



Superannuation Amendment (PSSAP Trust Deed – Membership) Instrument 2020

I, Simon Birmingham, Minister for Finance, make the following instrument.

Dated 17 December 2020

Simon Birmingham
Minister for Finance

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1 Name

This instrument is the *Superannuation Amendment (PSSAP Trust Deed – Membership) Instrument 2020*.

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 <i>Superannuation Amendment (PSSAP Membership) Act 2020</i> commences	

Note: This table relates only to the provisions of this instrument as originally made.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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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 “(except a **former Commonwealth ordinary employer-sponsored member**)”, substitute “under subsection 18(2), 18(3) or 18(5) of the Act”.

2 Rule 1.2.1 of the Schedule (definition of death and invalidity cover)

Omit “and **non-member spouses**”.

3 Rule 1.2.1 of the Schedule (new definition)

Insert:

eligible CSS/PSS member or former member has the same meaning as in the Act.

4 Rule 1.2.1 of the Schedule (new definition)

Insert:

eligible PSSAP member has the same meaning as in the Act.

5 Rule 1.2.1 of the Schedule (definition of former Commonwealth ordinary employer-sponsored member)

Repeal the definition.

6 Rule 1.2.1 of the Schedule (definition of income protection cover)

Omit “or **non-member spouses**”.

7 Rule 1.2.1 of the Schedule (definition of insurance premium)

Omit “or a **non-member spouse**”.

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

Omit “of an **ordinary employer-sponsored member** (except a **former Commonwealth ordinary employer-sponsored member**)”, substitute “relating to the person being an **ordinary employer-sponsored member** under subsection 18(2), 18(3) or 18(5) of the Act”.

9 Rule 1.2.1 of the Schedule (Note under the definition of ordinary employer-sponsored member)

Repeal the Note, substitute:

Notes:

1. Where an **ordinary employer-sponsored member**, who is employed by two or more **designated employers**, ceases to be the employee of one or more, but not all, of those **designated employers**, the person does not cease to be an **ordinary employer-sponsored member**. Also, where a person is an **ordinary employer-sponsored member** with one designated employer and, upon ceasing to be the employee of that **designated employer**, immediately becomes the employee of another **designated employer**, the person does not cease to be an **ordinary employer-sponsored member**. See Rule 2.1.2.
2. A person that is an **ordinary employer-sponsored member** under subsections 18(7) (**eligible PSSAP member**) or 18(8A) (**eligible CSS/PSS member or former member**) of the Act can potentially have no **designated employer**.

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

Omit:

“means the day on which a regular salary payment is made by a **designated employer** to an **ordinary employer-sponsored member** (except a **former Commonwealth ordinary employer-sponsored member**) and, in the case of an **ordinary employer-sponsored member** (except a **former Commonwealth ordinary employer-sponsored member**) who:”

Substitute:

“means the day on which a regular salary payment is made by a **designated employer** to a person who is an **ordinary employer-sponsored member** under subsection 18(2), 18(3) or 18(5) of the Act and, in the case of a person who is an **ordinary employer-sponsored member** under subsection 18(2), 18(3) or 18(5) who:”

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

Insert the following Note:

Note: The definition of **pay day** is only relevant to a person in relation to their employment or office which gives rise to the person being an **ordinary employer-sponsored member** under subsection 18(2), (3) or (5) (that is, the Commonwealth employment).

A person can be an **ordinary employer-sponsored member** under subsections 18(2), 18(3) or 18(5) of the Act in addition to being an **ordinary employer-sponsored member** under subsection 18(7) (an **eligible PSSAP member**) or 18(8A) (an **eligible CSS/PSS member or former member**) of the Act in respect of concurrent non-Commonwealth employment.

12 Note at beginning of Division 1 of Part 2 of the Schedule

Repeal the Note, substitute:

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**.

Part 4 of the **Act** sets out the situations in which a **PSSAP member** is an **ordinary employer-sponsored member** of PSSAP. **Eligible PSSAP members** are **ordinary employer-sponsored members** of PSSAP under subsection 18(7) of the **Act**. **Eligible CSS/PSS member or former members** are **ordinary employer-sponsored members** of PSSAP under subsection 18(8A) of the **Act**.

A **PSSAP member** can fall under one or more categories of member, including as an **ordinary employer-sponsored member**, **current government scheme member**, **former Australian Government scheme member** or **former government scheme member**.

13 Note under Rule 2.1.1 of the Schedule

Repeal the Note, substitute:

Note: A person can be an **ordinary employer-sponsored member** under one or more of subsections 18(2), (3), (5), (7), or (8A) of the **Act**.

14 Rule 2.2.1 and Rule 2.2.1A of the Schedule

Repeal Rule 2.2.1 and Rule 2.2.1A, substitute:

2.2.1 Subject to Rules 2.2.1AA and 2.2.1B, each **pay day** the **designated employer** of a person who is an **ordinary employer-sponsored member** under subsection 18(2), 18(3) or 18(5) of the **Act** must pay as contributions to **CSC** an amount equal to 15.4% of the **superannuation salary** of the member.

2.2.1AA Rule 2.2.1 does not apply to the **designated employer** of an **eligible PSSAP member** or an **eligible CSS/PSS member or former member** who is the **designated employer** only because of the operation of item 5A of the table in subsection 19(2) of the **Act**.

Note: Rule 2.2.1 requires the **designated employer** of a person who is an **ordinary employer-sponsored member** under subsection 18(2), 18(3) or 18(5) of the **Act** to pay **basic employer contributions** if the particular employment or office is in relation to the person's membership under these subsections.

A **designated employer** of a person who is an **eligible PSSAP member** or an **eligible CSS/PSS member or former member**, but is not an **ordinary employer-sponsored member** under subsections 18(2), (3) or (5), is not required to pay contributions under this Rule.

A person can be an **ordinary employer-sponsored member** under subsections 18(2), 18(3) or 18(5) of the **Act** in addition to being an **eligible PSSAP member** or an **eligible CSS/PSS member or former member** under subsection 18(7) or 18(8A) (that is, in respect of concurrent non-Commonwealth employment). Only the **designated employer** in relation to the employment or office which gives rise to the membership under subsections 18(2), (3) or (5) (that is, the Commonwealth employer) is required to pay **basic employer contributions** under Rule 2.2.1.

See Rule 2.2.1A for contributions by a **designated employer** in respect of other employment or offices held by a person who is an **ordinary employer-sponsored member** under subsection 18(7) or 18(8A) of the **Act** (that is, an **eligible PSSAP member** or an **eligible**

CSS/PSS member or former member).

2.2.1A Subject to Rule 2.2.1B, the **designated employer** of an **eligible PSSAP member** or an **eligible CSS/PSS member or former member** may pay contributions to **CSC** in respect of the member, and those contributions are **basic employer contributions**.

Note: This Rule allows the **designated employer** of a person who is an **eligible PSSAP member** or an **eligible CSS/PSS member or former member** (that is, an **ordinary employer-sponsored member** under either subsection 18(7) or 18(8A) of the **Act**) to make contributions to PSSAP, including in relation to satisfying their obligations under the *Superannuation Guarantee (Administration) Act 1992*.

See Rule 2.2.1 for contributions by a **designated employer** of a person who is an **ordinary employer-sponsored member** under subsection 18(2), 18(3) or 18(5) of the **Act**, in respect of particular employment or the holding of a statutory office that relates to one of these subsections.

Some **PSSAP members** may have contributions made by more than one **designated employer** where they are engaged in concurrent employment, including an **eligible PSSAP member** or an **eligible CSS/PSS member or former member** who may have contributions paid by a (Commonwealth) **designated employer** under Rule 2.2.1 and a (non-Commonwealth) **designated employer** under Rule 2.2.1A.

2.2.1B **CSC** must reject any contributions paid under Rule 2.2.1 or 2.2.1A 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.

15 Rule 2.2.2 of the Schedule

Omit “(except a **former Commonwealth ordinary employer-sponsored member**)”, substitute “under subsection 18(2), 18(3) or 18(5) of the **Act**”.

16 Rule 2.2.3 of the Schedule

Omit “(except a **former Commonwealth ordinary employer-sponsored member**)”, substitute “under subsection 18(2), 18(3) or 18(5) of the **Act**”.

17 Rule 2.2.3 of the Schedule

Insert the following Note under Rule 2.2.3:

Note: Rule 2.2.2 and Rule 2.2.3 are only relevant to a person in relation to the employment or office which gives rise to the person being an **ordinary employer-sponsored member** under subsection 18(2), (3) or (5) of the **Act** (that is, their Commonwealth employment).

A person can be an **ordinary employer-sponsored member** under subsection 18(2), 18(3) or 18(5) of the **Act** in addition to being an **ordinary employer-sponsored member** under subsection 18(7) (an **eligible PSSAP member**), or 18(8A) (an **eligible CSS/PSS member or former member**) of the **Act** in respect of concurrent non-Commonwealth employment.

18 Rule 2.2.4 of the Schedule

Omit “(except a **former Commonwealth ordinary employer-sponsored member**)”, substitute “under subsection 18(2), (3) or (5) of the Act”.

19 Note under Rule 2.2.4 of the Schedule

Repeal the Note, substitute:

Note: This Rule allows the **designated employer** of a person who is an **ordinary employer-sponsored member** under subsection 18(2), (3) or (5) of the Act to make contributions for or on behalf of the person in addition to any contributions the employer is required to pay under Rule 2.2.1 as **basic employer contributions**.

Circumstances where an employer may make **additional employer contributions** include, but are not limited to:

20 Rule 2.2.6 of the Schedule

Omit “(except a **former Commonwealth ordinary employer-sponsored member**)”, substitute “under subsection 18(2), 18(3) or 18(5) of the Act”.

21 Note under Rule 2.2.11 of the Schedule

Omit “a **former Commonwealth ordinary employer-sponsored member**”, substitute “an **eligible PSSAP member** or an **eligible CSS/PSS member or former member**”.

22 Rule 3.1.1(aa) of the Schedule

Omit “a **former Commonwealth ordinary employer-sponsored member**”, substitute “an **eligible PSSAP member** or an **eligible CSS/PSS member or former member**”.

23 Paragraph 3.1.6(a) of the Schedule

Repeal the paragraph, substitute:

“(a) on a compassionate ground in accordance with a determination made under the SIS Act; or,”

24 Rule 3.1.9A of the Schedule

Omit “a **former Commonwealth ordinary employer-sponsored member**”, substitute “an **eligible PSSAP member** or an **eligible CSS/PSS member or former member**”.

25 Rule 3.1.20 of the Schedule

Repeal the Heading and Rule, substitute:

Payment of benefits to the Commissioner of Taxation

3.1.20 CSC may pay benefits to the Commissioner of Taxation in accordance with the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.

26 Rule 3.3.1A of the Schedule

Omit “a **former Commonwealth ordinary employer-sponsored member**”, substitute “an **eligible PSSAP member** or an **eligible CSS/PSS member or former member**”.

27 Rule 3.4.1, 3.4.3, 3.4.4 and 3.4.5 of the Schedule

Omit “or **non-member spouse**” where occurring.

28 Rule 4.1.1, of Schedule, Heading and Note

Repeal Heading, Rule 4.1.1 and Note, substitute:

CSC may arrange and offer insurance for death and invalidity

4.1.1 CSC may take out a policy or policies with an **insurance company** or companies in its name to provide **death and invalidity cover** for **PSSAP members**. A **death and invalidity cover** policy is to be on the terms and conditions, including the circumstances, agreed between **CSC** and the relevant **insurance company**, subject to the requirements of the **SIS Act**.

Note: Rule 2.1A.4 may require **CSC** to take out such a policy or policies in relation to persons who hold a **MySuper product**, in respect of their **MySuper product**.

29 Rule 4.1.1AA and 4.1.1A of the Schedule including Notes

Repeal Rule 4.1.1AA and Note, and Rule 4.1.1A and Note.

30 Rule 4.1.2, 4.1.2AA, 4.1.2A and 4.1.2B of the Schedule

Repeal Heading, Rule 4.1.2, 4.1.2AA, 4.1.2A and 4.1.2B, substitute:

4.1.2 Subject to the **SIS Act**, a **PSSAP member** may be offered **death and invalidity cover** subject to the terms and conditions of the policy taken out pursuant to Rule 4.1.1, unless the **insurance company** does not provide cover in respect of the member under that policy.

4.1.2A Subject to the **SIS Act**, **CSC** may determine the terms and conditions of any **death and invalidity cover** provided to persons under Rule 4.1.2.

31 Rule 4.1.3A of the Schedule including Note

Omit “Rule 4.1.2AA or 4.1.2A”, where occurring, substitute “Rule 4.1.2”.

32 Rule 4.1.3B of the Schedule

Omit “or **non-member spouse interest account** of the **non-member spouse**”.

33 Rule 4.1.5 of the Schedule

Omit “provided under Rule 4.1.1, 4.1.1AA or 4.1.1A”.

34 Rule 4.1.6, 4.1.7, 4.1.8 and 4.1.9 of the Schedule

Omit “or **non-member spouse**” and “or **non-member spouse interest account**” where occurring.

35 Heading, Rule 4.3.1 of the Schedule

Repeal the Heading, Rule 4.3.1 substitute:

CSC may arrange and offer insurance for income protection cover

4.3.1 CSC may take out a policy or policies with an **insurance company** or companies in its name to provide **income protection cover** for **PSSAP members**. An **income protection cover** policy is to be on the terms and conditions, including the circumstances, agreed between **CSC** and the relevant **insurance company**, subject to the requirements of the **SIS Act**.

36 Rule 4.3.1AA and 4.3.1A of the Schedule

Repeal Rule 4.3.1AA and 4.3.1A of the Schedule.

37 Heading, Rule 4.3.2, 4.3.2AA, 4.3.2A and 4.3.2B of the Schedule

Repeal the Heading, Rule 4.3.2, 4.3.2AA, 4.3.2A and 4.3.2B, substitute:

4.3.2 A **PSSAP member** may be offered **income protection cover** subject to the terms and conditions of the policy taken out pursuant to Rule 4.3.1, unless the **insurance company** does not provide cover in respect of the member under that policy.

4.3.2A Subject to the **SIS Act**, **CSC** may determine the terms and conditions of any **income protection cover** provided to persons under Rule 4.3.2.

38 Rule 4.3.3, 4.3.5 and Note, and 4.3.6 of the Schedule

Omit “or non-member spouse” and “or non-member spouse interest account” where occurring.