

EXPLANATORY STATEMENT

Issued by the authority of Minister for Finance and Deregulation

Superannuation Act 2005

Declaration under paragraph 5(2)(b)

The *Superannuation Act 2005* (the Act) provides for the Public Sector Superannuation Accumulation Plan (PSSAP) to be established by Trust Deed to commence on 1 July 2005. The PSSAP generally applies in respect of Australian Government employees who commence employment on or after 1 July 2005 and certain other persons.

Section 5 of the Act describes a person who is a public sector employee for the purposes of the Act. In accordance with subsection 13(1) of the Act a public sector employee is eligible to become a member of the PSSAP unless excluded by subsection 13(2) of the Act.

Subsection 5(1) of the Act describes a public sector employee to be a person who is either employed by the Commonwealth, or employed by an approved authority (described in section 8 of the Act) or is the holder of a statutory office but does not include a person who is an exempt overseas employee as described in subsection 5(2) of the Act.

Subsection 5(2) of the Act describes an exempt overseas employee as a person who is engaged or appointed for employment outside Australia only who is not specified in a written declaration made by the Minister under paragraph 5(2)(b) of the Act. A person who is described in such a declaration (and who is either employed by the Commonwealth or an approved authority or is a statutory office holder) is a public sector employee within the meaning of subsection 5(1) of the Act.

The *Superannuation (PSSAP) Public Sector Employees Declaration 2005* (the Principal Declaration) identifies those persons who are not exempt overseas employees and therefore may meet the definition of public sector employee.

The purpose of the *Superannuation (PSSAP) Public Sector Employees (Amendment) Declaration 2011 (No.1)* (the Declaration) is to amend the Principal Declaration to ensure that persons engaged as Australian Civilian Corps employees for employment outside Australia only are not exempt overseas employees, and therefore able to be PSSAP members.

AusAID was consulted on the amendments contained in the Declaration.

The Declaration is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*, and is subject to disallowance.

The Declaration commences immediately after the commencement of Part 3 of the *Australian Civilian Corps Act 2011*.

The details of the Declaration are explained in the Attachment.

SUPERANNUATION (PSSAP) PUBLIC SECTOR EMPLOYEES (AMENDMENT) DECLARATION 2011 (No.1)

Section 1 – Name of Declaration

This section provides that the name of the Declaration is the *Superannuation (PSSAP) Public Sector Employees (Amendment) Declaration 2011 (No.1)*

Section 2 – Commencement

This section provides for the Declaration to commence immediately after the commencement of Part 3 of the *Australian Civilian Corps Act 2011*.

Section 3 – Amendment of the *Superannuation (PSSAP) Public Sector Employees Declaration 2005*

This section provides that the Schedule to the Principal Declaration is amended in accordance with Schedule 1 of the Declaration.

SCHEDULE 1

Schedule 1 inserts item 4 in Schedule 1 of the Principal Declaration, which lists persons who are not exempt overseas employees. The effect of item 4 is to provide that a person who is engaged as an Australian Civilian Corps employee for employment outside Australia only may be a PSSAP member.