



Superannuation (PSSAP Trust Deed) (Insurance and Other Matters) Amendment Instrument 2016

I, Senator the Hon Mathias Hubert Paul Cormann, Minister for Finance, make the following instrument.

Dated 29 August 2016

Mathias Hubert Paul Cormann
Minister for Finance

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1 Name

This is the *Superannuation (PSSAP Trust Deed) (Insurance and Other Matters) Amendment Instrument 2016*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4, Schedule 1, Parts 1, 5 and 6 and anything in this instrument not elsewhere covered by this table.	The day after this instrument is registered on the Federal Register of Legislation.	
2. Schedule 1, Parts 2, 3 and 4.	1 October 2016.	

- (2) Any information in column 3 of this table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 11 of the *Superannuation Act 2005*.

4 Schedule

Each instrument that is specified in the Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in the Schedule to this instrument has effect according to its terms.

Schedule 1—Superannuation (PSSAP) Trust Deed

Part 1 – Insurance Matters

1 Rule 4.1.3

Repeal the Rule, substitute:

4.1.3 Where an **ordinary employer-sponsored member** dies or an application for approval of their **invalidity retirement** is made under Rule 3.3.1, CSC:

- (a) may make a claim against the policy providing the **death and invalidity cover**; and
- (b) must make a claim against the policy providing the **death and invalidity cover** if:
 - (i) this is permitted under the policy; and
 - (ii) the member is unable to make a claim or has requested that CSC do so on their behalf;

unless the **insurance company** does not provide cover in respect of the member under that policy.

Part 2 – Other Insurance Matters

2 Rule 3.1.7

Repeal the Rule, substitute:

3.1.7 If CSC receives or is taken to have received a **benefit application** from or on behalf of an **ordinary employer-sponsored member** pursuant to Rule 3.1.1(a)(ii) and CSC approves the **invalidity retirement** of the **ordinary employer-sponsored member**, CSC must, if the person ceases to be an **ordinary employer-sponsored member** following approval of their **invalidity retirement**:

- (c) pay the person as a lump sum such part of their **total benefit** as the **SIS Act** permits; or
- (d) if the person has, in their **benefit application** or in writing to **CSC**, applied for a lump sum amount that is less than their **total benefit**, pay the person the amount set out in the application or in writing as the **SIS Act** permits.

Part 3 – Income Protection Superannuation Contribution Amounts

3 Rule 1.2.1

After the definition of “**income protection cover**”, insert:

income protection superannuation contribution amount

means a payment paid by an **insurance company** under an income protection insurance policy which intends to represent a superannuation contribution during a period of sickness or incapacity of the policy holder.

4 Rule 2.3.4

After Rule 2.3.4, insert the following new Heading and Rule:

Income protection superannuation contribution amount

2.3.4A Any **income protection superannuation contribution amount** paid by an **insurance company** as a result of a claim made by **CSC** under Rule 3.4.2 in respect of an **ordinary employer-sponsored member** may be paid to **CSC** if the **SIS Act** permits the contribution to be made and the method of payment complies with any **CSC** determination under Rule 2.3.5.

5 Rule 2.3.5

Repeal the Heading and Rule, substitute:

Method of payment of contributions

2.3.5 **CSC** may determine the way in which **employee contributions, eligible spouse contributions and income protection superannuation contribution amounts** received in accordance with this Division must be paid to **CSC**.

6 Rule 2.3.6

Repeal the Rule, substitute:

2.3.6 **CSC** must pay any **employee contributions, eligible spouse contributions and income protection superannuation contribution amounts** into the **PSSAP Fund**.

7 Rule 3.4.3

Repeal the Rule, substitute:

3.4.3 Subject to the **SIS Act**, any amount, other than an **income protection superannuation contribution amount**, paid by an **insurance company** in response to a claim against a policy providing **income protection cover** must be paid to the **PSSAP member** or **non-member spouse** as a **non-commutable income stream**.

8 Rule 3.4.4

Omit “into the **PSSAP Fund** or directly”.

9 Note under Rule 4.3.5

Repeal the Note, substitute:

Note: CSC must make a claim against a policy providing **income protection cover**. See Rule 3.4.2.

Amounts other than **income protection superannuation contribution amounts** paid by an insurer in response to a claim are paid directly to the **PSSAP member** or **non-member spouse**. They are not credited to their **personal accumulation account** or **non-member spouse interest account**. See Rules 3.4.3 and 3.4.4

Income protection superannuation contribution amounts paid by an insurer in response to a claim are paid to **CSC** and then into the **PSSAP Fund** and credited to a **personal accumulation account**. See Rules 2.3.6 and 5.1.5(da).

10 Rule 5.1.5

After paragraph (d), insert:

- (da) any **income protection superannuation contribution amount** paid under Rule 2.3.4A;

Part 4 – Spouse Contributions Splitting Amounts

11 Rule 1.2.1

After the definition of “**compensation leave**”, insert:

contributions-splitting superannuation benefit means a payment made in accordance with subregulation 6.45(2) of the **SIS Regulations**.

12 Division 4 of Part 2

After Division 4 of Part 2, insert the following new Division, Heading and Rules:

Division 4A

Contributions-Splitting Superannuation Benefits
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When contributions-splitting superannuation benefits can be paid to CSC

2.4A.1 Subject to the **SIS Act**, a **contributions-splitting superannuation benefit** may be paid to **CSC** in respect of:

- (a) an **ordinary employer-sponsored member**; or
- (b) a **PSSAP member**, provided that the amount of the benefit, in total or part, relates to contributions made to an **ordinary employer-sponsored member** made to a **regulated superannuation fund** in a financial year where the **PSSAP member** was an **ordinary employer-sponsored member** at any point in time in that financial year;

provided the method of payment complies with Rule 2.4A.2.

2.4A.2 **CSC** may determine the way in which amounts set out in Rule 2.4A.1 are to be paid to **CSC**.

2.4A.3 **CSC** must pay any amounts paid to it under Rule 2.4A.1 into the **PSSAP Fund**.

13 Rule 3.1.1(i)

Omit “.”, substitute “;”

14 Rule 3.1.1

After paragraph (i), insert:

- (j) a **PSSAP member** who is applying for spouse contributions-splitting, provided the split of contributions is permitted under Division 6.7 of the **SIS Regulations**.

15 Rule 3.1.20

After Rule 3.1.20, insert the following new Heading and Rule:

Payment of contributions-splitting superannuation benefits

3.1.21 If CSC receives a **benefit application** under Rule 3.1.1(j) then, subject to the **SIS Act**, CSC must pay such part of the person's **total benefit** as requested in the application as a **contributions-splitting superannuation benefit** to a **superannuation entity** or **RSA** as nominated by the person.

16 Rule 5.1.5(j)

Omit “.”, substitute “;”

17 Rule 5.1.5

After paragraph (j), insert:

(k) any amount paid to CSC under Rule 2.4A.1.

18 Rule 5.1.6(g)

Omit “.”, substitute “;”

19 Rule 5.1.6

After paragraph (g), insert:

(h) any amount paid under Rule 3.1.21 in respect of an application made by a **PSSAP member** under Rule 3.1.1(j).

Part 5 – MySuper

20 Rule 2.1A.1(e)

Omit the paragraph, substitute:

- (e) the only limitation imposed on the source of contributions are those referred to in paragraph 29TC(1)(f) of the **SIS Act**;
- (f) a **MySuper product** held by a **PSSAP member** or **non-member spouse** cannot be replaced with another class of interest in **PSSAP** unless:
 - (i) the **PSSAP member** or **non-member spouse** has consented in writing to the replacement no more than 30 days before it occurs; or
 - (ii) as otherwise permitted by the **SIS Act**;
- (g) a **MySuper product** held by a **PSSAP member** or **non-member spouse** cannot be replaced with a beneficial interest in another **superannuation entity** unless:

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- (i) the replacement is permitted, or is required, under a law of the Commonwealth; or
 - (ii) the **PSSAP member** or **non-member spouse** has consented in writing to the replacement no more than 30 days before it occurs;
- (h) a pension is not paid from MySuper assets unless it is permitted by the **SIS Act**;
 - (i) a **PSSAP member** or **non-member spouse** who holds a **MySuper product** is not precluded from holding an interest in another class in PSSAP only because they hold a **MySuper product**;
 - (j) a **PSSAP member** or **non-member spouse** is not precluded from holding a **MySuper product** because they hold another interest of another class in PSSAP.

Part 6 – Other

21 Rule 3.1.6

Omit “Australian Prudential Regulatory Authority”, substitute “Chief Executive Medicare”.

22 Rule 4.1.3B

Omit “a **insurance company**”, substitute “an **insurance company**”.