

Superannuation (PSS) Temporary Employee Declaration No 2 1993 No. 222

EXPLANATORY STATEMENT

STATUTORY RULES 1993 No. 222

Issued by the authority of the Minister for Finance

Superannuation Act 1990

Declaration under definition of "temporary employee" in section 3

The *Superannuation Act 1990* (the 1990 Act) makes provision for and in relation to an occupational superannuation scheme for persons employed by the Commonwealth and certain other persons. This scheme, known as the Public Sector Superannuation (PSS) scheme, commenced on 1 July 1990.

In accordance with section 6 of the 1990 Act, those who may become members of the PSS scheme include persons who are temporary employees. The term "temporary employee" is defined in section 3 of the 1990 Act as a person who is an employee for the purposes of the *Public Service Act 1922* and any other person employed, otherwise than in a permanent capacity, by the Commonwealth or an approved authority for the purposes of the 1990 Act. In accordance with the definition, the term does not include a person engaged or appointed for employment outside Australia only, other than such a person who is declared by the Minister for Finance to be a person to whom the definition applies.

The Declaration contained in the Statutory Rule and cited as "Superannuation (PSS) Temporary Employee Declaration No 2", declares persons who are employees of the Australian Broadcasting Corporation (ABC) and who were members of the PSS scheme immediately before taking up contract employment in ABC offices overseas, or who were CSS members immediately before taking up the employment and subsequently joined the PSS scheme during that employment, to be persons to whom the definition applies. This will enable PSS scheme members presently employed by the ABC under fixed term contracts overseas, and those who take up similar employment in the future, to have continuity of membership of the PSS scheme for the duration of the contract.

In accordance with section 45 of the 1990 Act, a declaration for the purposes of the definition of "temporary employee" in section 3 is to be 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 Declaration is taken to have commenced on 1 July 1990, the first day of operation of the PSS scheme. The retrospectivity of the membership arrangements in respect of the ABC employees complies with subsection 48(2) of the *Acts Interpretation Act 1901* in that the rights of the employees concerned are not affected in a manner prejudicial to them, neither are liabilities imposed on them other than the responsibility for superannuation contributions. Both the ABC and the employees accept the liabilities imposed by continuing PSS membership and would regard cessation of membership as disadvantageous.