

EXPLANATORY STATEMENT

Issued by the Authority of the Minister for Finance

Parliamentary Contributory Superannuation Act 1948

*Parliamentary Contributory Superannuation
(Early Release Payments) Amendment Regulations 2020*

The *Parliamentary Contributory Superannuation Act 1948* (the PCS Act) establishes the Parliamentary Contributory Superannuation Scheme (PCSS), which provides superannuation benefits for parliamentarians who entered the Parliament before 9 October 2004.

Section 28 of the PCS Act provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Legislative amendments made through the *Coronavirus Economic Response Package Omnibus Act 2020*, allow individuals adversely affected by the coronavirus early access to their superannuation on compassionate grounds. The amendments allow eligible individuals to withdrawal up to \$10,000 before 1 July 2020, and a further \$10,000 from 1 July 2020 until 24 September 2020. As these amendments did not automatically apply to defined benefit superannuation schemes such as the PCSS, the *Parliamentary Contributory Superannuation (Early Release Payments) Regulations 2020* were made in May 2020 under section 22DI of the PCS Act to provide the same early release options to eligible deferring members in the PCSS.

The Government announced in the July 2020 Economic and Fiscal Update the extension of the deadline from 24 September 2020 to 31 December 2020, for early release applications made during the 2020-21 financial year as a result of the coronavirus.

The purpose of the *Parliamentary Contributory Superannuation (Early Release Payments) Amendment Regulations 2020* is to amend the deadline to ensure that the early release arrangements in the PCSS continue to align with early release of superannuation options for other Australians, under the *Superannuation Industry (Supervision) Regulation 1994* (SIS Regulations).

The Regulations are made under section 22DI of the PCS Act. This section enables the Parliamentary Retiring Allowances Trust, as trustees of the PCSS, the ability to authorise payments for early release on the same grounds that are specified in the SIS Regulations. Under section 22DI, early release of superannuation is only relevant to certain PCSS members that have retired from the Parliament and whose access to superannuation has been deferred until age 55.

The PCS Act does not specify any conditions that need to be satisfied before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*. The Regulations are exempt from sunseting by item 47 of the table in section 12 of the *Legislation (Exemptions and Other Matters) Regulation 2015*. This is because regulations made under the PCS Act are to administer the PCSS and are intended to be enduring and not subject to regular review under the *Legislation Act 2003*.

The Department of the Treasury was consulted regarding the Regulations.

Details of the amendments are set out in the Attachment A.

A statement of Compatibility with Human Rights is at Attachment B

The Regulations commence on the day after they are registered.

Details of the *Parliamentary Contributory Superannuation (Early Release Payments) Amendment Regulations 2020*

Section 1 – Name of Regulations

This section provides that the name of the Regulations is the *Parliamentary Contributory Superannuation (Early Release Payments) Amendment Regulations 2020* (the Regulations).

Section 2 – Commencement

This section provides that the Regulations commence the day after they are registered on the Federal Register of Legislation.

Section 3 – Authority

This section provides that the Regulations are made under the *Parliamentary Contributory Superannuation Act 1948* (the PCS Act).

Section 4 – Schedule

This section provides that each instrument that is specified in the Schedules to this instrument will be amended or repealed as set out in the applicable items in the Schedules, and any other item in the Schedules to this instrument has effect according to its terms.

Schedule 1

The Regulations have the effect of amending the deadline to ensure that the early release arrangements in the Parliamentary Contributory Superannuation Scheme continue to align with the early release arrangements for other superannuation schemes as outlined in the *Superannuation Industry (Supervision) Regulation 1994* (SIS Regulations).

This is achieved by updating subsection 7(2) of the *Parliamentary Contributory Superannuation (Early Release Payments) Regulations 2020*, which currently refers to the 24 September 2020 deadline. The Regulations amend the deadline date by referring to subregulation 6.19B(2) of the SIS Regulations which specifies the deadline date for applications made under subregulation 6.19B(1) of the SIS Regulations for early release of superannuation due to the coronavirus.

Other requirements to provide early release payments are unchanged including the conditions of release criteria for these payments which are specified in the SIS Regulations. Similarly, the tax free treatment will continue to apply to any amounts released under these conditions of release.

Statement of Compatibility with Human Rights

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

**Parliamentary Contributory Superannuation (Early Release Payments)
Regulations 2020**

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 *Parliamentary Contributory Superannuation (Early Release Payments) Amendment Regulations 2020* is to amend the deadline to ensure that the early release arrangements in the Parliamentary Contributory Superannuation Scheme continue to align with the early release of superannuation options for other Australians, under the *Superannuation Industry (Supervision) Regulation 1994*.

The Regulations build on the legislative amendments made through the *Coronavirus Economic Response Package Omnibus Act 2020*, to allow individuals adversely affected by the coronavirus early access to their superannuation on compassionate grounds.

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 Mathias Cormann
Minister for Finance**