

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. 2)

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. The 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. 2)** (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 the PSSAP Ninth Amending Deed. This Amending Deed allows contributory Commonwealth Superannuation Scheme (CSS) and Public Sector Superannuation Scheme (PSS) members to salary sacrifice into the PSSAP, and allows for transfers of certain amounts from the CSS and PSS into the PSSAP.

The updated division of costs are to allow for fees to be deducted from the PSSAP Fund in relation to administering PSS and CSS salary sacrifice accounts and the accounts of CSS and PSS members who have transferred certain amounts into the PSSAP.

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

Consultation

Section 17 of the LIA specifies that rule-makers should consult before making legislative instruments. ComSuper have been consulted on the amendments contained in the Amending Determination.

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.

Commencement

This Determination commences immediately after the commencement of clause 4 of the Ninth Amendment of the Superannuation (PSSAP) Trust Deed.

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 PSSAP Ninth Amending Deed (PSSAP Amending Deed) allows contributory Commonwealth Superannuation Scheme (CSS) and Public Sector Superannuation Scheme (PSS) members to salary sacrifice into the PSSAP. In conjunction with the PSS Thirty-seventh Amending Deed, the PSSAP Amending Deed also allows certain accumulated funded amounts to be transferred from the PSS to the PSSAP. Additionally, the PSSAP Amending Deed allows PSSAP members to transfer any CSS and PSS lump sum benefits into the PSSAP for the purpose of purchasing a PSSAP pension product.

New Part 2, Division 5 of the PSSAP Trust Deed requires CSC to determine the fees to be paid from the personal accumulation accounts of PSS and CSS members who elect to pay amounts into the PSSAP under the provisions introduced by the PSSAP Amending Deed (that is, Australian government superannuation scheme members and former Australian government superannuation scheme members).

The Amending Determination amends the Principal Determination to ensure that fees applicable under Part 2, Division 5 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. 2)*.

Commencement

2. **Section 2** specifies the commencement of the Amending Determination to be immediately after the commencement of clause 4 of the PSSAP Amending Deed.

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 a new item 4 into Schedule 1 to the Principal Determination, to provide that fees determined under Part 2, Division 5 of the PSSAP Trust Deed are to be 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. 2)

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 Determination is to update the division of costs payable by the Commonwealth and out of the PSSAP Fund to allow administration fees for certain PSSAP members to be deducted from the PSSAP Fund.

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