

Superannuation Amendment (PSSAP Trust Deed—Membership) Instrument 2017

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

Dated 25 October 2017

Mathias Hubert Paul Cormann

Minister for Finance

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1 Name

 This instrument is the *Superannuation Amendment (PSSAP Trust Deed—Membership) Instrument 2017*.

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. The whole of this instrument | At the same time as Schedule 1 to the *Superannuation Amendment (PSSAP Membership) Act 2017* commences. | 4 December 2017 |

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

 (2) Any information in column 3 of the 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 Schedules

 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Superannuation (PSSAP) Trust Deed

1 Rule 1.2.1 of the Schedule (definition of additional employer contributions)

Omit “of an **ordinary‑employer‑sponsored member**”, substitute “of an **ordinary employer‑sponsored member** (except a **former Commonwealth ordinary employer‑sponsored member**)”.

2 Rule 1.2.1 of the Schedule (definition of basic employer contributions)

Repeal the definition, substitute:

|  |  |
| --- | --- |
| **basic employer contributions** | means, in respect of an **ordinary employer‑sponsored member**:(a) contributions paid by the **designated employer** of that member under Rule 2.2.1; or(b) contributions paid by the **designated employer** of that member as mentioned in Rule 2.2.1A. |

3 Rule 1.2.1 of the Schedule

Insert:

|  |  |
| --- | --- |
| **former Commonwealth ordinary employer‑sponsored member** | has the same meaning as in the **Act**. |

4 Rule 1.2.1 of the Schedule (definition of invalidity retirement)

After “an **ordinary employer‑sponsored member**”, insert “(except a **former Commonwealth ordinary employer‑sponsored member**)”.

5 Rule 1.2.1 of the Schedule (definition of pay day)

After “to an **ordinary employer‑sponsored member**”, insert “(except a **former Commonwealth ordinary employer‑sponsored member**)”.

6 Rule 1.2.1 of the Schedule (definition of pay day)

After “in the case of an **ordinary employer‑sponsored member**”, insert “(except a **former Commonwealth ordinary employer‑sponsored member**)”.

7 Division 1 of Part 2 of the Schedule

Omit:

Becoming a PSSAP member

|  |  |
| --- | --- |
| **Note:** | A person becomes a **PSSAP member** under Part 3 of the Act, which also specifies the duration of the person’s PSSAP membership. As well as specifying when a person is eligible to become a member of PSSAP, that Part empowers the Minister to either declare that a particular person is eligible to become a **PSSAP member** or is not eligible to become a **PSSAP member**.A **designated employer** is required to pay contributions only in respect of: * **ordinary employer‑sponsored members**; and
* **current government scheme members** (salary sacrifice contributions only).

Part 4 of the Act sets out the situations in which a **PSSAP member** is an **ordinary employer‑sponsored member** of PSSAP. |

substitute:

Becoming a PSSAP member

|  |  |
| --- | --- |
| **Note:** | A person becomes a **PSSAP member** under Part 3 of the Act, which also specifies the duration of the person’s PSSAP membership. As well as specifying when a person is eligible to become a member of PSSAP, that Part empowers the Minister to either declare that a particular person is eligible to become a **PSSAP member** or is not eligible to become a **PSSAP member**.Most **designated employers** are required to pay contributions only in respect of: * **ordinary employer‑sponsored members**; and
* **current government scheme members** (salary sacrifice contributions only).

However, **designated employers** of **former Commonwealth ordinary employer‑sponsored members** are not required to pay contributions in respect of such a member. Instead, such an employer can make contributions in respect of such a member if PSSAP is the member’s chosen fund under the *Superannuation Guarantee (Administration) Act 1992*.Part 4 of the Act sets out the situations in which a **PSSAP member** is an **ordinary employer‑sponsored member** of PSSAP. **Former Commonwealth ordinary employer‑sponsored members** are **ordinary employer‑sponsored members** of PSSAP under subsection 18(7) of the Act. |

8 At the end of Rule 2.1.1 of the Schedule

Add:

|  |  |
| --- | --- |
| **Note:** | A person cannot be a **former Commonwealth ordinary employer‑sponsored member** while the person is an **ordinary employer‑sponsored member** under subsection 18(2), (3) or (5) of the Act: see subsection 18(7) of the Act. |

9 Rule 2.2.1 of the Schedule

After “of an **ordinary employer‑sponsored member**”, insert “(except a **former Commonwealth ordinary employer‑sponsored member**)”.

10 After Rule 2.2.1 of the Schedule

Insert:

**2.2.1A** If the **designated employer** of a **former Commonwealth ordinary employer‑sponsored member** pays contributions to **CSC** in respect of the member, those contributions are **basic employer contributions**. However, **CSC** must reject any such contributions if the **SIS Act** would prevent the **PSSAP Fund** from accepting the contributions or if acceptance of the contributions by **CSC** may jeopardise the status of the **PSSAP Fund** as a complying superannuation fund.

11 Rule 2.2.2 of the Schedule

After “**superannuation salary** of an **ordinary employer‑sponsored member**”, insert “(except a **former Commonwealth ordinary employer‑sponsored member**)”.

12 Rule 2.2.3 of the Schedule

After “**superannuation salary** of an **ordinary employer‑sponsored member**”, insert “(except a **former Commonwealth ordinary employer‑sponsored member**)”.

13 Rule 2.2.4 of the Schedule

After “of an **ordinary employer‑sponsored member**”, insert “(except a **former Commonwealth ordinary employer‑sponsored member**)”.

14 Rule 2.2.4 of the Schedule (note)

Omit “allows employers”, substitute “allows most employers”.

15 At the end of Rule 2.2.5 of the Schedule

Add “However, this Rule does not apply in relation to **basic employer contributions** mentioned in Rule 2.2.1A.”.

16 Rule 2.2.6 of the Schedule

After “of an **ordinary employer‑sponsored member**”, insert “(except a **former Commonwealth ordinary employer‑sponsored member**)”.

17 At the end of Rule 2.2.11 of the Schedule

Add:

|  |  |
| --- | --- |
| **Note:** | Since Rule 2.2.2 does not apply to a **former Commonwealth ordinary employer‑sponsored member**, Rules 2.2.8 to 2.2.11 also do not apply to such a member. |

18 At the end of subparagraphs 3.1.1(a)(ii) and (iv) of the Schedule

Add “or”.

19 After paragraph 3.1.1(a) of the Schedule

Insert:

 (aa) a **former Commonwealth ordinary employer‑sponsored member** who is applying for the payment of benefits on the basis that he or she has a **permanent incapacity**; or

20 At the end of paragraphs 3.1.1(b), (c), (d), (e) and (i) of the Schedule

Add “or”.

21 After Rule 3.1.9 of the Schedule

Insert:

**3.1.9A** If **CSC** receives a **benefit application** from a **former Commonwealth ordinary employer‑sponsored member** under Rule 3.1.1(aa), **CSC** may pay the person the whole or a part of the person’s **total benefit** as requested in the **benefit application**, subject to the **SIS Act**.

22 Before Rule 3.3.1 of the Schedule

Insert:

Scope of Division

**3.3.1A** This Division does not apply to a **former Commonwealth ordinary employer‑sponsored member**.

23 Rule 4.1.1 of the Schedule

After “for **ordinary employer‑sponsored members**”, insert “(except **former Commonwealth ordinary employer‑sponsored members**)”.

24 Before Rule 4.1.1A of the Schedule

Insert:

**4.1.1AA** **CSC** may take out a policy or policies with an **insurance company** or companies in its name to provide **death and invalidity cover** for **former Commonwealth ordinary employer‑sponsored members**. **Death and invalidity cover** is to be on the terms and conditions, including the circumstances, agreed between **CSC** and the relevant **insurance company** or companies.

|  |  |
| --- | --- |
| **Note:** | CSC may take out death cover and invalidity cover in separate policies. |

25 Rule 4.1.2 of the Schedule

After “An **ordinary employer‑sponsored member**”, insert “(except a **former Commonwealth ordinary employer‑sponsored member**)”.

26 After Rule 4.1.2 of the Schedule

Insert:

**4.1.2AA** Subject to the **SIS Act, CSC** may offer **death and invalidity cover** to some or all **former Commonwealth ordinary employer‑sponsored members**, subject to the terms and conditions of the policy taken out under Rule 4.1.1AA, unless the **insurance company** does not provide cover in respect of the member under that policy.

27 Rule 4.1.2B of the Schedule

After “under Rule”, insert “4.1.2AA or”.

28 Rule 4.1.3 of the Schedule

Omit “or an application for approval of their **invalidity retirement** is made under Rule 3.3.1”, substitute “, an application for approval of the member’s **invalidity retirement** is made under Rule 3.3.1 or the member makes a **benefit application** under Rule 3.1.1(aa)”.

29 Rule 4.1.3A of the Schedule

Omit “**PSSAP member** or **non‑member spouse**”, substitute “person”.

30 Rule 4.1.3A of the Schedule

After “under Rule”, insert “4.1.2AA or”.

31 Rule 4.1.3A of the Schedule (note)

After “under Rule”, insert “4.1.2AA or”.

32 Rule 4.1.5 of the Schedule

Omit “and Rule 4.1.1A”, substitute “, 4.1.1AA or 4.1.1A”.

33 Rule 4.1.6 of the Schedule

After “in respect”, insert “of”.

34 Rule 4.3.1 of the Schedule

After “for **ordinary employer‑sponsored members**”, insert “(except **former Commonwealth ordinary employer‑sponsored members**)”.

35 After Rule 4.3.1 of the Schedule

Insert:

**4.3.1AA** **CSC** may take out a policy or policies with an **insurance company** or companies in its name to provide **income protection cover** for some or all **former Commonwealth ordinary employer‑sponsored members**. **Income protection cover** is to be on the terms and conditions, including the circumstances, agreed between **CSC** and the relevant **insurance company** or companies.

36 Rule 4.3.2 of the Schedule

After “**ordinary employer‑sponsored members**”, insert “(except **former Commonwealth ordinary employer‑sponsored members**)”.

37 After Rule 4.3.2 of the Schedule

Insert:

**4.3.2AA** Subject to the **SIS Act**, **CSC** may offer **income protection cover** to some or all **former Commonwealth ordinary employer‑sponsored members**, subject to the terms and conditions of the policy taken out under Rule 4.3.1AA, unless the **insurance company** does not provide cover in respect of the member under that policy.

38 Rule 4.3.2B of the Schedule

After “Rule”, insert “4.3.2AA or”.