

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Superannuation and Corporate Law, acting for and on behalf of the Minister for Finance and Deregulation

*Superannuation Act 1990*

Declaration under paragraph 6(1)(j)

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

Section 6 of the Act specifies the various persons who are members of the PSS (PSS members). Paragraph 6(1)(j) provides that the Minister may declare a person to be a PSS member.

The *Superannuation (PSS) Membership Inclusion Declaration 2006* (the Principal Declaration) identifies the persons who are declared PSS members under paragraph 6(1)(j).

The purpose of the *Superannuation (PSS) Membership Inclusion Amendment Declaration 2009 (No. 1)* (the Declaration) is to amend the Principal Declaration to provide continuing PSS membership for employees of Health Services Australia Limited.

Under a merger arrangement, Health Services Australia Limited will become a wholly owned subsidiary of Medibank with effect from 1 April 2009. Health Services Australia Limited will no longer be an “approved authority” under the 1990 Act, meaning that its employees will no longer be PSS members unless they fall within one of the other categories of membership in section 6 of the 1990 Act.

The Declaration ensures continuing membership of the PSS for persons who:

- were employees of Health Services Australia Limited and PSS members on 31 March 2009, and have not ceased in that employment, or
- were employed by Health Services Australia Limited on or after 1 April 2009 and were PSS members immediately before becoming so employed.

The Declaration precludes continuing PSS membership for employees of Health Services Australia Limited who, in relation their employment with the company, are members of an alternative superannuation scheme.

The Declaration also provides that PSS membership of Health Services Australia Limited employees will cease when they cease their employment with Health Services Australia Limited or become members of an alternative superannuation scheme. It will also cease if Health Services Australia Limited ceases to be owned by Medibank or Commonwealth control of Medibank ceases. This promotes consistency of arrangements for Health Services Australia Limited employees with Medibank employees, whose PSS membership can only continue while Medibank is subject to Commonwealth control.

Medibank and Health Services Australia Limited were consulted on the amendments contained in the Declaration.

The Declaration is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Declaration commences on 1 April 2009.

The details of the Declaration are explained in the Attachment.

## **SUPERANNUATION (PSS) MEMBERSHIP INCLUSION AMENDMENT DECLARATION 2009 (NO. 1)**

### **Section 1 – Name of Declaration**

This section provides that the name of the Declaration is the *Superannuation (PSS) Membership Inclusion Amendment Declaration 2009 (No. 1)*.

### **Section 2 - Commencement**

This section provides for the Declaration to commence on 1 April 2009.

### **Section 3 – Amendment of *Superannuation (PSS) Membership Inclusion Declaration 2006***

This section provides that Schedule 1 to the Declaration amends the *Superannuation (PSS) Membership Inclusion Declaration 2006* (the Principal Declaration).

### **Schedule 1 - Amendments**

**Item 1** inserts a definition of Health Services Australia Limited for the purposes of the Principal Declaration. Health Services Australia Limited is defined as the company (ACN 078 934 791) that was incorporated under the Corporations Law on 17 June 1997.

**Item 2** inserts subsection 4(19), which describes the circumstances that result in PSS membership of employees of Health Services Australia Limited ceasing. Subsection 4(19) provides that PSS membership ceases for a person who has PSS membership through item 26 in Schedule 1 of the Principal Declaration when any of the following circumstances arise:

- the person ceases employment with Health Services Australia Limited;
- the person becomes a member of an alternative superannuation scheme, as defined in the Principal Declaration;
- Health Services Australia Limited ceases to be owned by Medibank; or
- Commonwealth control of Medibank ceases.

**Item 3** inserts item 26 in Schedule 1 of the Principal Declaration.

Item 26 provides that an employee of Health Services Australia Limited can retain PSS membership if they:

- were an employee of Health Services Australia Limited and PSS member on 31 March 2009, and have not ceased in that employment, or
- become an employee of Health Services Australia Limited on or after 1 April 2009 and were a PSS member immediately before becoming so employed.

However, item 26 also provides that an employee is not a PSS member if they are a member of an alternative superannuation scheme, as defined in the Principal Declaration, in relation to their employment with Health Services Australia Limited.