



Superannuation Amendment (PSS Trust Deed) Instrument 2021

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

Dated 27 March 2021

Simon Birmingham
Minister for Finance

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1 Name

This instrument is the *Superannuation Amendment (PSS Trust Deed) Instrument 2021*.

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 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	The day after this instrument is registered on the Federal Register of Legislation.	
3. Schedule 2	The later of: (a) immediately after the commencement of the <i>Family Law Amendment (Western Australia De Facto Superannuation Splitting and Bankruptcy) Act 2020</i> ; and (b) the day after this instrument is registered on the Federal Register of Legislation. However, the provision(s) do not commence at all if the event mentioned in paragraph (a) does not occur.	

Note: This table relates only to the provisions of this instrument as originally made.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 5 of the *Superannuation Act 1990*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

1 Paragraph 13.1(a)

Repeal the paragraph, substitute:

- (a) CSC or the chief executive officer (however described) of CSC;

Schedule 2—Amendment of the PSS Rules

1 Rule 1.2.1 (definitions of member spouse and non-member spouse)

After “Part VIIIIB”, add “or VIIC”.

2 Rule 16.1.1

Repeal the Rule, substitute the following new Rule, including the Note:

16.1.1 If a word or phrase defined in Part VIIIIB or VIIC of the *Family Law Act 1975* is used in this Part, it has the same meaning as in the relevant Part of the *Family Law Act 1975* unless excluded by the context. For convenience, a number of these words and phrases are listed as signpost definitions in Rule 16.1.2 below.

Note:

Part VIIIIB of the *Family Law Act 1975* applies for superannuation splitting arrangements for parties to a relationship in States and Territories except for de facto relationships in Western Australia, which is dealt with in Part VIIC. Definitions adopted in this Part will therefore be the definitions of terms used in either Part VIIIIB or VIIC, depending on the relationship to which the split applies.

3 Rule 16.1.2 (definition of base amount)

After “subsection 90XT(4)”, add “or 90YY(5) (as the case may be)”.

4 Rule 16.1.2 (definition of family law value)

After “paragraph 90XT(2)(a)”, add “or 90YY(2)(a) (as the case may be)”.

5 Rule 16.1.2 (definition of family law value)

Repeal the Note, substitute:

Note:

This amount is determined by applying those regulations, whether or not an order has been made under subsection 90XT(1) or 90YY(1) (as the case may be) of the *Family Law Act 1975*.

6 Rule 16.1.2 (definitions of member spouse, non-member spouse, operative time, payment split, splitting order and superannuation interest)

After “Part VIIIIB”, add “or VIIC”.

7 Rule 16.1.2 (definition of splitting agreement)

Omit the definition, substitute:

splitting agreement means:

- a superannuation agreement (within the meaning of Part VIII B or VIII C of the *Family Law Act 1975*); or
- a flag lifting agreement (within the meaning of Part VIII B or VIII C of the *Family Law Act 1975*) that provides for a **payment split**.

8 Rule 16.1.2 (definition of splitting percentage)

Omit the definition, substitute:

splitting percentage means:

- for a **splitting agreement** – the percentage specified in the agreement under subparagraph 90XJ(1)(c)(iii) or 90YN(1)(c)(iii) (as the case may be) of the *Family Law Act 1975*; or
- for a **splitting order** – the percentage specified in the order under subparagraph 90XT(1)(b)(i) or 90YY(1)(b)(i) (as the case may be) of the *Family Law Act 1975*.