



Superannuation (PSS) Membership Exclusion Amendment Declaration 2005 (No. 1)¹

I, NICHOLAS HUGH MINCHIN, Minister for Finance and Administration, make the following Declaration under paragraph 6 (2) (c) of the *Superannuation Act 1990*.

Dated 24 June 2005

NICK MINCHIN
Minister for Finance and Administration

1 Name of Declaration

This Declaration is the *Superannuation (PSS) Membership Exclusion Amendment Declaration 2005 (No. 1)*.

2 Commencement

This Declaration commences on 1 July 2005.

3 **Amendment of *Superannuation (PSS) Membership Exclusion Declaration 1995***

Schedule 1 amends the *Superannuation (PSS) Membership Exclusion Declaration 1995*.

Schedule 1 Amendments

(section 3)

[1] Subsection 3 (1), after definition of *ACT Government Service*

insert

alternative superannuation scheme, in relation to a person who is employed in a particular capacity, or who is the holder of a particular office:

- (a) means a superannuation scheme to which contributions are made in relation to the person's employment or holding of the office; but
- (b) does not include any of the following:
 - (i) a scheme to which contributions are made in relation to the person for:
 - (A) if the person is employed in a particular capacity — other employment or the holding of an office; or
 - (B) if the person is the holder of a particular office — other employment or the holding of another office;
 - (ii) a scheme to the extent that membership of that scheme by the person is for the preservation, or payment, of productivity benefits;
 - (iii) a scheme to the extent that participation in that scheme on the person's behalf is for purposes solely related to satisfying obligations under the *Superannuation Guarantee (Administration) Act 1992*;
 - (iv) a scheme to which contributions are made in relation to the person only in relation to performance pay;

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- (v) for a prescribed person — a scheme of which the person is taken, under subsection (2), to be a member for top-up purposes.

Example

If a person is a member, and is making voluntary contributions to an RSA without any employer contributions, the RSA will not be an alternative superannuation scheme. However, if the person's employer makes contributions to the RSA, above the superannuation guarantee rate, the RSA will be an alternative superannuation scheme.

[2] Subsection 3 (1), after definition of *eligible employee*

insert

member, of a superannuation scheme that is an RSA, means a holder of the RSA.

[3] Subsection 3 (1), definition of *performance pay*

substitute

performance pay means a payment of that name made under:

- (a) an industrial agreement under Division 3A of Part VI of the *Industrial Relations Act 1988* as in force immediately before 30 March 1994; or
- (b) an agreement under Part VIB of that Act in force before 15 November 1996.

[4] Subsection 3 (1), definition of *superannuation scheme*

substitute

superannuation scheme:

- (a) means a scheme, fund or arrangement, however established, under which superannuation or retirement benefits are payable; and
- (b) includes an RSA within the meaning of the *Retirement Savings Account Act 1997*.

[5] Subsection 3 (3)

omit

[6] Subsection 4 (1)

omit

subclauses (2) and (3),

insert

subsection (2),

[7] Schedule, title

substitute

**Schedule Persons to whom section 6 of
the 1990 Act does not apply**

(section 4)

[8] Schedule, subparagraph 3 (b) (i)

substitute

(i) is, in relation to that employment, a member of an
alternative superannuation scheme; or

[9] Schedule, subparagraph 3 (b) (ii)

omit

member of the scheme,

insert

member of an alternative superannuation scheme,

[10] Schedule, subparagraph 4 (b) (i)

substitute

- (i) is, in relation to the holding of that office, a member of an alternative superannuation scheme; or

[11] Schedule, subparagraph 4 (b) (ii)

omit

member of the scheme,

insert

member of an alternative superannuation scheme,

[12] Schedule, paragraph 5 (d)

omit

a superannuation scheme

insert

an alternative superannuation scheme

[13] Schedule, paragraph 8 (b)

substitute

- (b) who, in relation to that employment or office, is a member of an alternative superannuation scheme; and

[14] Schedule, subparagraph 8 (d) (i)

omit

that superannuation scheme,

insert

the alternative superannuation scheme,

[15] Schedule, paragraph 30 (b)

substitute

- (b) who is, in relation to his or her employment, a member of an alternative superannuation scheme.

[16] Schedule, subparagraph 32 (d) (ii)

omit

Superannuation Act 1976;

insert

1976 Act;

[17] Schedule, item 38

omit

paragraph 6 (i) (j)

insert

paragraph 6 (1) (j)

[18] Schedule, paragraphs 39 (b) and 40 (b)

omit

Superannuation Act 1990;

insert

1990 Act;

Note

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See www.frli.gov.au.