

EXPLANATORY STATEMENT

Issued by the Minister for Finance and the Public Service

Superannuation Act 2005

Declaration under subsection 8(3)

Superannuation (PSSAP) Approved Authority Inclusion Amendment Declaration (No.1) 2019

The *Superannuation Act 2005* (the 2005 Act) makes provisions for, and in relation to, the Public Sector Superannuation Accumulation Plan (PSSAP) for Australian Government employees and certain other persons.

Persons who are eligible to contribute under the 2005 Act includes certain persons employed by an “approved authority” (subject to certain other requirements). Under paragraph (a) of the definition of “approved authority” in subsection 8(3) of the 2005 Act, an approved authority includes an authority or other body declared by the Minister to be an approved authority for the purposes of the 2005 Act, being an authority of a kind described by the definition.

A consolidated list of bodies that have been declared by the Minister to be approved authorities for the purpose of the 2005 Act is contained in the *Superannuation (PSSAP) Approved Authority Inclusion Declaration 2008* (the Principal Declaration).

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of an legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

Amending Declaration

The purpose of the *Superannuation (PSSAP) Approved Authority Inclusion Amendment Declaration (No.1) 2019* (the Amending Declaration) is to amend the Principal Declaration by including the National Housing Finance and Investment Corporation (NHFIC) in the list of bodies declared by the Minister to be approved authorities for the purposes of the 2005 Act.

The NHFIC was established by the *National Housing Finance and Investment Corporation Act 2018* on 30 June 2018 as a body corporate with power to engage employees necessary for the performance of its functions.

NHFIC is a body of a kind described by the definition of “approved authority” in subsection 8(3) of the 2005 Act.

The details of the Amending Declaration are at [Attachment A](#).

Legislation Act 2003

The Amending Declaration is a legislative instrument for the purposes of the *Legislation Act 2003*, and is subject to disallowance in accordance with subsection 8(6) of the 2005 Act.

Consultation

Section 17 of the *Legislation Act 2003* specifies that rule-makers should consult before making legislative instruments. The Commonwealth Superannuation Corporation, the trustee of the PSSAP, and NHFIC have been consulted on the Amending Declaration.

The Office of Best Practice Regulation (OBPR) assessed that the changes do not require a Regulations Impact Statement as they are machinery of government and do not substantially alter existing arrangements (OBPR Reference Number 24977)

Commencement

The Amending Declaration commences the day after it is registered on the Federal Register of Legislative Instruments.

Statement of Compatibility with Human Rights

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

Superannuation (PSSAP) Approved Authority Inclusion Amendment Declaration (No.1) 2019

Name

1. **Section 1** provides that the name of the instrument is the *Superannuation (PSSAP) Approved Authority Inclusion Amendment Declaration (No.1) 2019* (Amending Declaration).

Commencement

2. **Section 2** provides for the instrument to commence on the day after it is registered on the Federal Register of Legislation.

Authority

3. **Section 3** identifies the authority for the instrument as subsection 8(3) of the *Superannuation Act 2005* (2005 Act).

Schedules

4. **Section 4** provides that each instrument specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the instrument has effect according to its terms.

Schedule 1 - Amendments

5. Schedule 1 amends the *Superannuation (PSSAP) Approved Authority Inclusion Declaration 2008* (the Principal Declaration).
6. **Item 1** of Schedule 1 to the Amending Declaration amends Schedule 1 of the Principal Declaration to include the National Housing Finance and Investment Corporation in the list of bodies that are approved authorities for the purposes of the 2005 Act.

Statement of Compatibility with Human Rights

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

Superannuation (PSSAP) Approved Authority Inclusion Amendment Declaration (No.1) 2019

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 (PSSAP) Approved Authority Inclusion Amendment Declaration (No.1) 2019* is to declare the National Housing Finance and Investment Corporation an approved authority for the purposes of the *Superannuation Act 2005*. Depending on an individual's circumstances, a person who is an employee of an approved authority is eligible for membership of the Public Sector Superannuation Accumulation Plan.

Human rights implications

The 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 Mathias Cormann, Minister for Finance and the Public Service