

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Finance and Administration

*Superannuation Act 2005*

Declaration under paragraph 13(1)(b)

*Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment  
Declaration 2006*

The *Superannuation Act 2005* (the Act) makes provision for and in relation to a superannuation scheme to be known as the Public Sector Superannuation Accumulation Plan (PSSAP) for public sector employees and certain other persons. Under the Act an employer of an ordinary employer-sponsored member of PSSAP must pay employer superannuation contributions to the PSSAP Fund for that member in accordance with the Rules within the meaning of the Act.

Section 5 of the 2005 Act provides that a public sector employee for the purpose of the 2005 Act includes a person who is employed by an approved authority.

Section 8 of the 2005 Act sets out the situations in which an authority or body is an approved authority for the purposes of the Act. Subsection 8(2) provides that an authority or body is an approved authority if it was, at the end of 30 June 2005, an approved authority for the purposes of the *Superannuation Act 1990* (1990 Act) and is not specified in a written declaration made by the Minister for Finance and Administration (the Minister) under paragraph 8(2)(b).

Section 13 of the Act specifies the various persons who are eligible to become members of the PSSAP. Paragraph 13(1)(a) provides that a public sector employee is eligible to become a PSSAP member. Paragraph 13(1)(b) provides that the Minister may declare a person to be eligible to become a PSSAP member.

At 30 June 2005 the Australian Capital Territory was an approved authority for the 1990 Act. It, therefore, became an approved authority for the purposes of PSSAP from 1 July 2005.

The ACT Government announced, as part of its 2006 Budget, that all new entrants to the ACT public service would be eligible for an employer superannuation contribution of 9 percent. (This would increase to 10 percent if the employee contributes at least 3 percent). To give effect to the ACT Government's decision a package of changes is required to instruments made under the 2005 Act to exclude new ACT Government employees from PSSAP membership, as PSSAP has a mandated minimum employer superannuation contribution rate of 15.4 percent.

The *Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2006* along with the *Superannuation (PSSAP) Approved Authority Exclusion Amendment Declaration 2006* facilitate the superannuation arrangements announced by the ACT Government.

The *Superannuation (PSSAP) Membership Eligibility (Inclusion) Declaration 2005* (the Principal Declaration) made under paragraph 13(1)(b) of the 2005 Act identifies those persons who are declared eligible to become a PSSAP member.

The purpose of this Declaration cited as the *Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2006* (Amending Declaration) is to amend Schedule 1 of the Principal Declaration to include, as a person eligible to become PSSAP members, a person who immediately before the Amending Declaration commences is an employee of the Australian Capital Territory, and was an ordinary employer-sponsored member in respect of that employment, and continues in that employment on or after the Amending Declaration commences.

This Amending Declaration continues the superannuation arrangements for those ACT Government employees who would otherwise cease to be PSSAP members because the *Superannuation (PSSAP) Approved Authority Exclusion Amendment Declaration 2006* provides that the Australian Capital Territory is no longer an approved authority for the purpose of the 2005 Act.

The Declaration commences on the day after it is registered on the Federal Register of Legislative Instruments.

As the Amending Declaration affects the status of the ACT Government as an approved authority under the 2005 Act, the ACT Government was consulted on the changes announced by the Chief Minister. Any other consultation was undertaken by the ACT Government.

Further details of this Amending Declaration are in the attachment.

The Amending Declaration is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* and is subject to disallowance but not sunseting.

## ATTACHMENT

**SUPERANNUATION (PSSAP) MEMBERSHIP ELIGIBILITY  
(INCLUSION) AMENDMENT DECLARATION 2006****Clause 1 - Name of Declaration**

This clause provides that the name of the Declaration is the *Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2006*.

**Clause 2 - Commencement**

This clause provides for the Declaration to commence on the day after it is registered on the Federal Register of Legislative Instruments.

**Clause 3 - Amendments to the *Superannuation (PSSAP) Membership Eligibility (Inclusion) Declaration 2005***

This clause amends the *Superannuation (PSSAP) Membership Eligibility (Inclusion) Declaration 2005* by inserting:

- in paragraph 3, the term “Commencement Date”, which means the date the *Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2006* commenced; and
- after item 9 of Schedule 1, a new class of person, who is eligible for membership of PSSAP, that is, a person who immediately before the Commencement Date was employed by the Australian Capital Territory and was an ordinary employer-sponsored member of PSSAP in respect of that employment and who continues to be employed by the Australian Capital Territory on or after the Commencement date.