b)

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

2 Subsection 13(12)

Repeal the subsection, substitute:

CSS

- (12) In spite of anything contained in this section, a member who:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

3 Subsection 13(13)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

4 At the end of section 13

Add:

PSSAP

- (14) In spite of anything contained in this section, a member who:
 - (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;
-

is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

5 After paragraph 24K(3)(b)

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

6 Subsection 24K(4)

Repeal the subsection, substitute:

- (4) In spite of anything contained in this section, a Registrar who:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);

is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

7 Subsection 24K(5)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

8 At the end of section 24K

Add:

- (6) In spite of anything contained in this section, a Registrar who:
 - (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Auditor-General Act 1997

9 After paragraph 6(3)(b) of Schedule 1

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

10 Paragraph 6(4)(b) of Schedule 1

Repeal the paragraph, substitute:

- (b) the Board (within the meaning of the *Superannuation Act 1976*) gives a certificate under section 54C of that Act.

11 Paragraph 6(5)(b) of Schedule 1

Repeal the paragraph, substitute:

- (b) the Board (within the meaning of the *Superannuation Act 1990*) gives a certificate under section 13 of that Act.

12 At the end of clause 6 of Schedule 1

Add:

- (6) For the purposes of the *Superannuation Act 2005*, the Auditor-General is taken to have been retired from office on the ground of invalidity if:
 - (a) the Auditor-General is removed or retired from office on the ground of physical or mental incapacity; and
 - (b) the Board (within the meaning of the *Superannuation Act 2005*) gives an approval and certificate under section 43 of that Act.

13 After paragraph 5(3)(b) of Schedule 2

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

14 Paragraph 5(4)(b) of Schedule 2

Repeal the paragraph, substitute:

- (b) the Board (within the meaning of the *Superannuation Act 1976*) gives a certificate under section 54C of that Act.

15 Paragraph 5(5)(b) of Schedule 2

Repeal the paragraph, substitute:

- (b) the Board (within the meaning of the *Superannuation Act 1990*) gives a certificate under section 13 of that Act.

16 At the end of clause 5 of Schedule 2

Add:

- (6) For the purposes of the *Superannuation Act 2005*, the Independent Auditor is taken to have been retired from office on the ground of invalidity if:
 - (a) the Independent Auditor is removed or retired from office on the ground of physical or mental incapacity; and
 - (b) the Board (within the meaning of the *Superannuation Act 2005*) gives an approval and certificate under section 43 of that Act.

Australian Crime Commission Act 2002

17 Subsection 44(4)

Repeal the subsection, substitute:

Invalidity

- (4) In spite of anything contained in this section, if the CEO:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);then he or she is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

18 Subsection 44(5)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

19 At the end of section 44

Add:

- (6) In spite of anything contained in this section, if the CEO:
- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;
- then he or she is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

20 Subsection 46H(3)

Repeal the subsection, substitute:

Invalidity

- (3) In spite of anything contained in this section, an examiner who:
- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);
- is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

21 Subsection 46H(4)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

22 At the end of section 46H

Add:

- (5) In spite of anything contained in this section, an examiner who:
- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Australian Federal Police Act 1979

23 Subsection 32(3)

Omit “and the Superannuation Act,”, substitute “, the Superannuation Act and the *Superannuation Act 2005*,”.

24 Subsection 32(4)

Repeal the subsection, substitute:

AFP employee is an eligible employee under the Superannuation Act 1976

- (4) In spite of this section, an AFP employee who:
- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);

is not capable of being retired on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

25 Subsection 32(5)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

26 At the end of section 32

Add:

AFP employee is an ordinary employer-sponsored member under the Superannuation Act 2005

- (6) In spite of this section, an AFP employee who:

- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;
- is not capable of being retired on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

27 Section 41 (subparagraph (a)(i) of the definition of *superannuation authority*)

Omit “Commonwealth Superannuation Board of Trustees No. 2 is responsible—that Board”, substitute “Board (within the meaning of that Act) is responsible—the Board”.

28 Section 41 (paragraph (ab) of the definition of *superannuation authority*)

Omit “Commonwealth Superannuation Board of Trustees No. 1”, substitute “Board (within the meaning of that Act)”.

Australian Film Commission Act 1975

29 Subsection 28H(3)

Repeal the subsection, substitute:

Invalidity

- (3) In spite of anything contained in this section, if the CEO:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);then he or she is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

30 Subsection 28H(4)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

31 At the end of section 28H

Add:

- (5) In spite of anything contained in this section, if the CEO:
- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;
- then he or she is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Australian Prudential Regulation Authority Act 1998

32 Subsection 25(3)

Repeal the subsection, substitute:

- (3) In spite of anything contained in this section, if an APRA member:
- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);
- then he or she is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

33 Subsection 25(4)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

34 At the end of section 25

Add:

- (5) In spite of anything contained in this section, if an APRA member:
- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;
- then he or she is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Australian Radiation Protection and Nuclear Safety Act 1998

35 After paragraph 51(3)(b)

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

36 Paragraph 51(4)(b)

Repeal the paragraph, substitute:

- (b) the Board (within the meaning of the *Superannuation Act 1976*) gives a certificate under section 54C of that Act.

37 Paragraph 51(5)(b)

Repeal the paragraph, substitute:

- (b) the Board (within the meaning of the *Superannuation Act 1990*) gives a certificate under section 13 of that Act.

38 At the end of section 51

Add:

- (6) For the purposes of the *Superannuation Act 2005*, the CEO is taken to have been retired from office on the ground of invalidity if:
- (a) the CEO is removed or retired from office on the ground of physical or mental incapacity; and
 - (b) the Board (within the meaning of the *Superannuation Act 2005*) gives an approval and certificate under section 43 of that Act.

Australian Securities and Investments Commission Act 2001

39 After paragraph 111(2)(b)

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

40 Subsection 111(3)

Repeal the subsection, substitute:

- (3) In spite of anything contained in this section, a member who:
 - (a) is an eligible employee; and
 - (b) has not reached his or her maximum retiring age (within the meaning of the *Superannuation Act 1976*);is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

41 Subsection 111(4)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

42 At the end of section 111

Add:

- (5) In spite of anything contained in this section, a member who:
 - (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Building and Construction Industry Improvement Act 2005

43 Subsection 24(2)

Omit “and (4)”, substitute “, (4) and (5)”.

44 Subsection 24(3)

Repeal the subsection, substitute:

- (3) If a Commissioner:
- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);
- his or her appointment cannot be terminated on the ground of physical or mental incapacity unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

45 Subsection 24(4)

Omit “PSS Board”, substitute “Board (within the meaning of that Act)”.

46 At the end of section 24

Add:

- (5) If a Commissioner:
- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;
- his or her appointment cannot be terminated on the ground of physical or mental incapacity unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Classification (Publications, Films and Computer Games) Act 1995

47 After paragraph 65(3)(b)

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

48 Subsection 65(4)

Repeal the subsection, substitute:

- (4) In spite of anything in this Act, a member who:
-

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her retiring age (within the meaning of that Act);
- cannot be retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

49 Subsection 65(5)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

50 After subsection 65(5)

Insert:

- (5A) In spite of anything in this Act, a member who:
- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60;
- cannot be retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

51 After paragraph 83(3)(b)

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

52 Subsection 83(4)

Repeal the subsection, substitute:

- (4) In spite of anything in this Act, a member of the Review Board who:
- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and

(b) has not reached his or her retiring age (within the meaning of that Act);

cannot be retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

53 Subsection 83(5)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

54 At the end of section 83

Add:

(6) In spite of anything in this Act, a member of the Review Board who:

- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
- (b) is under 60;

cannot be retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Crimes (Superannuation Benefits) Act 1989

55 Subsection 2(1) (subparagraph (a)(i) of the definition of *superannuation authority*)

Omit “Commonwealth Superannuation Board of Trustees No. 2 is responsible—that Board”, substitute “Board (within the meaning of that Act) is responsible—the Board”.

56 Subsection 2(1) (paragraph (ab) of the definition of *superannuation authority*)

Omit “Commonwealth Superannuation Board of Trustees No. 1”, substitute “Board (within the meaning of that Act)”.

Defence Force Retirement and Death Benefits Act 1973

57 Subsection 3(1) (definition of *Board*)

Repeal the definition, substitute:

Board has the same meaning as in the *Superannuation Act 1990*.

Director of Public Prosecutions Act 1983

58 Subsection 23(3)

Repeal the subsection, substitute:

- (3) In spite of anything contained in this section, if the Director or Associate Director:
- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);
- he or she is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

59 Subsection 23(4)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

60 At the end of section 23

Add:

- (5) In spite of anything contained in this section, if the Director or Associate Director:
- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;
- he or she is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board

(within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Family Law Act 1975

61 After paragraph 38K(3)(b)

Insert:

or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

62 Subsection 38K(4)

Repeal the subsection, substitute:

(4) In spite of anything contained in this section, if the Chief Executive Officer:

(a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and

(b) has not reached his or her maximum retiring age (within the meaning of that Act);

he or she is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

63 Subsection 38K(5)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

64 At the end of section 38K

Add:

(6) In spite of anything contained in this section, if the Chief Executive Officer:

(a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and

(b) is under 60 years of age;

he or she is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board

(within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Federal Court of Australia Act 1976

65 After paragraph 18K(3)(b)

Insert:

or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

66 Subsection 18K(4)

Repeal the subsection, substitute:

- (4) In spite of anything contained in this section, if the Registrar:
- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);
- he or she is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

67 Subsection 18K(5)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

68 At the end of section 18K

Add:

- (6) In spite of anything contained in this section, if the Registrar:
- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;
- he or she is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

69 After paragraph 371(2)(b)

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

70 Subsection 371(3)

Repeal the subsection, substitute:

- (3) In spite of anything contained in this Act, an assessor who:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her retiring age (within the meaning of that Act);

is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

71 Subsection 371(4)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

72 At the end of section 371

Add:

- (5) In spite of anything contained in this Act, an assessor who:
 - (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Gene Technology Act 2000

73 After paragraph 119(4)(b)

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

74 Paragraph 119(5)(b)

Repeal the paragraph, substitute:

- (b) the Board (within the meaning of the *Superannuation Act 1976*) gives a certificate under section 54C of that Act.

75 Paragraph 119(6)(b)

Repeal the paragraph, substitute:

- (b) the Board (within the meaning of the *Superannuation Act 1990*) gives a certificate under section 13 of that Act.

76 At the end of section 119

Add:

- (7) For the purposes of the *Superannuation Act 2005*, the Regulator is taken to have been retired from office on the grounds of invalidity if:
 - (a) the Regulator is removed or retired from office on the grounds of physical or mental incapacity; and
 - (b) the Board (within the meaning of the *Superannuation Act 2005*) gives an approval and certificate under section 43 of that Act.

Inspector-General of Taxation Act 2003

77 Subsection 35(2)

Omit “and (4)”, substitute “, (4) and (5)”.

78 Subsection 35(3)

Repeal the subsection, substitute:

- (3) If the Inspector-General:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);

his or her appointment cannot be terminated on the ground of physical or mental incapacity unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

79 Subsection 35(4)

Omit “PSS Board”, substitute “Board (within the meaning of that Act)”.

80 At the end of section 35

Add:

(5) If the Inspector-General:

(a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and

(b) is under 60 years of age;

his or her appointment cannot be terminated on the ground of physical or mental incapacity unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Intelligence Services Act 2001

81 At the end of subsection 23(3)

Add:

; or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*.

Law Officers Act 1964

82 Subparagraph 14(1)(a)(ii)

Omit “1990; and”, substitute “1990; or”.

83 At the end of paragraph 14(1)(a)

Add:

(iii) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and

84 At the end of subsection 14(2)

Add:

; or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*.

85 After subparagraph 14(2B)(b)(ii)

Insert:

or (iii) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

National Blood Authority Act 2003

86 After paragraph 35(3)(b)

Insert:

or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

87 Paragraph 35(4)(b)

Repeal the paragraph, substitute:

(b) the Board (within the meaning of the *Superannuation Act 1976*) gives a certificate under section 54C of that Act.

88 Paragraph 35(5)(b)

Repeal the paragraph, substitute:

(b) the Board (within the meaning of the *Superannuation Act 1990*) gives a certificate under section 13 of that Act.

89 At the end of section 35

Add:

- (6) For the purposes of the *Superannuation Act 2005*, the General Manager is taken to have been retired from office on the grounds of invalidity if:
- (a) the General Manager is removed or retired from office on the grounds of physical or mental incapacity; and
 - (b) the Board (within the meaning of the *Superannuation Act 2005*) gives an approval and certificate under section 43 of that Act.

Native Title Act 1993

90 After paragraph 104(3)(b)

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

91 Subsection 104(4)

Repeal the subsection, substitute:

Retirement—invalidity—Superannuation Act 1976

- (4) In spite of anything contained in this Act, a Registrar who:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her retiring age (within the meaning of that Act);is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

92 Subsection 104(5)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

93 At the end of section 104

Add:

Retirement—invalidity—Superannuation Act 2005

- (6) In spite of anything contained in this Act, a Registrar who:
 - (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

94 After paragraph 119(3)(b)

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

95 Subsection 119(4)

Repeal the subsection, substitute:

Retirement—invalidity—Superannuation Act 1976

- (4) In spite of anything contained in this Act, a member who:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her retiring age (within the meaning of that Act);is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

96 Subsection 119(5)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

97 At the end of section 119

Add:

Retirement—invalidity—Superannuation Act 2005

- (6) In spite of anything contained in this Act, a member who:
 - (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Ombudsman Act 1976

98 At the end of section 28A

Add:

- (5) If an Ombudsman is removed from office under section 28 of this Act following his or her suspension from office on the ground of physical or mental incapacity, then, for the purposes of the *Superannuation Act 2005*, he or she is taken to have been retired on the ground of invalidity within the meaning of that Act.
- (6) In spite of subsection (5), section 43 of the *Superannuation Act 2005* applies in relation to the Ombudsman.

99 Subsection 28B(1)

Repeal the subsection, substitute:

- (1) In spite of anything contained in sections 27 and 28, an Ombudsman who:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

100 Subsection 28B(2)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

101 At the end of section 28B

Add:

- (3) In spite of anything contained in sections 27 and 28, an Ombudsman who:
 - (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
-

(b) is under 60 years of age;
is not capable of being retired from office on the ground of
invalidity (within the meaning of that Act) unless the Board (within
the meaning of that Act) has given an approval and certificate
under section 43 of that Act.

Parliamentary Contributory Superannuation Act 1948

102 Subparagraphs 16A(1)(b)(ii) and (d)(ii)

Omit “Commonwealth Superannuation Board of Trustees No. 1”,
substitute “Board (within the meaning of that Act)”.

103 Sub-subparagraph 16A(1)(e)(iv)(B)

Omit “Commonwealth Superannuation Board of Trustees No. 1”,
substitute “Board (within the meaning of that Act)”.

104 Subparagraph 22Q(5)(d)(ii)

Omit “Commonwealth Superannuation Board of Trustees No. 1”,
substitute “Board (within the meaning of that Act)”.

Productivity Commission Act 1998

105 At the end of section 36

Add:

(5) If a member:

- (a) is an ordinary employer-sponsored member of PSSAP,
within the meaning of the *Superannuation Act 2005*; and
- (b) is removed from office under section 35 on the ground of
physical or mental incapacity;

for the purposes of that Act, he or she is taken to have been retired
on the ground of invalidity within the meaning of that Act on the
day on which he or she was removed from office.

(6) In spite of subsection (5), section 43 of the *Superannuation Act
2005* applies in relation to the member.

106 Subsection 37(1)

Repeal the subsection, substitute:

- (1) In spite of anything contained in sections 34 and 35, a member who:
- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);
- is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

107 Subsection 37(2)

Omit “within the meaning of that Act unless the PSS Board”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

108 At the end of section 37

Add:

- (3) In spite of anything contained in sections 34 and 35, a member who:
- (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;
- is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Renewable Energy (Electricity) Act 2000

109 After paragraph 147(4)(b)

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

110 Paragraph 147(5)(b)

Repeal the paragraph, substitute:

- (b) the Board (within the meaning of the *Superannuation Act 1976*) gives a certificate under section 54C of that Act.

111 Paragraph 147(6)(b)

Repeal the paragraph, substitute:

- (b) the Board (within the meaning of the *Superannuation Act 1990*) gives a certificate under section 13 of that Act.

112 At the end of section 147

Add:

- (7) For the purposes of the *Superannuation Act 2005*, the Regulator is taken to have been retired from office on the ground of invalidity if:
 - (a) the Regulator is removed or retired from office on the ground of physical or mental incapacity; and
 - (b) the Board (within the meaning of the *Superannuation Act 2005*) gives an approval and certificate under section 43 of that Act.

Social Security (Administration) Act 1999

113 After paragraph 17(6)(b) of Schedule 3

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

114 Subclause 17(9) of Schedule 3

Repeal the subclause, substitute:

- (9) In spite of anything in this clause, a member (including the Executive Director) who:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

115 Subclause 17(10) of Schedule 3

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

116 At the end of clause 17 of Schedule 3

Add:

(11) In spite of anything in this clause, a member (including the Executive Director) who:

(a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and

(b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Superannuation (Consequential Amendments) Act 2005

117 Subitem 3(1) of Schedule 7

Omit “PSS Board”, substitute “Board”.

118 Paragraph 3(2)(a) of Schedule 7

Omit “PSS Board”, substitute “Board”.

119 Subitem 3(2) of Schedule 7 (note)

Omit “PSS Board”, substitute “Board”.

120 Subitems 3(3), (4) and (5) of Schedule 7

Omit “PSS Board”, substitute “Board”.

121 At the end of item 3 of Schedule 7

Add:

(8) In this item:

Board has the same meaning as in the *Superannuation Act 1990*.

Veterans' Entitlements Act 1986

122 After paragraph 164(6)(b)

Insert:

- or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

123 Subsection 164(8)

Repeal the subsection, substitute:

- (8) In spite of anything contained in this section, a member who:
 - (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and
 - (b) has not reached his or her maximum retiring age (within the meaning of that Act);is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

124 Subsection 164(9)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

125 At the end of section 164

Add:

- (10) In spite of anything contained in this section, a member who:
 - (a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and
 - (b) is under 60 years of age;is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

126 After paragraph 188(7)(b)

Insert:

or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

127 Subsection 188(9)

Repeal the subsection, substitute:

(9) In spite of anything contained in this section, a commissioner who:

(a) is an eligible employee for the purposes of the *Superannuation Act 1976*; and

(b) has not reached his or her maximum retiring age (within the meaning of that Act);

is not capable of being retired from office on the ground of invalidity (within the meaning of Part IVA of that Act) unless the Board (within the meaning of that Act) has given a certificate under section 54C of that Act.

128 Subsection 188(10)

Omit “within the meaning of that Act unless the Commonwealth Superannuation Board of Trustees No. 1”, substitute “(within the meaning of that Act) unless the Board (within the meaning of that Act)”.

129 At the end of section 188

Add:

(11) In spite of anything contained in this section, a commissioner who:

(a) is an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*; and

(b) is under 60 years of age;

is not capable of being retired from office on the ground of invalidity (within the meaning of that Act) unless the Board (within the meaning of that Act) has given an approval and certificate under section 43 of that Act.

Workplace Relations Act 1996

130 Subsection 35(3)

Omit “CSS Board”, substitute “Board (within the meaning of that Act)”.

131 Subsection 35(4)

Omit “PSS Board”, substitute “Board (within the meaning of that Act)”.

132 Subsection 43(3)

Omit “CSS Board”, substitute “Board (within the meaning of that Act)”.

133 Subsection 43(4)

Omit “PSS Board”, substitute “Board (within the meaning of that Act)”.

134 Subsection 56(4)

Omit “CSS Board”, substitute “Board (within the meaning of that Act)”.

135 Subsection 56(5)

Omit “PSS Board”, substitute “Board (within the meaning of that Act)”.

136 Subparagraph 80(1)(a)(ii)

Omit “1990; and”, substitute “1990; or”.

137 At the end of paragraph 80(1)(a)

Add:

- (iii) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;
- and

138 At the end of subsection 80(2)

Add:

- ; or (c) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*.

139 After subparagraph 80(4)(b)(ii)

Insert:

- or (iii) an ordinary employer-sponsored member of PSSAP, within the meaning of the *Superannuation Act 2005*;

140 Subsection 116(2) (paragraph (a) of the definition of *relevant law*)

Omit “or the *Superannuation Act 1990*”, substitute “, the *Superannuation Act 1990* or the *Superannuation Act 2005*”.

Schedule 2—Technical amendments relating to legislative instruments

Parliamentary Contributory Superannuation Act 1948

1 Subsection 22CK(1)

After “The Minister may”, insert “, by legislative instrument,”.

2 Subsections 22CK(2) and (3)

Repeal the subsections, substitute:

- (2) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to an Order made under subsection (1) of this section.

Superannuation Act 1922

3 Subsection 93DE(1)

After “The Minister may”, insert “, by legislative instrument,”.

4 Subsections 93DE(2) and (3)

Repeal the subsections, substitute:

- (2) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to an Order made under subsection (1) of this section.

Superannuation Act 1976

5 Subsection 3(1) (paragraph (a) of the definition of *approved authority*)

After “other body that is declared by the Minister”, insert “, by legislative instrument,”.

6 Subsection 3(1) (definition of *disallowable instrument*)

Repeal the definition.

7 Subsection 3(1) (paragraph (ec) of the definition of *eligible employee*)

After “declared by the Minister”, insert “, by legislative instrument,”.

8 Subsection 3(1) (paragraph (j) of the definition of *eligible employee*)

After “declared by the Minister”, insert “, by legislative instrument,”.

9 Subsection 3(1BD)

Repeal the subsection, substitute:

(1BD) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to a declaration made for the purposes of paragraph (ec) or (j) of the definition of *eligible employee* in subsection (1) of this section.

10 Subsection 3(2A)

After “for the purposes of paragraph (b), may”, insert “, by legislative instrument,”.

11 Subsections 4A(1) and (2)

Repeal the subsections, substitute:

(1) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to a declaration for the purposes of paragraph (a) or (b) of the definition of *approved authority* in subsection 3(1) of this Act.

12 Subsection 110C(2)

Omit “Minister”, substitute “Board”.

13 Section 110D

Repeal the section, substitute:

110D Variation of Table

Before the commencement of a period, the Board, in accordance with a method of calculation notified to the Board by the Minister, may, by legislative instrument, declare that the Table in subsection 110C(1) is to have effect in relation to the period as if amounts

specified in the declaration were substituted for amounts specified in the Table (whether sums of money or percentages).

14 Subsection 110E(1)

After “The Minister may”, insert “, by legislative instrument,”.

15 Subsection 110F(1)

After “The Minister may”, insert “, by legislative instrument,”.

16 Section 110G

Repeal the section, substitute:

110G Legislative instruments disallowable

Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to a declaration made under section 110D, 110E or 110F of this Act.

17 Subsection 146MH(1)

After “The Minister may”, insert “, by legislative instrument,”.

18 Subsections 146MH(2) and (3)

Repeal the subsections, substitute:

- (2) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to an Order made under subsection (1) of this section.

19 Subsection 154A(2)

Repeal the subsection, substitute:

- (2) A determination by the Board under subsection (1) or (1A) takes effect from:
- (a) a specified day; or
 - (b) if no day is specified in the determination—the day of the making of the determination.

20 Application

The amendment made by item 19 of this Schedule applies to determinations made by the Board under subsection 154A(1) or (1A) of the *Superannuation Act 1976* on or after the day on which this item commences.

21 Section 167AB

Omit “disallowable instrument”, substitute “legislative instrument”.

22 Subsection 238(1)

After “as is determined”, insert “, by legislative instrument,”.

23 Subsection 238(2)

Repeal the subsection, substitute:

- (2) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to a determination made under subsection (1) of this section.

24 Subsection 241(1)

After “such times as the Minister”, insert “, by legislative instrument,”.

25 Subsection 241(1)

After “as are determined”, insert “, by legislative instrument,”.

26 Subsection 241(3)

Repeal the subsection, substitute:

- (3) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to a determination made under subsection (1) of this section.

27 Subsection 242C(1)

After “such period as is determined by the Minister”, insert “, by legislative instrument,”.

28 Subsection 242C(4)

Repeal the subsection, substitute:

- (4) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to a determination made under subsection (1) of this section.
-

Superannuation Act 1990

29 Subsection 5A(2)

Omit “48(2) of the *Acts Interpretation Act 1901*”, substitute “12(2) of the *Legislative Instruments Act 2003*”.

30 Subsection 45(1)

Omit “Subject to subsection (2), each of the following instruments is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*”, substitute “Each of the following instruments is a legislative instrument”.

Note: The heading to section 45 is altered by omitting “**Disallowable**” and substituting “**Legislative**”.

31 Subsection 45(2)

Repeal the subsection, substitute:

(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).

32 Subsection 45(6)

Omit “48(2) of the *Acts Interpretation Act 1901*”, substitute “12(2) of the *Legislative Instruments Act 2003*”.

Superannuation (Productivity Benefit) Act 1988

33 Section 3D

After “The Minister may,”, insert “by legislative instrument,”.

34 Subsection 3E(1)

After “declare”, insert “, by legislative instrument”.

35 Subsections 3F(1) and (2)

After “The Minister may”, insert “, by legislative instrument,”.

36 Subsections 4A(1) and (2)

After “The Minister may”, insert “, by legislative instrument,”.

37 Subsections 4G(1) and (2)

After “by the Minister”, insert “by legislative instrument”.

38 Section 9B

Repeal the section, substitute:

9B Legislative instruments disallowable

Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to a declaration, or determination, under this Act that is a legislative instrument.

Schedule 3—Repeal of Schedule to the Superannuation Act 1990

Superannuation Act 1990

1 Subsection 4(1)

Omit “(1)”.

2 Subsection 4(2)

Repeal the subsection.

3 The Schedule

Repeal the Schedule.

Schedule 4—Amendments relating to the Superannuation Guarantee (Administration) Act 1992

Superannuation Act 1976

1 Subsection 155C(1)

Repeal the subsection, substitute:

- (1) The regulations may make such provision as is necessary for the purpose of:
 - (a) enabling:
 - (i) the Fund; and
 - (ii) any other scheme or arrangement established by or under this Act that provides for the payment of benefits; to satisfy any condition or requirement specified in or under an eligible regulatory law that is capable of applying in relation to the Fund, or the scheme or arrangement, as the case may be; or
 - (b) ensuring that an employer does not have an individual superannuation guarantee shortfall (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) in relation to a person in respect of the period, or any part of the period, during which the person is an eligible employee.

2 Transitional—regulations

Regulations made for the purposes of subsection 155C(1) of the *Superannuation Act 1976* that are in force immediately before this item commences are taken to have been made for the purposes of paragraph 155C(1)(a) of that Act as in force immediately after that time.

Superannuation (Productivity Benefit) Act 1988

3 Subsection 3(1)

Insert:

quarter means a period of 3 months beginning on 1 January, 1 April, 1 July or 1 October.

4 After paragraph 4F(1)(a)

Insert:

- (aa) in respect of the employee in respect of each quarter occurring while the employee is a member of the fund—any contribution that is required to ensure (after taking into account the total contributions paid, under paragraph (a), in respect of the employee and the quarter) that the employer does not have an individual superannuation guarantee shortfall (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) for the employee for the quarter; and

Note: The heading to section 4F is altered by omitting “**continuing**”.

5 Paragraph 4F(1)(b)

Omit “contribution is not paid on”, substitute “contribution under paragraph (a) or (aa) is not paid on or before”.

6 Subsection 4F(2)

Repeal the subsection, substitute:

- (2) A contribution under paragraph (1)(a) or (aa) in respect of a fund employee payable to a fund is payable:
 - (a) where there are arrangements between the employer and the trustees of the fund fixing a day for payment—on that day; or
 - (b) in any other case:
 - (i) for a continuing contribution made under paragraph (1)(a) for a pay period—on the day on which salary for that pay period is payable; or
 - (ii) for a contribution made under paragraph (1)(aa) for a quarter—by the end of the period of 28 days after the end of the quarter.

7 Subsection 8A(2) (definition of *Notional contributions*)

Repeal the definition, substitute:

Notional contributions means the sum of what would have been the contributions made under paragraphs 4F(1)(a) and (aa) for the employee in respect of the employee’s pay periods and quarters in the year if he or she had been a fund employee in the year.

*[Minister's second reading speech made in—
Senate on 13 March 2008
House of Representatives on 4 June 2008]*

(47/08)

*Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential
Amendments) Act 2008 No. 26, 2008 43*