

EXPLANATORY STATEMENT

Issued by authority of the Minister for Finance and Deregulation

Superannuation Act 2005

Determination under subsection 34(1)

Superannuation (PSSAP) (Division of Costs) Amendment Determination 2013 (No. 1)

On 29 June 2005, the Minister for Finance and Deregulation, for and on behalf of the Commonwealth, made a deed (the Trust Deed) under section 10 of the *Superannuation Act 2005* (the 2005 Act) to, among other things, establish a superannuation scheme, to be known as the Public Sector Superannuation Accumulation Plan (PSSAP) and the PSSAP Fund from 1 July 2005. The Schedule to the Trust Deed includes rules for the administration of PSSAP (the Rules).

The PSSAP is established for the benefit of most new Australian Government employees and statutory office holders. Commonwealth Superannuation Corporation (CSC) is the trustee for the PSSAP.

Subsection 34(1) of the 2005 Act provides that the costs of the administration of the Act and the Trust Deed for the PSSAP are to be paid as the Minister determines in accordance with that subsection. These costs include the costs of and incidental to the management of the PSSAP Fund by CSC and the investment of its money.

Subsection 34(2) of the 2005 Act provides that a determination made under subsection 34(1) must identify, by amount or otherwise those costs that are payable by the Commonwealth and those costs that are payable by CSC out of the PSSAP Fund.

The relevant determination is the **Superannuation (PSSAP) (Division of Costs) Determination 2005** (the Principal Determination).

Amending Determination

The Minister amended the Principal Determination by signed instrument. That instrument is called the **Superannuation (PSSAP) (Division of Costs) Amendment Determination 2013 (No. 1)** (the Amending Determination).

The Amending Determination is intended to update the division of costs payable by the Commonwealth and out of the PSSAP Fund upon the introduction of account-based pension products in the PSSAP.

Background information on the changes and the details of the Amending Determination are set out in [Attachment A](#).

CSC Approval

Although section 34 of the 2005 Act allows the Minister to amend the Principal Determination, section 32 of 2005 Act requires CSC to consent to the amendments in most circumstances.

CSC has consented to the amendments contained in the Amending Determination.

Legislative Instruments Act 2003

The Amending Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LIA). However, in accordance with subsection 34(5) of the 2005 Act, the Amending Determination is not subject to disallowance.

Section 17 of the LIA specifies that rule-makers should consult before making legislative instruments. CSC was consulted on the amendments included in the Amending Determination.

Commencement

The amendments in the Amending Determination come into effect on the day after registration on the Federal Register of Legislative Instruments.

Statement of Compatibility with Human Rights

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

ATTACHMENT A

BACKGROUND TO AND DETAILS OF THE AMENDING DETERMINATION**Background**

The Eighth PSSAP Amending Deed (Amending Deed) amends the Trust Deed to allow PSSAP members to apply to CSC for account-based pensions. New Rule 3.6.9 of the Amending Deed provides that any fees, costs and expenses in relation to a pension account are to be determined by CSC, and deducted from that pension account. This means that the charges applicable to the provision of a pension are payable by the PSSAP pensioner.

The Amending Determination amends the Principal Determination to ensure that charges applicable to the provision of pensions are paid by CSC out of the PSSAP Fund.

Name of Determination

Section 1 provides that the name of the instrument is the *Superannuation (PSSAP) (Division of Costs) Amendment Determination 2013 (No. 1)*.

Commencement

2. **Section 2** specifies the commencement date for the Amending Determination to be the day after it is registered.

Amendment of Superannuation (PSSAP) (Division of Costs) Determination 2005

3. **Section 3** provides that Schedule 1 of the Amending Determination amends the *Superannuation (PSSAP) (Division of Costs) Determination 2005*.

Description of Amendments

4. **Item 1 of Schedule 1 to the Amending Determination** inserts definitions of “PSSAP pensioner” and “reversionary beneficiary” into the section 3 of the Principal Determination. The new definitions provide that these terms, for the purposes of the Principal Determination, have the same meaning as in the Trust Deed.

5. Subsection 4(2) of the Principal Determination provides for clarity that nothing in the Determination limits the power of CSC under the Trust Deed to charge fees, costs or expenses to PSSAP members or non-member spouses. **Item 2 of Schedule 1 to the Amending Determination** expands the provision to recognise the power of CSC under the Trust Deed to also charge fees, costs or expenses to PSSAP pensioners and reversionary beneficiaries.

6. Item 1 of Schedule 1 of the Principal Determination provides that the costs of and incidental to the management of the PSSAP Fund by CSC and the investment of its money are to be paid from the PSSAP Fund. To avoid doubt, certain costs are explicitly listed in the paragraphs to the item. **Items 3 and 4 of Schedule 1 to the Amending Determination** inserts a new paragraph (d) to ensure that costs in relation to the management of the PSSAP fund in respect of account-based pensions are paid out of the PSSAP Fund.

7. **Item 5 of Schedule 1 to the Amending Determination** inserts a new item 3 into Schedule 1 to the Principal Determination, to provide that costs of administration in respect of account-based pensions are paid out of the PSSAP Fund.

Statement of Compatibility with Human Rights

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

Superannuation (PSSAP) (Division of Costs) Amendment Determination 2013 (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 Bill/Legislative Instrument

The purpose of the Determination is to update the division of costs payable by the Commonwealth and out of the PSSAP Fund upon the introduction of account-based pension products in the PSSAP.

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.

Senator the Hon Penny Wong, Minister for Finance and Deregulation