

Superannuation (PSS) Productivity Contribution (2023-2024) Determination 2023 – Explanatory Statement

1 Name of Determination

This determination is the *Superannuation (PSS) Productivity Contribution (2023-2024) Determination 2023*

2 Commencement

This determination takes effect on 1 July 2023.

3 Purpose

The purpose of this determination is to set new productivity contribution rates for the Public Sector Superannuation (PSS) scheme to apply for the financial year beginning on 1 July 2023.

4 Background

Establishment of the PSS Scheme

The PSS scheme is established by the *Superannuation Act 1990*, a Trust Deed and Rules.

The PSS Rules were renumbered with effect from 1 July 1995, as a result of amendments made by the Ninth Amending Trust Deed.

The PSS Rules were further amended by the Twenty-Eighth Amending Trust Deed executed in 2007 by the deletion of a “B” before each rule with effect from 29 June 2007.

Productivity Contribution Rates

PSS Rule 4.3.2 sets out a *Table of Productivity Contributions Rates* to apply from 1 July 1995 until amended.

PSS Rule 4.3.3 provides for the productivity contribution rates set out in the Table in rule 4.3.2 to be amended by the Commonwealth Superannuation Corporation (CSC) with effect from 1 July each year, to reflect changes in the general salary levels of members. The increase in the amounts in the *Table of Productivity Contribution Rates* maintains the real value of the productivity contributions in relation to the overall salaries of PSS members.

Delegation

CSC has delegated its power under rule 4.3.3 to relevant officers of the organisation.

Productivity Contribution Rates in the Period 1 July 1996-30 July 2005

In the period from 1 July 1996 to 30 July 2005, the amounts set out in the table in rule 4.3.2 were replaced on 1 July each year, pursuant to the *PSS (Productivity Contribution Rates) Determination No. 1*, which was amended each year in consecutively-numbered determinations. That Determination was revoked on 1 July 2005 by the *Superannuation (PSS) Productivity Contribution (2006-2007) Determination 2006*, which set out the productivity contribution rates for the financial year commencing on 1 July 2005.

Productivity Contribution Rates in the Period from 1 July 2005

Productivity contribution rates in the period from 1 July 2005 are set out in annual determinations that apply for the financial year commencing on 1 July each year.

5 New Productivity Contribution Rates

The new productivity contribution rates that apply with effect from 1 July 2023 are set out in the determination.

6 Sun setting and Disallowance Exemptions

The following provisions assert that the PSS Instruments are exempt from sunsetting:

(1) s54(2)(b) of the *Legislation Act 2003* provides that “This Part [Sunsetting of legislative instruments] does not apply in relation to a legislative instrument if the legislative instrument is prescribed by regulation for the purposes of this paragraph”

(2) Regulation 11 (at Item 6 of the table) of the *Legislation (Exemptions and Other Matters) (LEOM) Regulation 2015* specifies that “an instrument (other than a regulation) relating to superannuation” is not subject to sunsetting.

The following provisions assert that the PSS Instruments are exempt from disallowance:

(1) s44(2)(b) of the *Legislation Act 2003* provides that legislative instruments are not subject to disallowance if “the legislative instrument is prescribed by regulation for the purposes of this paragraph”

(2) Regulation 9 (at Item 3 of the table) of the *LEOM Regulation 2015* specifies that “an instrument (other than a regulation) relating to superannuation” is not subject to disallowance. The PSS Instruments pertain to superannuation.

The above provisions are relied upon as the source of exemption from sunseting and disallowance.

Justification as to why these exemptions are relied upon:

The PSS Instruments are used by employers (Government and Government agencies) to determine the rate payable for a member's productivity contribution for superannuation purposes. It is therefore important that each PSS instrument is exempt from sunseting because the current and previous instruments are required from time to time to determine rates payable to admit new members retrospectively, to rectify errors and/or changes in salary etc.

6 References to CSC

Section 5 of the *Governance of Australian Government Superannuation Schemes Act 2011* provides that “the board established by section 20 of the *Superannuation Act 1990* as the Australian Reward Investment Alliance continues in existence by force of that section as a body corporate, under and subject to the provisions of this Act, under the name Commonwealth Superannuation Corporation (CSC)”.

In accordance with section 25B of the *Acts Interpretation Act 1901*, any reference to Australian Reward Investment Alliance (ARIA) in an instrument made prior to 1 July 2011 shall be construed as a reference to CSC.

7 Consultation

As the instrument is for internal machinery of Government purposes only, no consultation was considered necessary with other persons (see sections 15J(2) and 17 of the *Legislation Act 2003*).

Statement of Compatibility with Human Rights

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

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*.

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.