



Governance of Australian Government Superannuation Schemes Legislation Amendment Act 2015

No. 65, 2015

**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	Schedules.....	2
Schedule 1—Amendments and repeals relating to the merger of CSC and ComSuper		3
Part 1—Amendment of the Governance of Australian Government Superannuation Schemes Act 2011		3
<i>Governance of Australian Government Superannuation Schemes Act 2011</i>		3
Part 2—Consequential amendments		8
<i>Defence Force Retirement and Death Benefits Act 1973</i>		8
<i>Military Superannuation and Benefits Act 1991</i>		10
<i>Papua New Guinea (Staffing Assistance) Act 1973</i>		12
<i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws— Superannuation) Act 2008</i>		13
<i>Superannuation Act 1976</i>		16
<i>Superannuation Act 1990</i>		18
<i>Superannuation Act 2005</i>		20
Part 3—Repeal of the ComSuper Act 2011		21
<i>ComSuper Act 2011</i>		21
Schedule 2—Transitional provisions relating to the merger of CSC and ComSuper		22
Part 1—Preliminary		22
Part 2—Assets, liabilities and legal proceedings		24
Part 3—References to, and things done by or in relation to, ComSuper		27
Part 4—The CEO of ComSuper and the staff of ComSuper and CSC		29
Division 1—The CEO of ComSuper		29

Division 2—The staff of ComSuper and CSC	29
Division 3—Transfer of business	32
Part 5—Reporting	34
Part 6—Miscellaneous	35
Part 7—Rules	37
Schedule 3—Amendments relating to payment of administration fees	39
<i>Governance of Australian Government Superannuation Schemes Act 2011</i>	39
<i>Superannuation Act 2005</i>	39



Governance of Australian Government Superannuation Schemes Legislation Amendment Act 2015

No. 65, 2015

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

[Assented to 17 June 2015]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Governance of Australian
Government Superannuation Schemes Legislation Amendment Act
2015*.

No. 65, 2015

*Governance of Australian Government Superannuation Schemes
Legislation Amendment Act 2015*

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
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	17 June 2015
2. Schedules 1 to 3	A day or days to be fixed by Proclamation. However, if any of the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 July 2015 (F2015L00961)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation 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—Amendments and repeals relating to the merger of CSC and ComSuper

Part 1—Amendment of the Governance of Australian Government Superannuation Schemes Act 2011

Governance of Australian Government Superannuation Schemes Act 2011

1 Section 4

Insert:

Account means the CSC Special Account established by section 29E.

2 At the end of Division 1 of Part 3

Add:

29A Making payments on behalf of the Commonwealth

CSC may, on behalf of the Commonwealth, make payments under:

- (a) each Act administered by CSC; and
- (b) section 4 of the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008*.

29B Receiving payments or other amounts on behalf of the Commonwealth

CSC may, on behalf of the Commonwealth, receive:

- (a) payments of amounts that are payable to the Commonwealth under each Act administered by CSC; and
- (b) other amounts related to each Act administered by CSC.

29C Recovering debts owing to the Commonwealth

Rules made for the purposes of the *Public Governance, Performance and Accountability Act 2013* in relation to recovery of debts owing to the Commonwealth apply to CSC in the same way as those rules apply to a non-corporate Commonwealth entity (within the meaning of that Act).

29D Instruments in relation to payments, other amounts or debts

- (1) The Minister may, by legislative instrument, provide in relation to the performance of CSC's functions in relation to payments, other amounts or debts referred to in any of sections 29A to 29C.
- (2) Before making an instrument, the Minister must consult the Board on the instrument.
- (3) Subsection (1) does not apply to the extent that:
 - (a) an instrument relates to CSC's obligations as a trustee under a law of the Commonwealth, except to the extent permitted by such a law; or
 - (b) an instrument is inconsistent with the Board's performance of functions or exercise of powers under the *Public Governance, Performance and Accountability Act 2013* (including under rules made for the purposes of that Act in relation to recovery of debts owing to the Commonwealth).

Division 1A—CSC Special Account

29E CSC Special Account

- (1) The CSC Special Account is established by this section.
- (2) The Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

29F Credits to the Account

There must be credited to the Account amounts equal to all money received from any person for the purposes of the Account.

Note: An Appropriation Act provides for amounts to be credited to a special account if any of the purposes of the special account is a purpose that is covered by an item in the Appropriation Act.

29G Purposes of the Account

- (1) This section sets out the purposes of the Account.
- (2) Amounts standing to the credit of the Account may be debited for the following purposes:
 - (a) to pay or discharge the costs, expenses or other obligations incurred by CSC in the performance of its functions under this Act or another law of the Commonwealth, to the extent that the Commonwealth agrees, or is required under an Act administered by CSC or instrument made under such an Act, to meet those costs, expenses or obligations;
 - (b) to pay any remuneration and allowances payable to:
 - (i) a director in accordance with section 34; or
 - (ii) a member of a panel or committee (however described) established, under an Act administered by CSC or an instrument made under such an Act, to review a decision of CSC;
 - (c) to meet the expenses of administering the Account;
 - (d) to repay, as required by law, amounts that have been credited to the Account;
 - (e) to reduce the balance of the Account (and, therefore, the available appropriation for the Account) without making a real or notional payment.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

3 Section 32

Repeal the section, substitute:

32 Exemption from taxation—CSC

CSC generally exempt from taxation

- (1) CSC is not subject to taxation under a law of the Commonwealth, except:

- (a) as provided by this section; or
 - (b) under a law prescribed by the regulations.
- (2) CSC is not subject to taxation under a law of a State or Territory, except under a law prescribed by the regulations.

CSC subject to taxation—income tax

- (3) CSC is subject to taxation under the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997*, except in relation to:
- (a) any payment to CSC in relation to which an amount is debited from the Account; or
 - (b) any payment to CSC of money appropriated by the Parliament for the purposes of CSC.

CSC subject to taxation—goods and services tax

- (4) CSC is subject to taxation under the *A New Tax System (Goods and Services Tax) Act 1999*.

CSC subject to taxation—fringe benefits tax

- (5) CSC is subject to taxation under the *Fringe Benefits Tax Assessment Act 1986*.

4 Paragraph 34(1)(b)

Omit “, which is appropriated accordingly”.

5 At the end of subsection 34(1)

Add:

Note: The CSC Special Account is debited when the remuneration and allowances are paid out of the Consolidated Revenue Fund (see paragraph 29G(2)(b)).

6 Paragraph 34(2)(b)

Omit “, which is appropriated accordingly”.

7 At the end of subsection 34(2)

Add:

Note: The CSC Special Account is debited when the remuneration and allowances are paid out of the Consolidated Revenue Fund (see paragraph 29G(2)(b)).

8 Paragraphs 36(1)(c) and (d)

Repeal the paragraphs.

9 Subsection 36(2)

After “its delegates”, insert “(other than decisions relating to recovery of debts owing to the Commonwealth)”.

10 Paragraph 36(3)(b)

Omit “(c), (d)”.

11 Subsection 36(4)

Repeal the subsection.

12 Subsection 36(5)

Omit “(d)”.

13 Section 37

Repeal the section, substitute:

37 Long service leave

CSC is a public authority of the Commonwealth within the meaning of the *Long Service Leave (Commonwealth Employees) Act 1976*.

Part 2—Consequential amendments

Defence Force Retirement and Death Benefits Act 1973

14 Paragraph 124B(2)(b)

Omit “the Chief Executive Officer of ComSuper”, substitute “CSC”.

15 Subsection 124B(3)

Omit “the Chief Executive Officer of ComSuper” (wherever occurring), substitute “the Board of CSC”.

16 Application of amendments

The amendments of section 124B of the *Defence Force Retirement and Death Benefits Act 1973* made by this Schedule apply in relation to any payments made under subsection 124B(1) of that Act, whether before or after this item commences.

17 Paragraph 124C(1)(d)

Omit “the Chief Executive Officer of ComSuper”, substitute “the chief executive officer (however described) of CSC”.

18 Paragraph 124C(3)(b)

Omit “the Chief Executive Officer of ComSuper”, substitute “CSC”.

19 Application of amendment

The amendment of subsection 124C(3) of the *Defence Force Retirement and Death Benefits Act 1973* made by this Schedule applies in relation to any payment made under subsection 124C(1) of that Act, whether before or after this item commences.

20 Section 124D

Repeal the section, substitute:

124D Reports about recoverable payments and recoverable death payments

- (1) CSC must cause a report of the following information to be published, in such manner as the Board of CSC thinks fit:
 - (a) the number of payments that any employee of CSC was aware of that were made under subsection 124B(1) or 124C(1) during the reporting period (see subsection (2) of this section);
 - (b) the total amount of payments referred to in paragraph (a);
 - (c) the number of payments made under subsection 124B(1) or 124C(1) that any employee of CSC became aware of during the reporting period that were made during an earlier reporting period;
 - (d) the total amount of payments referred to in paragraph (c);
 - (e) for each payment referred to in paragraph (c)—the reporting period in which the payment was made.
- (2) The *reporting period* is:
 - (a) a financial year; or
 - (b) if a shorter recurring period is prescribed under paragraph (5)(a)—that period.
- (3) A report is not required if no employee of CSC is aware of any payments referred to in paragraph (1)(a) or (c).

When report must be provided

- (4) The report must be provided before the end of the following period:
 - (a) 4 months after the end of the reporting period;
 - (b) if a lesser number of months has been prescribed for the reporting period under paragraph (5)(b)—that number of months after the end of the reporting period.

Power to make legislative instruments

- (5) The Minister may, by legislative instrument, prescribe:
 - (a) a period for the purposes of paragraph (2)(b); or

(b) a number of months for a reporting period for the purposes of paragraph (4)(b).

Military Superannuation and Benefits Act 1991

21 Paragraph 16B(2)(b)

Omit “the Chief Executive Officer of ComSuper”, substitute “CSC”.

22 Subsection 16B(3)

Omit “the Chief Executive Officer of ComSuper” (wherever occurring), substitute “the Board of CSC”.

23 Application of amendments

The amendments of section 16B of the *Military Superannuation and Benefits Act 1991* made by this Schedule apply in relation to any payments made under subsection 16B(1) of that Act, whether before or after this item commences.

24 Paragraph 16C(1)(d)

Omit “the Chief Executive Officer of ComSuper”, substitute “the chief executive officer (however described) of CSC”.

25 Paragraph 16C(3)(b)

Omit “the Chief Executive Officer of ComSuper”, substitute “CSC”.

26 Application of amendment

The amendment of subsection 16C(3) of the *Military Superannuation and Benefits Act 1991* made by this Schedule applies in relation to any payment made under subsection 16C(1) of that Act, whether before or after this item commences.

27 Section 16D

Repeal the section, substitute:

16D Reports about recoverable payments and recoverable death payments

- (1) CSC must cause a report of the following information to be published, in such manner as the Board of CSC thinks fit:
 - (a) the number of payments that any employee of CSC was aware of that were made under subsection 16B(1) or 16C(1) during the reporting period (see subsection (2) of this section);
 - (b) the total amount of payments referred to in paragraph (a);
 - (c) the number of payments made under subsection 16B(1) or 16C(1) that any employee of CSC became aware of during the reporting period that were made during an earlier reporting period;
 - (d) the total amount of payments referred to in paragraph (c);
 - (e) for each payment referred to in paragraph (c)—the reporting period in which the payment was made.
- (2) The *reporting period* is:
 - (a) a financial year; or
 - (b) if a shorter recurring period is prescribed under paragraph (5)(a)—that period.
- (3) A report is not required if no employee of CSC is aware of any payments referred to in paragraph (1)(a) or (c).

When report must be provided

- (4) The report must be provided before the end of the following period:
 - (a) 4 months after the end of the reporting period;
 - (b) if a lesser number of months has been prescribed for the reporting period under paragraph (5)(b)—that number of months after the end of the reporting period.

Power to make legislative instruments

- (5) The Minister may, by legislative instrument, prescribe:
 - (a) a period for the purposes of paragraph (2)(b); or

- (b) a number of months for a reporting period for the purposes of paragraph (4)(b).

28 Paragraph 51(c)

Repeal the paragraph.

Papua New Guinea (Staffing Assistance) Act 1973

29 Paragraph 62B(1)(d)

Omit “the Chief Executive Officer of ComSuper”, substitute “the chief executive officer (however described) of CSC”.

30 Paragraph 62B(3)(b)

Omit “the Chief Executive Officer of ComSuper”, substitute “CSC”.

31 Application of amendment

The amendment of subsection 62B(3) of the *Papua New Guinea (Staffing Assistance) Act 1973* made by this Schedule applies in relation to any payment made under subsection 62B(1) of that Act, whether before or after this item commences.

32 Section 62C

Repeal the section, substitute:

62C Reports about recoverable death payments

- (1) CSC must cause a report of the following information to be published, in such manner as the Board of CSC thinks fit:
- (a) the number of payments that any employee of CSC was aware of that were made under subsection 62B(1) during the reporting period (see subsection (2) of this section);
 - (b) the total amount of payments referred to in paragraph (a);
 - (c) the number of payments made under subsection 62B(1) that any employee of CSC became aware of during the reporting period that were made during an earlier reporting period;
 - (d) the total amount of payments referred to in paragraph (c);
 - (e) for each payment referred to in paragraph (c)—the reporting period in which the payment was made.

- (2) The *reporting period* is:
- (a) a financial year; or
 - (b) if a shorter recurring period is prescribed under paragraph (5)(a)—that period.
- (3) A report is not required if no employee of CSC is aware of any payments referred to in paragraph (1)(a) or (c).

When report must be provided

- (4) The report must be provided before the end of the following period:
- (a) 4 months after the end of the reporting period;
 - (b) if a lesser number of months has been prescribed for the reporting period under paragraph (5)(b)—that number of months after the end of the reporting period.

Power to make legislative instruments

- (5) The Minister may, by legislative instrument, prescribe:
- (a) a period for the purposes of paragraph (2)(b); or
 - (b) a number of months for a reporting period for the purposes of paragraph (4)(b).

Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008

33 Subsection 4(9) (definition of *Finance Minister*)

Omit “*Financial Management and Accountability Act 1997*”, substitute “*Public Governance, Performance and Accountability Act 2013*”.

34 Paragraph 5(2)(b)

Omit “the Chief Executive Officer of ComSuper”, substitute “CSC”.

35 Subsection 5(2) (note)

Repeal the note.

36 Subsection 5(3)

Omit “the Chief Executive Officer of ComSuper” (wherever occurring), substitute “the Board of CSC”.

37 Subsection 5(3) (note)

Repeal the note.

38 Application of amendments

The amendments of section 5 of the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008* made by this Schedule apply in relation to any payments made under subsection 5(1) of that Act, whether before or after this item commences.

39 Paragraph 6(1)(d)

Omit “the Chief Executive Officer of ComSuper”, substitute “the chief executive officer (however described) of CSC”.

40 Paragraph 6(3)(b)

Omit “the Chief Executive Officer of ComSuper”, substitute “CSC”.

41 Subsection 6(3) (note)

Repeal the note.

42 Application of amendments

The amendments of subsection 6(3) of the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008* made by this Schedule apply in relation to any payment made under subsection 6(1) of that Act, whether before or after this item commences.

43 Section 7

Repeal the section, substitute:

7 Reports about recoverable payments and recoverable death payments

- (1) CSC must cause a report of the following information to be published, in such manner as the Board of CSC thinks fit:
 - (a) the number of payments that any employee of CSC was aware of that were made under subsection 5(1) or 6(1) during the reporting period (see subsection (2) of this section);
 - (b) the total amount of payments referred to in paragraph (a);
 - (c) the number of payments made under subsection 5(1) or 6(1) that any employee of CSC became aware of during the reporting period that were made during an earlier reporting period;
 - (d) the total amount of payments referred to in paragraph (c);
 - (e) for each payment referred to in paragraph (c)—the reporting period in which the payment was made.
- (2) The *reporting period* is:
 - (a) a financial year; or
 - (b) if a shorter recurring period is prescribed under paragraph (5)(a)—that period.
- (3) A report is not required if no employee of CSC is aware of any payments referred to in paragraph (1)(a) or (c).

When report must be provided

- (4) The report must be provided before the end of the following period:
 - (a) 4 months after the end of the reporting period;
 - (b) if a lesser number of months has been prescribed for the reporting period under paragraph (5)(b)—that number of months after the end of the reporting period.

Power to make legislative instruments

- (5) The Minister administering the *Public Governance, Performance and Accountability Act 2013* may, by legislative instrument, prescribe:
 - (a) a period for the purposes of paragraph (2)(b); or

- (b) a number of months for a reporting period for the purposes of paragraph (4)(b).

Superannuation Act 1976

44 Paragraph 156B(2)(b)

Omit “the Chief Executive Officer of ComSuper”, substitute “CSC”.

45 Subsection 156B(3)

Omit “the Chief Executive Officer of ComSuper” (wherever occurring), substitute “the Board of CSC”.

46 Application of amendments

The amendments of section 156B of the *Superannuation Act 1976* apply in relation to any payments made under subsection 156B(1) of that Act, whether before or after this item commences.

47 Paragraph 156C(1)(d)

Omit “the Chief Executive Officer of ComSuper”, substitute “the chief executive officer (however described) of CSC”.

48 Paragraph 156C(3)(b)

Omit “the Chief Executive Officer of ComSuper”, substitute “CSC”.

49 Application of amendment

The amendment of subsection 156C(3) of the *Superannuation Act 1976* applies in relation to any payment made under subsection 156C(1) of that Act, whether before or after this item commences.

50 Section 156D

Repeal the section, substitute:

156D Reports about recoverable payments and recoverable death payments

- (1) CSC must cause a report of the following information to be published, in such manner as the Board of CSC thinks fit:

- (a) the number of payments that any employee of CSC was aware of that were made under subsection 156B(1) or 156C(1) during the reporting period (see subsection (2) of this section);
 - (b) the total amount of payments referred to in paragraph (a);
 - (c) the number of payments made under subsection 156B(1) or 156C(1) that any employee of CSC became aware of during the reporting period that were made during an earlier reporting period;
 - (d) the total amount of payments referred to in paragraph (c);
 - (e) for each payment referred to in paragraph (c)—the reporting period in which the payment was made.
- (2) The *reporting period* is:
- (a) a financial year; or
 - (b) if a shorter recurring period is prescribed under paragraph (5)(a)—that period.
- (3) A report is not required if no employee of CSC is aware of any payments referred to in paragraph (1)(a) or (c).

When report must be provided

- (4) The report must be provided before the end of the following period:
- (a) 4 months after the end of the reporting period;
 - (b) if a lesser number of months has been prescribed for the reporting period under paragraph (5)(b)—that number of months after the end of the reporting period.

Power to make legislative instruments

- (5) The Minister administering the *Public Governance, Performance and Accountability Act 2013* may, by legislative instrument, prescribe:
- (a) a period for the purposes of paragraph (2)(b); or
 - (b) a number of months for a reporting period for the purposes of paragraph (4)(b).

51 Paragraph 165(a)

After “CSC”, insert “or an employee of CSC”.

52 Paragraphs 165(c) and (d)

Repeal the paragraphs.

Superannuation Act 1990

53 Paragraph 39A(2)(b)

Omit “the Chief Executive Officer of ComSuper”, substitute “CSC”.

54 Subsection 39A(3)

Omit “the Chief Executive Officer of ComSuper” (wherever occurring), substitute “the Board of CSC”.

55 Application of amendments

The amendments of section 39A of the *Superannuation Act 1990* apply in relation to any payments made under subsection 39A(1) of that Act, whether before or after this item commences.

56 Paragraph 39B(1)(d)

Omit “the Chief Executive Officer of ComSuper”, substitute “the chief executive officer (however described) of CSC”.

57 Paragraph 39B(3)(b)

Omit “the Chief Executive Officer of ComSuper”, substitute “CSC”.

58 Application of amendment

The amendment of subsection 39B(3) of the *Superannuation Act 1990* applies in relation to any payment made under subsection 39B(1) of that Act, whether before or after this item commences.

59 Section 39C

Repeal the section, substitute:

39C Reports about recoverable payments and recoverable death payments

- (1) CSC must cause a report of the following information to be published, in such manner as the Board of CSC thinks fit:
 - (a) the number of payments that any employee of CSC was aware of that were made under subsection 39A(1) or 39B(1) during the reporting period (see subsection (2) of this section);
 - (b) the total amount of payments referred to in paragraph (a);
 - (c) the number of payments made under subsection 39A(1) or 39B(1) that any employee of CSC became aware of during the reporting period that were made during an earlier reporting period;
 - (d) the total amount of payments referred to in paragraph (c);
 - (e) for each payment referred to in paragraph (c)—the reporting period in which the payment was made.
- (2) The *reporting period* is:
 - (a) a financial year; or
 - (b) if a shorter recurring period is prescribed under paragraph (5)(a)—that period.
- (3) A report is not required if no employee of CSC is aware of any payments referred to in paragraph (1)(a) or (c).

When report must be provided

- (4) The report must be provided before the end of the following period:
 - (a) 4 months after the end of the reporting period;
 - (b) if a lesser number of months has been prescribed for the reporting period under paragraph (5)(b)—that number of months after the end of the reporting period.

Power to make legislative instruments

- (5) The Minister administering the *Public Governance, Performance and Accountability Act 2013* may, by legislative instrument, prescribe:

- (a) a period for the purposes of paragraph (2)(b); or
- (b) a number of months for a reporting period for the purposes of paragraph (4)(b).

60 Paragraph 47(a)

After “CSC”, insert “or an employee of CSC”.

61 Paragraph 47(b)

Omit “Department; or”, substitute “Department.”.

62 Paragraph 47(c)

Repeal the paragraph.

Superannuation Act 2005

63 Paragraph 33(a)

After “CSC”, insert “or an employee of CSC”.

64 Paragraphs 33(b) and (c)

Repeal the paragraphs.

Part 3—Repeal of the ComSuper Act 2011

ComSuper Act 2011

65 The whole of the Act

Repeal the Act.

Schedule 2—Transitional provisions relating to the merger of CSC and ComSuper

Part 1—Preliminary

1 Definitions

In this Schedule:

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.

Board has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

CEO of ComSuper means the Chief Executive Officer of ComSuper.

Chair has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

commencement means the time when this Schedule commences.

ComSuper has the same meaning as in the *ComSuper Act 2011*.

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

doing a thing includes making an instrument.

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.

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.

rules means rules made under Part 7.

Part 2—Assets, liabilities and legal proceedings

2 Vesting of assets

Assets of ComSuper

- (1) Subitem (2) applies to the assets of ComSuper (whether the assets are in Australia or elsewhere) immediately before commencement.
- (2) At commencement, the assets cease to be assets of ComSuper and become assets of CSC without any conveyance, transfer or assignment. CSC becomes the successor in law in relation to the assets.

3 Vesting of liabilities

Liabilities of ComSuper

- (1) Subitem (2) applies to the liabilities of ComSuper (whether the liabilities arose in Australia or elsewhere) immediately before commencement.
- (2) At commencement, the liabilities cease to be liabilities of ComSuper and become liabilities of CSC without any conveyance, transfer or assignment. CSC becomes the successor in law in relation to the liabilities.

Exception

- (3) Subitem (2) does not apply to a liability if:
 - (a) the liability is GST that was payable on a taxable supply (within the meaning of the *A New Tax System (Goods and Services Tax) Act 1999*); and
 - (b) the consideration for the taxable supply was a payment in relation to the cost of the administration of an Act administered by CSC that was credited to the ComSuper Special Account.

4 Certificates relating to vesting of land

- (1) This item applies if:
 - (a) any land vests in CSC under this Part; and
-

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

5 Certificates relating to vesting of assets other than land

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

6 Substitution of CSC as a party to pending proceedings

- (1) If any proceedings to which the CEO of ComSuper was a party were pending in any court or tribunal immediately before commencement, CSC is substituted for the CEO, from commencement, as a party to the proceedings.
- (2) The Minister may, by writing, determine that subitem (1) applies as if the reference in that subitem to CSC were a reference to another

specified person. A determination under this subitem has effect accordingly.

- (3) A determination made under subitem (2) is not a legislative instrument.

7 Exemption from stamp duty and other Commonwealth, State or Territory taxes

- (1) No stamp duty or other tax is payable under a law of the Commonwealth, a State or a Territory in respect of an exempt matter, or anything connected with an exempt matter.
- (2) For the purposes of this item, an *exempt matter* is:
- (a) the vesting of an asset or liability under this Part; or
 - (b) the operation of this Schedule in any other respect.
- (3) The Minister may certify in writing:
- (a) that a specified matter is an exempt matter; or
 - (b) that a specified thing was connected with a specified exempt matter.
- (4) In all courts, and for all purposes (other than for the purposes of criminal proceedings), a certificate under subitem (3) is prima facie evidence of the matters stated in the certificate.
- (5) A certificate made under subitem (3) is not a legislative instrument.

Part 3—References to, and things done by or in relation to, ComSuper

8 References in Acts and instruments to ComSuper

- (1) If:
- (a) an Act or instrument is in force immediately before commencement; and
 - (b) the Act or instrument contains a reference to ComSuper or the CEO of ComSuper;
- the Act or instrument has effect from commencement as if the reference were a reference to CSC.
- (2) The Minister may, by writing, determine that subitem (1):
- (a) does not apply in relation to a specified reference; or
 - (b) applies, in relation to a specified reference, as if the reference in that subitem to CSC were a reference to the Commonwealth; or
 - (c) applies, in relation to a specified reference, as if the reference in that subitem to CSC were a reference to the Board.
- A determination under this subitem has effect accordingly.
- (3) The rules may provide that an instrument containing a reference specified in a determination under paragraph (2)(a) has effect from commencement as if the reference were a reference to a person or body other than CSC, the Commonwealth or the Board.
- (4) A determination made under subitem (2) is not a legislative instrument.

9 Operation of laws

- (1) If, before commencement, a thing was done by, or in relation to, ComSuper or the CEO of ComSuper, then, for the purposes of the operation of any law of the Commonwealth after commencement, the thing is taken to have been done by, or in relation to, CSC.
- (2) For the purposes of subitem (1), a thing done before commencement 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.

- (3) The Minister may, by writing, determine that subitem (1):
- (a) does not apply in relation to a specified thing done by, or in relation to, ComSuper or the CEO of ComSuper; or
 - (b) applies as if the reference in that subitem to CSC were a reference to the Commonwealth; or
 - (c) applies as if the reference in that subitem to CSC were a reference to the Board.

A determination under this subitem has effect accordingly.

- (4) The rules may provide for a thing specified in a determination under paragraph (3)(a) to be taken to have been done by, or in relation to, a person or body other than CSC, the Commonwealth or the Board.
- (5) A determination made under subitem (3) is not a legislative instrument.

Part 4—The CEO of ComSuper and the staff of ComSuper and CSC

Division 1—The CEO of ComSuper

10 The CEO of ComSuper

The person who is the CEO of ComSuper immediately before commencement ceases, at commencement, to hold office as the CEO of ComSuper by force of this item.

Division 2—The staff of ComSuper and CSC

11 APS employees in ComSuper transferred to CSC as employees of CSC

- (1) This item applies to a person who:
 - (a) is a member of the staff of ComSuper engaged under the *Public Service Act 1999* immediately before commencement; and
 - (b) is covered by a determination made under section 72 of the *Public Service Act 1999* that causes the person, at commencement:
 - (i) to cease to be engaged under the *Public Service Act 1999*; and
 - (ii) to become an employee of CSC under section 26 of the *Governance of Australian Government Superannuation Schemes Act 2011*.
- (2) The person is taken to have accrued an entitlement to benefits, in connection with becoming an employee of CSC, that is equivalent to the entitlement that the person had as a member of the staff of ComSuper engaged under the *Public Service Act 1999* immediately before commencement.
- (3) The service of the person as an employee of CSC is taken, for all purposes, to have been continuous with his or her service as a member of the staff of ComSuper engaged under the *Public Service Act 1999*.

- (3A) Sections 26 and 27 of the *Public Service Act 1999* apply in relation to the person as if:
- (a) the person were an APS employee in an Agency (within the meanings of that Act); and
 - (b) CSC were the Agency referred to in paragraph (a); and
 - (c) the chief executive officer (however described) of CSC were the Agency Head of the Agency referred to in paragraph (a).
- (3B) For the purpose of filling a vacancy that exists in an Agency (within the meaning of the *Public Service Act 1999*):
- (a) the person is taken to be an APS employee in an Agency (within the meanings of that Act); and
 - (b) CSC is taken to be the Agency referred to in paragraph (a).
- (3C) Subitems (3A) and (3B) have effect in relation to the person:
- (a) for the relevant period; and
 - (b) while the person remains employed by CSC (whether or not the person has been identified by CSC as excess or potentially excess); and
 - (c) as if the person continued to have the classification and category of APS employment that the person had immediately before commencement.
- (3D) If a person moves to an Agency under section 26 or 27 of the *Public Service Act 1999* (as those sections apply under subitem (3A)), the person is taken to be engaged under section 22 of that Act by the Agency Head of that Agency, on behalf of the Commonwealth, as an APS employee in that Agency (within the meanings of the *Public Service Act 1999*).
- (3E) In this item:
- relevant period***, means:
- (a) in relation to the application of subitem (3A)—the period of 3 years from commencement; and
 - (b) in relation to the application of subitem (3B)—whichever of the following periods ends earlier:
 - (i) the period of 3 years from commencement;
 - (ii) the period beginning on commencement and ending on the day on which clause 2.9A of the *Australian Public*
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Service Commissioner's Directions 2013 (as in force at commencement) is modified or revoked so as to remove the restriction on notification of vacancies as being open only to persons who are APS employees.

- (4) To avoid doubt, a person referred to in subitem (1) who ceases to be a member of the staff of ComSuper is not entitled to receive any payment or other benefit merely because he or she ceased to be such a member.

12 Safety, Rehabilitation and Compensation Act 1988

- (1) This item applies in relation to a person if:
- (a) the person was a member of the staff of ComSuper before commencement (whether or not the person was still a member of the staff of ComSuper immediately before commencement); and
 - (b) the person was an employee (within the meaning of the *Safety, Rehabilitation and Compensation Act 1988* (the **SRC Act**)) of ComSuper; and
 - (c) the person suffered an injury (within the meaning of that Act) before commencement.
- (2) The SRC Act applies, after commencement, as if the person had been an employee of CSC during the period that the person was a member of the staff of ComSuper.
- (3) This item does not limit Part 3 of this Schedule.

13 Long service leave for employees of CSC

- (1) This item applies for the purposes of the *Long Service Leave (Commonwealth Employees) Act 1976* (the **LSL Act**) in relation to a person if, immediately before commencement, the person is an employee of CSC.

Persons who have accrued long service leave entitlements before commencement

- (2) Subitems (3) and (4) apply if the person had, before commencement, accrued an entitlement to long service leave (however described).
- (3) At and after commencement, the person:

- (a) is taken to have a long service leave credit of the amount of the person's long service leave credit immediately before commencement; and
- (b) is not entitled to any long service leave credit except under the LSL Act.

Note: A person's long service leave credit under this subitem may be reduced if the person is granted long service leave (see section 18 of the LSL Act).

- (4) At and after commencement, the LSL Act applies to the person as if:
 - (a) the person's service, before commencement, as an employee of CSC were employment in Government Service (within the meaning of the LSL Act); and
 - (b) the long service leave credit referred to in paragraph (3)(a) were accrued under the LSL Act in relation to that service.

Note: The effect of this subitem is that from the day the person last accrued a long service leave credit, the person's long service leave is worked out in accordance with the LSL Act instead of in accordance with the person's previous employment conditions.

Persons who have not accrued long service leave entitlements before commencement

- (5) If the person had, before commencement, not accrued an entitlement to long service leave (however described):
 - (a) the person's service, before commencement, as an employee of CSC (beginning on the day the person most recently began as an employee of CSC) is to be treated, at and after commencement, as if it had been employment in Government Service (within the meaning of the LSL Act); and
 - (b) despite any provision of the LSL Act, any period of employment in a qualifying service (within the meaning of that Act) before the person began as an employee of CSC is taken not to be continuous with the person's service as an employee of CSC.

Division 3—Transfer of business

14 Transfer of business

- (1) The transfer of staff of ComSuper to CSC is a transfer of business for the purposes of the *Fair Work Act 2009*.
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- (2) Despite section 312 of the *Fair Work Act 2009*, the only transferable instrument in relation to the transfer of business is the enterprise agreement that:
- (a) covers the CEO of ComSuper on behalf of the Commonwealth and staff of ComSuper; and
 - (b) has been approved by the Fair Work Commission; and
 - (c) is in force immediately before commencement.

Part 5—Reporting

15 Financial statements and other reporting requirements for ComSuper

Reporting requirements

- (1) If:
- (a) immediately before commencement, a law required the CEO of ComSuper to provide a report (whether financial statements or otherwise) for a period; and
 - (b) the period ends after commencement;
- CSC must provide the report, as required, for so much of the period as occurs before commencement.

- (2) If:
- (a) under subitem (1), CSC is required to provide a report for a part of a period; and
 - (b) CSC is also required to provide a similar report for the remainder of the period;
- CSC may meet the requirements in a single report for the period.

Outstanding reporting requirements

- (3) If:
- (a) a law required the CEO of ComSuper to provide a report (whether financial statements or otherwise) for a period that ended before commencement; and
 - (b) the report has not been provided by commencement;
- CSC must provide the report as required.

Part 6—Miscellaneous

16 Amending instruments may be retrospective

- (1) If:
 - (a) an instrument is made within the period of 12 months beginning at commencement; and
 - (b) a provision of the instrument amends a reference to ComSuper or the CEO of ComSuper in any other instrument;the provision may be expressed to take effect from commencement, or a later time in the period referred to in paragraph (a), that occurs before the instrument is made.
- (2) This item has effect despite subsection 12(2) of the *Legislative Instruments Act 2003*.
- (3) If Schedule 1 to the *Acts and Instruments (Framework Reform) Act 2015* commences before the end of the period referred to in paragraph (1)(a) of this item, subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* (as amended by that Schedule) does not apply in relation to an instrument referred to in subitem (1).

17 Constitutional safety net—acquisition of property

- (1) If the operation of this Schedule 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.

18 Saving of existing delegations

- (1) This item applies if:
 - (a) a delegation under section 36 of the *Governance of Australian Government Superannuation Schemes Act 2011* is

- in force immediately before commencement in relation to a function or power; and
- (b) the delegation is to an individual who performs the function or exercises the power; and
 - (c) the delegation has not been remade immediately after commencement.
- (2) The delegation applies, after commencement, as if the delegation were to:
- (a) if, before commencement, the delegation was to the CEO of ComSuper—the chief executive officer (however described) of CSC; or
 - (b) otherwise—the individual who, immediately after commencement, is to perform the function or exercise the power.

19 Transfer of custody of records

- (1) Subitem (2) applies to any records or documents that, immediately before commencement, were in the custody of the CEO of ComSuper.
- (2) The records and documents are to be transferred into the custody of the CSC at or after commencement.

Note: The transferred records and documents are Commonwealth records for the purposes of the *Archives Act 1983* (see the definition of *Commonwealth record* in section 3 of that Act).

20 Certificates taken to be authentic

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

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

unless the contrary is established.

21 Special Accounts

There is to be credited to the CSC Special Account, after commencement, an amount equal to the balance standing to the credit of the ComSuper Special Account immediately before commencement.

Part 7—Rules

22 Rules

- (1) The Minister may, by legislative instrument, make rules prescribing matters:
 - (a) required or permitted by this Act to be prescribed by the rules; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
 - (2) Without limiting subitem (1), the rules may prescribe matters of a transitional nature (including prescribing any saving or application provisions) relating to:
 - (a) the amendments or repeals made by this Act; or
 - (b) the enactment of this Act.
 - (3) Without limiting subitem (2), rules made for the purposes of that subitem may provide that the following Acts have effect with any modifications prescribed by the rules:
 - (a) the *Fair Work Act 2009*;
 - (b) the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*;
 - (c) the *Public Service Act 1999*;
 - (d) the *Governance of Australian Government Superannuation Schemes Act 2011*;
 - (e) the *Long Service Leave (Commonwealth Employees) Act 1976*.
 - (4) To avoid doubt, the rules may not do the following:
 - (a) create an offence or civil penalty;
 - (b) provide powers of:
 - (i) arrest or detention; or
 - (ii) entry, search or seizure;
 - (c) impose a tax;
 - (d) set an amount to be appropriated from the Consolidated Revenue Fund under an appropriation in this Act;
 - (e) amend this Act.
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Schedule 2 Transitional provisions relating to the merger of CSC and ComSuper
Part 7 Rules

- (5) This Schedule (other than subitem (4)) does not limit the rules that may be made for the purposes of this item.

Schedule 3—Amendments relating to payment of administration fees

Governance of Australian Government Superannuation Schemes Act 2011

1 Subsection 34(3)

Repeal the subsection.

Superannuation Act 2005

2 At the end of subsection 32(2)

Add:

Note: This subsection is subject to section 34 (costs of administration of Act etc.).

3 Sections 34 to 36

Repeal the sections, substitute:

34 Costs of administration of Act etc.

- (1) The costs of the administration of this Act and the Trust Deed, including the costs of and incidental to:
 - (a) the management of the PSSAP Fund by CSC; and
 - (b) the investment of money from the PSSAP Fund;are to be paid by CSC out of the PSSAP Fund in accordance with the Trust Deed.
- (2) Subsection 32(2) does not apply in relation to an amendment made to the Trust Deed that relates to the costs of the administration of this Act and the Trust Deed.

Constitutional safety net—acquisition of property

- (3) If the operation of this section (or the operation of amendments made to the Trust Deed that relate to the costs of the administration of this Act and the Trust Deed) 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.

- (4) 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.
- (5) In this section:

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

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

4 First amendment of the Trust Deed

Application of this item

- (1) This item applies in relation to a legislative instrument that amends the Trust Deed if:
- (a) the instrument is the first instrument to amend the Trust Deed on or after the day this item commences; and
 - (b) the instrument relates solely to the costs of the administration of the *Superannuation Act 2005* (as amended by this Schedule) and the Trust Deed; and
 - (c) the instrument commences on or after the commencement of this item.

No disallowance of first amendment

- (2) Section 42 of the *Legislative Instruments Act 2003* does not apply in relation to the instrument.
- Note: The *Legislative Instruments Act 2003* is to be renamed the *Legislation Act 2003* (see item 166 of Schedule 1 to the *Acts and Instruments (Framework Reform) Act 2015*).
- (3) Subitem (2) applies despite subsection 11(4) of the *Superannuation Act 2005*.

Retrospectivity of first amendment

- (4) Despite subsection 12(2) of the *Legislative Instruments Act 2003*, a provision of the instrument may take effect before the date the instrument is registered.
 - (5) If Schedule 1 to the *Acts and Instruments (Framework Reform) Act 2015* commences before this item, subsection 12(2) (retrospective application of legislative instruments) of the *Legislation Act 2003* (as amended by that Schedule) does not apply in relation to a provision of the instrument.
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[*Minister's second reading speech made in—
House of Representatives on 19 March 2015
Senate on 15 June 2015*]

(36/15)
