

## **EXPLANATORY STATEMENT**

Issued by the Minister for Finance and Deregulation

*Superannuation Act 1990*

Declaration under paragraph 6(1)(j)

The *Superannuation Act 1990* (the 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 may be a member of the PSS. 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 2012 (No. 1)* (the Declaration) is to amend the Principal Declaration to provide PSS membership for certain persons who commence employment with the Australian Children's Education and Care Quality Authority (ACECQA).

The employees involved are persons who immediately before commencing employment with ACECQA were PSS members, that is, persons who may contribute to the PSS.

ACECQA is a national regulatory agency responsible for guiding the delivery of early childhood education and care services. ACECQA is established by Part 11 of the *Education and Care Services National Law Act 2010 (Vic)*.

The amendments contained in the Declaration are as a result of a request from ACECQA.

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

The Declaration commences on the day after it is registered.

The details of the Declaration are explained in [Attachment A](#).

A Statement of Compatibility with Human Rights is at [Attachment B](#).

## ATTACHMENT A

## SUPERANNUATION (PSS) MEMBERSHIP INCLUSION AMENDMENT DECLARATION 2012 (NO. 1)

### Section 1 – Name of Declaration

This clause provides that the name of the Declaration is the *Superannuation (PSS) Membership Inclusion Amendment Declaration 2012 (No. 1)*.

### Section 2 – Commencement

This clause provides for the Declaration to commence on the day after it is registered.

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

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

### Schedule 1 – Amendments

**Item 1** inserts a definition of ACECQA, short for the Australian Children’s Education and Care Quality Authority.

**Item 2** inserts subsection 4(21). Subsection 4(21) describes the circumstances in which the PSS membership of PSS members employed by ACECQA ceases. Subsection 4(21) provides that PSS membership ceases for a person who has such membership through item 28 of Schedule 1, which relates to employees of ACECQA, when any of the following circumstances arise:

- the person ceases employment with ACECQA;
- the person becomes a member of an alternative superannuation scheme, as defined in the Principal Declaration; or
- ACECQA ceases to be a statutory authority of Victoria.

**Item 3** inserts item 28 in Schedule 1. Item 28 allows employees of ACECQA, in certain circumstances, to be PSS members.

Under item 28, a person who becomes an employee of ACECQA can be a PSS member, provided that he or she:

- commenced employment with ACECQA; and
- immediately before commencing that employment was a PSS member, that is, persons who may contribute to the PSS; and
- is not a member of an alternative superannuation scheme, as defined in the Principal Declaration.

**ATTACHMENT B****Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

**Superannuation (PSS) Membership Inclusion Amendment Declaration 2012 (No. 1)**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

**Overview of the Legislative Instrument**

The purpose of the *Superannuation (PSS) Membership Inclusion Amendment Declaration 2012 (No. 1)* is to amend *Superannuation (PSS) Membership Inclusion Declaration 2006* to provide Public Sector Superannuation Scheme membership for certain persons who commence employment with the Australian Children's Education and Care Quality Authority.

**Human rights implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms.

**Conclusion**

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

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**Minister for Finance and Deregulation**