



Superannuation Amendment (PSSAP Membership) Act 2017

No. 68, 2017

**An Act to amend the *Superannuation Act 2005*, and
for related purposes**

Note: An electronic version of this Act is available on the Federal Register of Legislation
(<https://www.legislation.gov.au/>)

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Superannuation Amendment (PSSAP Membership) Act 2017

No. 68, 2017

An Act to amend the *Superannuation Act 2005*, and for related purposes

[Assented to 23 June 2017]

The Parliament of Australia enacts:

1 Short title

This Act is the *Superannuation Amendment (PSSAP Membership) Act 2017*.

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.	23 June 2017
2. Schedule 1	A single day to be fixed by Proclamation. However, if 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.	4 December 2017 (F2017N00087)

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Superannuation Act 2005

1 Section 3

Omit:

- | |
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| <ul style="list-style-type: none">• Employers must pay contributions to PSSAP for the benefit of ordinary employer-sponsored members of PSSAP. |
|--|

substitute:

- | |
|---|
| <ul style="list-style-type: none">• Employers must pay contributions to PSSAP for the benefit of most ordinary employer-sponsored members of PSSAP.• A former public sector employee may be able to continue to be an ordinary employer-sponsored member of PSSAP. Employers are not required by this Act or the Trust Deed to make contributions to PSSAP for the benefit of such a member. However, employers can make contributions to PSSAP for the benefit of such a member if PSSAP is the member's chosen fund under the <i>Superannuation Guarantee (Administration) Act 1992</i>. |
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2 Subsection 4(1)

Insert:

former Commonwealth ordinary employer-sponsored member
means a person who is an ordinary employer-sponsored member of PSSAP under subsection 18(7).

3 Paragraph 17(1)(a)

After “PSSAP”, insert “(except a former Commonwealth ordinary employer-sponsored member)”.

4 Subsection 17(2) (note)

Omit “Note”, substitute “Note 1”.

5 At the end of subsection 17(2)

Add:

- Note 2: The designated employer of a former Commonwealth ordinary employer-sponsored member is not required by this Act or the Trust Deed to make contributions to PSSAP for the benefit of the member. However, the designated employer can make contributions to PSSAP for the benefit of the member if PSSAP is the member's chosen fund under the *Superannuation Guarantee (Administration) Act 1992*.

6 Subsection 18(1)

Omit "3", substitute "4".

7 At the end of section 18

Add:

Former Commonwealth ordinary employer-sponsored member

- (7) Subject to subsections (8) and (9), if:
- (a) at a particular time (the *relevant time*), a person is a member of PSSAP; and
 - (b) the person was previously an ordinary employer-sponsored member of PSSAP under one or more of subsections (2), (3) and (5); and
 - (c) the person previously would have been eligible to become a member of PSSAP because of particular employment or holding one or more particular offices, where the periods of any such employment, and the periods of holding any such office, taken together constituted a continuous period of at least 12 months; and
 - (d) at the relevant time, none of subsections (2), (3) and (5) apply to the person in respect of any employment of the person or any holding of an office by the person; and
 - (e) at the relevant time, the person is in particular employment or holds a particular office; and
 - (f) at the relevant time, assuming that the person's employer (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) were to make a basic employer contribution to PSSAP for the benefit of the person, the employer would rely on subsection 32C(1) of that Act to satisfy the choice of fund requirements in relation to the contribution; and

- (g) at the relevant time, the person's salary or wages (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) would be taken into account for the purpose of making a calculation under section 19 of that Act; and
- (h) the person has elected, in a form approved by the CSC and given to the CSC, for this subsection to apply in respect of the employment or the holding of the office referred to in paragraph (e);

the person is an **ordinary employer-sponsored member** of PSSAP in respect of the employment or the holding of the office referred to in paragraph (e).

Note: A person who is an ordinary employer-sponsored member of PSSAP under this subsection is known as a former Commonwealth ordinary employer-sponsored member.

- (8) To avoid doubt, paragraph (7)(e) does not apply to a person who is a member of the Defence Force by reason only of the person being a member of the Defence Force.
- (9) A person cannot be an ordinary employer-sponsored member of PSSAP under subsection (7) if the person is included in a class of persons determined in an instrument under subsection (10).
- (10) The Minister may, by legislative instrument, determine a class of persons for the purposes of subsection (9).
- (11) Despite anything in regulations made for the purposes of paragraph 44(2)(b) of the *Legislation Act 2003*, section 42 (disallowance) of that Act applies to an instrument under subsection (10) of this section.

8 Subsection 19(2) (after table item 5)

Insert:

5A	the person is a former Commonwealth ordinary employer-sponsored member	the person's employer mentioned in paragraph 18(7)(f).
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9 Paragraph 42(1)(a)

After "PSSAP", insert "(except a former Commonwealth ordinary employer-sponsored member)".

10 Paragraph 43(1)(b)

After “PSSAP”, insert “(except a former Commonwealth ordinary employer-sponsored member)”.

11 Subsection 44(3)

Omit “An”, substitute “A person,”.

12 Subsection 44(3)

After “in relation to the”, insert “person,”.

*[Minister’s second reading speech made in—
House of Representatives on 1 December 2016
Senate on 14 February 2017]*

(189/16)
