



Superannuation Amendment (PSSAP Membership) Act 2020

No. 86, 2020

**An Act to amend the law relating to
superannuation, 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 2020

No. 86, 2020

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

[Assented to 7 September 2020]

The Parliament of Australia enacts:

1 Short title

This Act is the *Superannuation Amendment (PSSAP Membership) Act 2020*.

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. The whole of this Act	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.	7 March 2021

Note: This table relates only to the provisions of this Act as originally enacted.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Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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 (paragraph beginning “A former public sector employee”)

Omit “continue to”.

2 Subsection 4(1)

Insert:

eligible CSS/PSS member or former member means a person who is an ordinary employer-sponsored member of PSSAP under subsection 18(8A).

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

3 Subsection 4(1) (definition of former Commonwealth ordinary employer-sponsored member)

Repeal the definition.

4 After paragraph 13(1)(c)

Insert:

; or (d) the person was a member of the PSS or an eligible employee (within the meaning of the *Superannuation Act 1976*) at a time after the commencement of the *Superannuation Amendment (PSSAP Membership) Act 2020* but is no longer such a member or eligible employee.

5 Paragraph 17(1)(a)

Omit “(except a former Commonwealth ordinary employer-sponsored member)”, substitute “within the meaning of subsection 18(2), (3) or (5)”.

6 Subsection 17(2) (note 2)

Omit “a former Commonwealth ordinary employer-sponsored member”, substitute “an eligible PSSAP member or an eligible CSS/PSS member or former member”.

7 Subsection 18(1)

Omit “4”, substitute “5”.

8 Subsections 18(7) and (8)

Repeal the subsections, substitute:

Eligible PSSAP member

- (7) Subject to subsections (8) and (9), if:
- (a) at a particular time, a person is a member of PSSAP; and
 - (b) the person is, or previously was, an ordinary employer-sponsored member of PSSAP under one or more of subsections (2), (3) and (5); and
 - (c) the person is, or 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 constitute or constituted a continuous period of at least 12 months;
- the person is an **ordinary employer-sponsored member** of PSSAP.

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

- (8) If:
- (a) subsection (2), (3) or (5) applies to a person in respect of any employment of the person or any holding of an office by the person; or
 - (b) a person is, or would be able to become, a member of the PSS or an eligible employee (within the meaning of the *Superannuation Act 1976*) in respect of any employment of the person or any holding of an office by the person;
- the person is not an **ordinary employer-sponsored member** of PSSAP under subsection (7) in respect of that employment or the holding of that office.

Eligible CSS/PSS member or former member

- (8A) Subject to subsections (8B) and (9), if:
- (a) at a particular time, a person is a member of PSSAP; and

-
- (b) the person is, or previously would have been able to become, a member of the PSS or an eligible employee (within the meaning of the *Superannuation Act 1976*) 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 constitute or constituted a continuous period of at least 12 months; and
- (c) either:
- (i) the person was a former Australian government superannuation scheme member at the time the *Superannuation Amendment (PSSAP Membership) Act 2020* commences; or
 - (ii) the person is a member of the PSS or an eligible employee (within the meaning of the *Superannuation Act 1976*) at any time on or after the day the *Superannuation Amendment (PSSAP Membership) Act 2020* commences;

the person is an **ordinary employer-sponsored member** of PSSAP.

Note: A person who is an ordinary employer-sponsored member of PSSAP under this subsection is known as an eligible CSS/PSS member or former member.

(8B) If:

- (a) subsection (2), (3) or (5) applies to a person in respect of any employment of the person or any holding of an office by the person; or
- (b) a person is, or would be able to become, a member of the PSS or an eligible employee (within the meaning of the *Superannuation Act 1976*) in respect of any employment of the person or any holding of an office by the person; or
- (c) paragraph 6(2)(ba) of the *Superannuation Act 1990* applies to a person in respect of any employment of the person or any holding of an office by the person;

the person is not an **ordinary employer-sponsored member** of PSSAP under subsection (8A) in respect of that employment or the holding of that office.

9 Before subsection 18(9)

Insert:

Minister may determine class of excluded persons

10 Subsection 18(9)

After “subsection (7)”, insert “or (8A)”.

11 Paragraph 19(1)(a)

Omit “in respect of particular employment or the holding of a particular office”.

12 Subsection 19(2) (table item 5A)

Repeal the item, substitute:

- | | | |
|----|---|---|
| 5A | the person is: | if the person has an employer—the employer. |
| | (a) an eligible PSSAP member; or | |
| | (b) an eligible CSS/PSS member or former member | |

13 Paragraph 42(1)(a)

Omit “(except a former Commonwealth ordinary employer-sponsored member)”, substitute “within the meaning of subsection 18(2), (3) or (5)”.

14 Paragraph 43(1)(b)

Omit “(except a former Commonwealth ordinary employer-sponsored member)”, substitute “within the meaning of subsection 18(2), (3) or (5)”.

Schedule 2—Application and transitional provisions

1 Eligible PSSAP member

A person who is an ordinary employer-sponsored member of PSSAP under subsection 18(7) of the *Superannuation Act 2005* as in force immediately before the commencement of this item continues to be an ordinary employer-sponsored member of PSSAP under subsection 18(7) of the *Superannuation Act 2005* as amended by this Act.

*[Minister's second reading speech made in—
House of Representatives on 13 February 2020
Senate on 25 August 2020]*

(10/20)
