

## **Superannuation (PSS) Membership Exclusion Amendment Declaration 1999 (No. 3) 1999 No. 299**

### **EXPLANATORY STATEMENT**

#### **STATUTORY RULES 1999 No. 299**

Issued by the authority of the Minister for Finance and Administration

Superannuation Act 1990

Declaration under paragraph 6(2)(c)

The Superannuation Act 1990 (the 1990 Act) makes provision for and in relation to the Public Sector Superannuation Scheme (PSS) for Commonwealth employees and for certain other persons.

Section 6 of the 1990 Act specifies the persons who are, or who may be, members of the PSS. In accordance with paragraph 6(2)(c), a person declared by the Minister for Finance and Administration to be a person to whom section 6 does not apply is not a PSS member. Declarations made under paragraph 6(2)(c) are contained in the **Superannuation (PSS) Membership Exclusion Declaration** (the Principal Declaration).

Section 45 of the 1990 Act provides that a declaration made under paragraph 6(2)(c) is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901 and a Statutory Rule for the purposes of the Statutory Rules Publication Act 1903.

The Principal Declaration is being amended as a consequence of the establishment of the Australian Parliamentary Service (APS) that will occur upon the commencement of the Parliamentary Service Act 1999 (the Parl SA 1999) and the associated Public Employment (Consequential and Transitional) Amendment Act 1999 (the PE(CT)A Act). The persons who become Parliamentary Service employees upon the commencement of the Parl SA 1999 are persons who were employed under the Public Service Act 1922 (the PSA 1922) immediately before the commencement of Parl SA 1999.

Persons employed under the PSA 1922 are described as officers or employees. Officers are PSS members because of paragraph 6(1)(a) of the 1990 Act. Employees are included in the definition of "temporary employee" in section 3 of the 1990 Act and have options to join the PSS in certain circumstances.

The PE(CT)A Act amends the definitions of permanent employee and temporary employee in the 1990 Act to remove the references to officer and employee. The amended definition of permanent employee includes persons employed by the Commonwealth in a permanent capacity. The amended definition covers all officers as well as some employees who are in continuing employment and are temporary employees for the purposes of the 1990 Act and have not exercised an option to join the PSS. As a consequence, some persons employed under the PSA 1922 who are temporary employees for the purposes of the 1990 Act will become permanent employees for the purposes of the 1990 Act by virtue of employment by the Commonwealth under the Parl SA 1999. Permanent employees are automatically PSS members unless they are included in a class of persons in the Principal Declaration to whom section 6 of the 1990 Act does not apply.

The Declaration provides that persons who are employees for the purposes of the PSA 1922 and are in continuing employment and have an option to join the PSS do not automatically become PSS members on the commencement of the Parl SA 1999, but continue to have an option to do so in certain circumstances. The Declaration does not adversely affect members' benefits or rights. Details of the amendment are explained in the Attachment. The Declaration commences on the commencement of the Parl SA 1999.

## **SUPERANNUATION (PSS) MEMBERSHIP EXCLUSION AMENDMENT DECLARATION 1999 (NO. 3)**

### **Clause 1**

1. This clause provides that the name of the Declaration is the Superannuation (PSS) Membership Exclusion Amendment Declaration 1999 (No. 3).

### **Clause 2**

2. This clause provides that the declaration commences on the commencement of the Parliamentary Service Act 1999.

### **Clause 3**

2. This clause provides that Schedule 1 amends the Superannuation (PSS) Membership Exclusion Declaration (the Principal Declaration).

### **Schedule 1**

**Item 1** inserts item 40 into the Schedule to the Principal Declaration. The inserted item describes a class of persons who are not PSS members. The class of persons comprises persons who, immediately before the commencement of the Parl SA 1999 were employed under the PSA 1922 and were not PSS members and became permanent employees for the purposes of the 1990 Act upon the commencement of the Parl SA 1999 and have not elected to be treated as PSS members.

The inserted item ensures that a temporary employee for the purposes of the 1990 Act who had an option to join the PS S immediately before the commencement of the Parl SA 1999 does not automatically become a PSS member. A person contained in this class of persons retains the option to join the PSS while he or she continues to be an Australian Parliamentary Service employee. The option may be exercised by making an election in writing to become a PSS member.