

EXPLANATORY STATEMENT

Issued by the Minister for Finance

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). Section 4 of the Principal Declaration also sets out circumstances where persons declared as PSS members cease to be contributory members, for example when the body they are employed with ceases to be a Commonwealth body.

The purpose of the *Superannuation (PSS) Membership Inclusion Amendment Declaration 2014 (No. 1)* (the Declaration) is to amend the Principal Declaration to make consequential changes brought about by the commencement of the substantive provisions of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act) and the repeal of the *Commonwealth Authorities and Companies Act 1997* (CAC Act).

The PGPA Act will replace the governance arrangements previously applying to Commonwealth entities under the CAC Act.

The Declaration updates relevant references and terminology in the Principal Declaration to bring it into line with the PGPA Act. Bodies which were previously referred to as 'Commonwealth authorities' under the CAC Act, will be known as 'corporate Commonwealth entities' under the PGPA Act.

In relation to section 17 and 18 of the *Legislative Instruments Act 2003*, no consultation was undertaken because the instrument is of a minor or machinery nature and does not substantially alter existing arrangements.

The Office of Best Practice Regulation (OBPR) assessed that the changes to be made by the Declaration will have nil or low impacts and no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 16978).

The Declaration is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*. Although section 44 of the Legislative Instruments Act exempts superannuation instruments from disallowance, the Declaration is subject to disallowance in accordance with section 45 of the Act.

The Declaration commences upon the commencement of sections 6 to 112 of the PGPA Act.

The details of the Declaration are explained in Attachment A. A Statement of Compatibility with Human Rights is at Attachment B.

SUPERANNUATION (PSS) MEMBERSHIP INCLUSION AMENDMENT DECLARATION 2014 (NO. 1)

Section 1 – Name of Declaration

This section provides that the name of the Declaration is the *Superannuation (PSS) Membership Inclusion Amendment Declaration 2014 (No. 1)*.

Section 2 – Commencement

This section provides for the Declaration to commence upon the commencement of sections 6 to 112 of the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

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

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

Schedule 1 – Amendments

Item 1 deletes the reference to a Commonwealth authority within the meaning of the *Commonwealth Authorities and Companies Act 1997* (CAC Act) and replaces it with reference to a corporate Commonwealth entity within the meaning of the PGPA Act. This is a consequential amendment following the commencement of the substantive provisions of the PGPA Act and repeal of the CAC Act. From this time, the Australian Government Solicitor is a corporate Commonwealth entity under the PGPA Act.

Item 2 deletes the reference to a Commonwealth authority within the meaning of the CAC Act and replaces it with reference to a corporate Commonwealth entity within the meaning of the PGPA Act. This is a consequential amendment following the commencement of the substantive provisions of the PGPA Act and repeal of the CAC Act. From this time, the Sydney Harbour Federation Trust is a corporate Commonwealth entity under the PGPA Act.

Item 3 deletes the reference to a Commonwealth company within the meaning of the CAC Act and replaces it with a reference to a Commonwealth company within the meaning of the PGPA Act. This is a consequential amendment following the commencement of the substantive provisions of the PGPA Act and repeal of the CAC Act. From this time, the Australian Strategic Policy Institute Limited is a Commonwealth company under the PGPA Act.

Item 4 deletes the references to a Commonwealth authority within the meaning of the CAC Act and replaces it with references to a corporate Commonwealth entity within the meaning of the PGPA Act. This is a consequential amendment following the commencement of provisions of the PGPA Act and repeal of the CAC Act. From this time, the ARPC is a corporate Commonwealth entity under the PGPA Act.

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 2014 (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 2014 (No. 1)* is to amend the *Superannuation (PSS) Membership Inclusion Declaration 2006* to make consequential changes brought about by the commencement of the substantive provisions of the *Public Governance, Performance and Accountability Act 2013* and the repeal of the *Commonwealth Authorities and Companies Act 1997*.

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