

2008-2009-2010

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Governance of Australian Government  
Superannuation Schemes Bill 2010**

**No.     , 2010**

*(Finance and Deregulation)*

**A Bill for an Act to create a single body to  
administer Australian Government superannuation  
schemes, and for related purposes**



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1     **A Bill for an Act to create a single body to**  
2     **administer Australian Government superannuation**  
3     **schemes, and for related purposes**

4     The Parliament of Australia enacts:

5     **Part 1—Preliminary**  
6

7     **1 Short title**

8                     This Act may be cited as the *Governance of Australian*  
9                     *Government Superannuation Schemes Act 2010*.

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1     **2 Commencement**

2                     This Act commences on 1 July 2010.

3     **3 Definitions**

4                     In this Act:

5                     **1922 scheme** means the scheme established under the  
6                     *Superannuation Act 1922*.

7                     **Act administered by CSC** means:

- 8                     (a) the *Defence Force Retirement and Death Benefits Act 1973*;  
9                     or  
10                    (b) the *Defence Forces Retirement Benefits Act 1948*; or  
11                    (c) the *Military Superannuation and Benefits Act 1991*; or  
12                    (d) the *Papua New Guinea (Staffing Assistance) Act 1973*, to the  
13                    extent that the Act deals with superannuation; or  
14                    (e) the *Superannuation Act 1922*; or  
15                    (f) the *Superannuation Act 1976*; or  
16                    (g) the *Superannuation Act 1990*; or  
17                    (h) the *Superannuation Act 2005*.

18                    **bank** has the same meaning as in the *Commonwealth Authorities*  
19                    *and Companies Act 1997*.

20                    **Board** means the Board of CSC, established by section 8.

21                    **Chair** means the Chair of the Board.

22                    **CSC** (short for Commonwealth Superannuation Corporation)  
23                    means the body corporate continued in existence by section 4.

24                    **CSS** (short for Commonwealth Superannuation Scheme) has the  
25                    same meaning as in the *Superannuation Act 1976*.

26                    **CSS Fund** has the same meaning as Fund has in the  
27                    *Superannuation Act 1976*.

1 **DFRB** (short for Defence Forces Retirement Benefits Scheme)  
2 means the scheme provided for by the *Defence Forces Retirement*  
3 *Benefits Act 1948*.

4 **DFRDB** (short for Defence Force Retirement and Death Benefits  
5 Scheme) means the scheme provided for by the *Defence Force*  
6 *Retirement and Death Benefits Act 1973*.

7 **director** means a director of the Board, and includes the Chair.

8 **disqualified person** has the same meaning as in Part 15 of the  
9 *Superannuation Industry (Supervision) Act 1993*.

10 **governing deed** means:

- 11 (a) in relation to the MSB—the Trust Deed (within the meaning  
12 of the *Military Superannuation and Benefits Act 1991*); or  
13 (b) in relation to the PSS—the Trust Deed (within the meaning  
14 of the *Superannuation Act 1990*); or  
15 (c) in relation to the PSSAP—the Trust Deed (within the  
16 meaning of the *Superannuation Act 2005*).

17 **modifications** includes additions, omissions and substitutions.

18 **MSB** (short for Military Superannuation and Benefits Scheme) has  
19 the same meaning as Scheme has in the *Military Superannuation*  
20 *and Benefits Act 1991*.

21 **MSB Fund** has the same meaning as Fund has in the *Military*  
22 *Superannuation and Benefits Act 1991*.

23 **PNG** (short for Papua New Guinea Scheme) means the scheme  
24 provided for by regulations made under the *Papua New Guinea*  
25 *(Staffing Assistance) Act 1973*.

26 **PSS** (short for Public Sector Superannuation Scheme) has the same  
27 meaning as Public Sector Superannuation Scheme has in the  
28 *Superannuation Act 1990*.

29 **PSSAP** (short for Public Sector Superannuation Accumulation  
30 Plan) has the same meaning as in the *Superannuation Act 2005*.

31 **PSSAP Fund** has the same meaning as in the *Superannuation Act*  
32 *2005*.

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1                    **PSS Fund** has the same meaning as in the *Superannuation Act*  
2                    *1990*.

3                    **relevant organisation** means:

- 4                    (a) an organisation:
- 5                            (i) a substantial number of whose members are members of  
6                                    the PSS or PSSAP or are eligible employees within the  
7                                    meaning of the *Superannuation Act 1976*; and  
8                            (ii) whose principal purpose is to protect and promote the  
9                                    interests of its members in matters concerning their  
10                                    employment; or
- 11                    (b) an organisation that has as one of its principal purposes the  
12                                    protection and promotion of beneficiaries under the CSS,  
13                                    PSS or PSSAP in matters concerning their entitlements as  
14                                    beneficiaries.

15                    **SIS fitness and propriety standard** means a standard prescribed  
16                    under Part 3 of the *Superannuation Industry (Supervision) Act*  
17                    *1993* relating to fitness and propriety for trustees of funds (within  
18                    the meaning of that Act) and RSE licensees (within the meaning of  
19                    that Act).

20                    **superannuation fund administered by CSC** means:

- 21                            (a) the CSS Fund; or  
22                            (b) the MSB Fund; or  
23                            (c) the PSS Fund; or  
24                            (d) the PSSAP Fund.

25                    **superannuation scheme administered by CSC** means:

- 26                            (a) the 1922 scheme; or  
27                            (b) the CSS; or  
28                            (c) the DFRB; or  
29                            (d) the DFRDB; or  
30                            (e) the MSB; or  
31                            (f) the PNG; or  
32                            (g) the PSS; or  
33                            (h) the PSSAP.

- 1                    ***superannuation scheme and superannuation fund administered***  
2                    ***by CSC*** means:  
3                    (a) each superannuation scheme administered by CSC; and  
4                    (b) each superannuation fund administered by CSC.

1

2 **Part 2—Commonwealth Superannuation**  
3 **Corporation**

4 **Division 1—Establishment and constitution of CSC**

5 **4 Establishment**

6 The board established by section 20 of the *Superannuation Act*  
7 *1990* as the Australian Reward Investment Alliance continues in  
8 existence by force of this section as a body corporate, under and  
9 subject to the provisions of this Act, under the name  
10 Commonwealth Superannuation Corporation (*CSC*).

11 Note 1: See also section 25B of the *Acts Interpretation Act 1901*.

12 Note 2: Subject to section 5 of this Act, the *Commonwealth Authorities and*  
13 *Companies Act 1997* applies to CSC. That Act deals with matters  
14 relating to Commonwealth authorities, including reporting and  
15 accountability, banking and investment, and the conduct of officers.

16 **5 Modification of the *Commonwealth Authorities and Companies Act***  
17 ***1997***

- 18 (1) Despite section 4 of this Act:  
19 (a) section 15 of the *Commonwealth Authorities and Companies*  
20 *Act 1997*; and  
21 (b) any other provision of that Act prescribed by the regulations;  
22 do not apply in relation to CSC's management and investment of  
23 money that forms part of a superannuation fund administered by  
24 CSC.
- 25 (2) If, at any time, CSC does not hold money on its own account, then,  
26 despite section 7 of the *Commonwealth Authorities and Companies*  
27 *Act 1997*, CSC is treated as if it were a Commonwealth authority  
28 for the purposes of that Act.

29 **6 CSC's constitution**

- 30 (1) CSC:
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- 1 (a) must have a seal; and  
2 (b) may acquire, hold and dispose of real and personal property;  
3 and  
4 (c) may sue and be sued in its corporate name.
- 5 (2) The seal of CSC is to be kept in such custody as the Board directs  
6 and must not be used except as authorised by the Board.
- 7 (3) All courts, judges and persons acting judicially must:  
8 (a) take judicial notice of the imprint of the seal of CSC  
9 appearing on a document; and  
10 (b) presume that the document was duly sealed.

## 11 **7 CSC's functions**

- 12 (1) CSC has the following functions:  
13 (a) such functions as are conferred on CSC by this Act and each  
14 Act administered by CSC;  
15 (b) to be responsible for the general administration of this Act  
16 and each Act administered by CSC;  
17 (c) to do anything incidental to, or conducive to, the performance  
18 of the above functions.
- 19 (2) To avoid doubt, when performing a function under an Act  
20 administered by CSC, CSC is performing the function under the  
21 relevant Act and not this Act.
- 22 (3) CSC has power to do all things necessary or convenient to be done  
23 for or in connection with the performance of its functions.

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2 **Division 2—Board of CSC**

3 **Subdivision A—Establishment and function**

4 **8 Establishment**

5 There is to be a Board of CSC.

6 **9 Function**

7 (1) The function of the Board is to ensure that CSC performs its  
8 functions in a proper, efficient and effective manner.

9 (2) The Board has the power to do all things necessary or convenient  
10 to be done for or in connection with the performance of its  
11 function.

12 (3) All acts and things done in the name of, or on behalf of, CSC by  
13 the Board are taken to have been done by CSC.

14 **10 Membership**

15 (1) The Board consists of:

- 16 (a) a Chair; and  
17 (b) 10 other directors.

18 Note: See also subsection 36(2).

19 (2) Subject to subsection (4), of the 10 other directors:

- 20 (a) the President of the Australian Council of Trade Unions may  
21 nominate, in writing, 3 persons; and  
22 (b) the Chief of the Defence Force may nominate, in writing, 2  
23 persons.

24 Note: The Minister chooses the remaining 5 other directors.

25 (3) However, a person is not eligible for nomination if the person's  
26 appointment would result in a contravention of a SIS fitness and  
27 propriety standard.

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- 1 (4) Before nominating a person, the President of the Australian  
2 Council of Trade Unions must consult with relevant organisations.
- 3 (5) A nomination must specify the period for which the nominee is to  
4 be appointed. The period may not be more than 3 years.
- 5 (6) Subsections (2) to (5) also apply to a nomination of an acting  
6 director by the President of the Australian Council of Trade  
7 Unions.
- 8 (7) Subsections (2), (3) and (5) also apply to a nomination of an acting  
9 director by the Chief of the Defence Force.
- 10 (8) The performance of a function or the exercise of a power of the  
11 Board is not affected by a vacancy in the membership of the Board.

12 **Subdivision B—Appointment etc. of directors**

13 **11 Appointment of directors**

- 14 (1) A director is to be appointed by the Minister by written instrument,  
15 on a part-time basis.
- 16 Note: A director is eligible for reappointment: see subsection 33(4A) of the  
17 *Acts Interpretation Act 1901*.
- 18 (2) A person is not eligible for appointment as a director if the  
19 person's appointment would result in a contravention of a SIS  
20 fitness and propriety standard.
- 21 (3) In the case of a director who has been nominated by the President  
22 of the Australian Council of Trade Unions or the Chief of the  
23 Defence Force, the Minister must:
- 24 (a) appoint a person who has been nominated; and  
25 (b) appoint the person for the period specified in the nomination.
- 26 (4) The Minister must obtain the Board's agreement to a person whom  
27 the Minister proposes to appoint as the Chair (other than for the  
28 appointment of a person as the first Chair).
- 29 Note: For obtaining the Board's agreement, see section 22.
- 30 (5) A person's appointment as a director is not invalid because of a  
31 defect or irregularity in connection with the person's appointment.
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1 **12 Term of appointment**

- 2 (1) A director holds office for the period specified in the instrument of  
3 appointment. The period must not exceed 3 years.
- 4 (2) A director must not hold office continuously for more than 9 years.

5 **13 Remuneration and allowances**

- 6 (1) A director is to be paid the remuneration that is determined by the  
7 Remuneration Tribunal. If no determination of that remuneration  
8 by the Tribunal is in operation, a director is to be paid the  
9 remuneration that is prescribed by the regulations.
- 10 (2) A director is to be paid the allowances that are prescribed by the  
11 regulations.
- 12 (3) This section has effect subject to the *Remuneration Tribunal Act*  
13 *1973*.

14 **14 Leave of absence**

- 15 (1) The Minister may grant leave of absence to the Chair on the terms  
16 and conditions that the Minister determines.
- 17 (2) The Chair may grant leave of absence to another director on the  
18 terms and conditions that the Chair determines.

19 **15 Resignation**

- 20 (1) A director may resign his or her appointment by giving the  
21 Minister a written resignation.
- 22 (2) The resignation takes effect on the day it is received by the  
23 Minister or, if a later day is specified in the resignation, on that  
24 later day.
- 25 (3) If a director nominated by the President of the Australian Council  
26 of Trade Unions or the Chief of the Defence Force resigns, the  
27 director must also give a copy of the resignation to the President or  
28 Chief, as appropriate.

1 **16 Termination of appointment**

2 *Grounds for termination*

- 3 (1) Subject to subsections (5), (6) and (7), the Minister may terminate  
4 the appointment of a director:  
5 (a) for misbehaviour or physical or mental incapacity; or  
6 (b) if the director:  
7 (i) becomes bankrupt; or  
8 (ii) applies to take the benefit of any law for the relief of  
9 bankrupt or insolvent debtors; or  
10 (iii) compounds with his or her creditors; or  
11 (iv) makes an assignment of his or her remuneration for the  
12 benefit of his or her creditors; or  
13 (c) if the director is absent, except on leave of absence, from 3  
14 consecutive meetings of the Board; or  
15 (d) if the director fails, without reasonable excuse, to comply  
16 with section 21.
- 17 (2) Subject to subsections (5), (6) and (7), if the Minister is of the  
18 opinion that the directors have failed to comply with paragraph  
19 16(1)(a) or (b) of the *Commonwealth Authorities and Companies*  
20 *Act 1997*, the Minister may terminate the appointment of all  
21 directors or particular directors.
- 22 (3) The Minister may terminate the appointment of a director if:  
23 (a) the director's continuation in office would contravene a SIS  
24 fitness and propriety standard; or  
25 (b) the director fails, without reasonable excuse, to comply with  
26 an obligation imposed on him or her by section 27F or 27J of  
27 the *Commonwealth Authorities and Companies Act 1997*.
- 28 (4) The appointment of a director terminates if he or she becomes a  
29 disqualified person.

30 *Consent to termination*

- 31 (5) The Minister must not terminate the appointment of a director  
32 nominated by the President of the Australian Council of Trade

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- 1                    Unions on a ground mentioned in subsection (1) or (2) unless the  
2                    President consents to the termination.
- 3                    (6) The Minister must not terminate the appointment of a director  
4                    nominated by the Chief of the Defence Force on a ground  
5                    mentioned in subsection (1) or (2) unless the Chief consents to the  
6                    termination.
- 7                    (7) However, if the President of the Australian Council of Trade  
8                    Unions or the Chief of the Defence Force consents to the  
9                    termination of a director, the Minister must terminate the director's  
10                    appointment.

11                    **17 Acting appointments**

- 12                    (1) The Minister may, by written instrument, appoint a person to act as  
13                    a director:
- 14                        (a) during a vacancy in the office of the director (whether or not  
15                               an appointment has previously been made to the office); or  
16                        (b) during any period, or during all periods, when the director:  
17                               (i) is absent from duty or from Australia; or  
18                               (ii) is, for any reason, unable to perform the duties of the  
19                               office.
- 20                    (2) A person is not eligible for appointment to act as a director if the  
21                    person's appointment would result in a contravention of a SIS  
22                    fitness and propriety standard.
- 23                    (3) The Minister must consult the Board about the person whom the  
24                    Minister proposes to appoint to act as the Chair.
- 25                    (4) If:
- 26                        (a) a director is appointed following a nomination made by the  
27                               President of the Australian Council of Trade Unions; and  
28                        (b) a nomination is made by the President for a person to act in  
29                               place of that director;
- 30                    the Minister must:
- 31                        (c) appoint the person who has been nominated to act as a  
32                               director; and  
33                        (d) appoint the person for the period specified in the nomination.
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- 1 (5) If:  
2 (a) a director is appointed following a nomination made by the  
3 Chief of the Defence Force; and  
4 (b) a nomination is made by the Chief for a person to act in place  
5 of that director;  
6 the Minister must:  
7 (c) appoint the person who has been nominated to act as a  
8 director; and  
9 (d) appoint the person for the period specified in the nomination.
- 10 (6) Anything done by or in relation to a person purporting to act under  
11 an appointment is not invalid merely because:  
12 (a) the occasion for the appointment had not arisen; or  
13 (b) there was a defect or irregularity in connection with the  
14 appointment; or  
15 (c) the appointment had ceased to have effect; or  
16 (d) the occasion to act had not arisen or had ceased.
- 17 Note: See sections 20 and 33A of the *Acts Interpretation Act 1901*.

## 18 **Subdivision C—Meetings of the Board**

### 19 **18 Holding of meetings**

- 20 (1) The Board is to hold such meetings as are necessary for the  
21 performance of its function.
- 22 (2) The Chair:  
23 (a) may convene a meeting at any time; and  
24 (b) must convene a meeting within 30 days after receiving a  
25 written request from another director.
- 26 Note: Section 33B of the *Acts Interpretation Act 1901* provides for  
27 participation in meetings by telephone etc.

### 28 **19 Presiding at meetings**

- 29 (1) The Chair presides at all meetings of the Board at which he or she  
30 is present.
- 31 (2) If the Chair is not present at a meeting:
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- 1 (a) a director nominated by the Chair presides; or  
2 (b) if a director is not nominated—the directors present must  
3 elect one of themselves to preside.

4 **20 Quorum**

- 5 (1) At a meeting of the Board, 9 directors constitute a quorum.  
6 (2) Despite subsection (1), if:  
7 (a) either:  
8 (i) section 21 of this Act; or  
9 (ii) section 27J of the *Commonwealth Authorities and*  
10 *Companies Act 1997*;  
11 prevents a director from being present during the  
12 deliberations, or taking part in any decision, of the Board  
13 with respect to a particular matter; and  
14 (b) as a result, there is no longer a quorum present; and  
15 (c) there are present at least 8 other directors who would be  
16 counted in determining whether a quorum is present;  
17 the remaining directors constitute a quorum for the purpose of any  
18 deliberation or decision at the meeting with respect to that matter.

19 **21 Disclosure of interests to the Board**

- 20 (1) This section only applies to the extent that the Board does a thing  
21 relating to CSC's management and investment of money that forms  
22 part of a superannuation fund administered by CSC.  
23 (2) A director who has any interest, pecuniary or otherwise, in a matter  
24 being considered or about to be considered by the Board must  
25 disclose the nature of the interest to a meeting of the Board.  
26 (3) The disclosure must be made as soon as possible after the relevant  
27 facts have come to the director's knowledge.  
28 (4) The disclosure must be recorded in the minutes of the meeting.  
29 (5) Unless the Minister or the Board otherwise determines, the  
30 director:

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- 1 (a) must not be present during any deliberation by the Board on  
2 the matter; and  
3 (b) must not take part in any decision of the Board with respect  
4 to the matter.
- 5 (6) For the purposes of making a determination of the Board under  
6 subsection (5), the director:  
7 (a) must not be present during any deliberation of the Board for  
8 the purpose of making the determination; and  
9 (b) must not take part in making the determination.
- 10 (7) A determination under subsection (5) must be recorded in the  
11 minutes of the meeting.

12 **22 Voting at meetings**

13 At a meeting of the Board:

- 14 (a) if subsection 20(2) applies—a question is decided by the  
15 agreement of 8 directors; and  
16 (b) in any other case—a question is decided by the agreement of  
17 9 directors.

18 **23 Decisions without meetings**

- 19 (1) The Board is taken to have made a decision at a meeting if:  
20 (a) without meeting, 9 directors indicate agreement with the  
21 proposed decision in accordance with the method determined  
22 by the Board under subsection (2); and  
23 (b) all directors were informed of the proposed decision, or  
24 reasonable efforts were made to inform all directors of the  
25 proposed decision.
- 26 (2) Subsection (1) applies only if the Board has determined, in writing:  
27 (a) that it may make decisions without meeting; and  
28 (b) the method by which directors are to indicate agreement with  
29 proposed decisions.
- 30 (3) Paragraph (1)(a) does not apply to:  
31 (a) a director who is prevented by subsection 21(5) from  
32 deliberating on the proposed decision; or
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2 **Division 3—Staff of CSC**

3 **25 Staff of CSC**

4 (1) CSC may employ such persons as it considers necessary for the  
5 performance of its functions.

6 (2) An employee is to be employed on the terms and conditions that  
7 the Board determines in writing.

8 **26 Consultants**

9 CSC may engage consultants to assist in the performance of its  
10 functions.

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2 **Part 3—Finance and reporting requirements**

3 **Division 1—Provisions relating to finance**

4 **27 Banking**

5 CSC must pay all money received by it in respect of each  
6 superannuation fund administered by CSC into an account  
7 maintained by it with a bank.

8 **28 Accounting records**

9 (1) CSC must keep proper accounts and records of the transactions and  
10 affairs of each superannuation fund administered by CSC, in  
11 accordance with the accounting principles generally applied in  
12 commercial practice.

13 (2) CSC must take reasonable steps to ensure that:

14 (a) all payments out of each superannuation fund administered  
15 by CSC are correctly made and properly authorised; and

16 (b) adequate control is maintained over:

17 (i) the assets of each superannuation fund administered by  
18 CSC; and

19 (ii) the incurring of liabilities by CSC in respect of each  
20 superannuation fund administered by CSC.

21 (3) A director commits an offence if:

22 (a) the director causes a requirement of this section to be  
23 breached; or

24 (b) the director fails to take reasonable steps to comply with the  
25 requirement, or secure compliance with the requirement.

26 Penalty: Imprisonment for 6 months or 30 penalty units, or both.

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2 **Division 2—Reporting requirements**

3 **29 Annual report and financial statements**

4 (1) CSC must, by a date prescribed by the regulations, or, if no date is  
5 prescribed, as soon as practicable after the end of:

6 (a) the financial year starting on 1 July 2010; and

7 (b) each later financial year;

8 prepare and give to the Minister:

9 (c) a report dealing with:

10 (i) the performance of its functions in relation to each  
11 superannuation scheme and superannuation fund  
12 administered by CSC (other than the 1922 scheme,  
13 DFRB, DFRDB and PNG) during the year; and

14 (ii) the general administration of the Acts and provisions  
15 mentioned in subsection (2) during the year; and

16 (d) financial statements in respect of the management of each  
17 superannuation fund administered by CSC in a form agreed  
18 between the Minister and the Board.

19 (2) For the purpose of subparagraph (1)(c)(ii), the Acts and provisions  
20 are:

21 (a) the *Defence Force Retirement and Death Benefits Act 1973*;  
22 and

23 (b) the *Defence Forces Retirement Benefits Act 1948* (other than  
24 Part III of that Act); and

25 (c) provisions of the *Papua New Guinea (Staffing Assistance)*  
26 *Act 1973* that deal with superannuation; and

27 (d) the *Superannuation Act 1922*.

28 (3) Before giving the financial statements to the Minister, CSC must  
29 submit them to the Auditor-General, who must audit and report to  
30 the Minister:

31 (a) whether the statements are based on proper accounts and  
32 records; and

**Part 3** Finance and reporting requirements

**Division 2** Reporting requirements

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- 1 (b) whether the statements are in agreement with the accounts  
2 and records and show fairly the financial transactions and the  
3 state of each superannuation fund administered by CSC; and  
4 (c) whether the receipt of money into, the payment of money out  
5 of, and the investment of money standing to the credit of,  
6 each superannuation fund administered by CSC during the  
7 year have been in accordance with:  
8 (i) this Act and the relevant Acts administered by CSC; and  
9 (ii) the relevant governing deeds; and  
10 (d) as to such other matters arising out of the statements as the  
11 Auditor-General considers should be reported.
- 12 (4) The Minister must cause a copy of:  
13 (a) the report prepared by CSC; and  
14 (b) the financial statements prepared by CSC; and  
15 (c) the report of the Auditor-General in respect of the financial  
16 statements;  
17 to be tabled in each House of the Parliament within 15 sitting days  
18 of that House after the receipt of whichever of those documents  
19 was last received by the Minister.
- 20 (5) If the Board has not complied with subsection (1) within a period  
21 of 6 months after the end of a financial year, CSC must, within 14  
22 days after the end of that period, give to the Minister:  
23 (a) an interim report on the performance of its functions in  
24 relation to each superannuation scheme and superannuation  
25 fund administered by CSC during that year; and  
26 (b) interim financial statements in respect of the management of  
27 each superannuation fund administered by CSC during that  
28 year.
- 29 Note: See also subsection 36(4).
- 30 (6) The financial statements given to the Minister under subsection (5)  
31 must be in the form agreed between the Minister and the Board for  
32 the purposes of subsection (1), but need not be accompanied by a  
33 report of the Auditor-General.
- 34 (7) If CSC gives a report and financial statements to the Minister  
35 under subsection (5), the Minister must:
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- 1 (a) cause a copy of the report and a copy of the financial  
2 statements to be tabled in each House of the Parliament  
3 within 15 sitting days of that House after their receipt by the  
4 Minister; and  
5 (b) make the report and financial statements available to the  
6 public.
- 7 (8) A report given under paragraph (5)(a) is not a legislative  
8 instrument.

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2 **Part 4—Miscellaneous**

2

3 **Division 1—Application of other laws**

3

4 **30 Trustee Act of ACT to apply**

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5 Except in so far as it is inconsistent with a law of the  
6 Commonwealth, the *Trustee Act 1925* of the Australian Capital  
7 Territory applies to, and in relation to, the directors acting in the  
8 performance of their functions, or the exercise of their powers,  
9 under a governing deed.

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10 **31 Exemption from taxation—CSC**

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11 (1) CSC is not subject to:

11

12 (a) taxation under a law of the Commonwealth other than:

12

13 (i) the *A New Tax System (Goods and Services Tax) Act*  
14 *1999*; or

13

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15 (ii) the *Fringe Benefits Tax Assessment Act 1986*; or

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16 (iii) the *Income Tax Assessment Act 1936*; or

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17 (iv) the *Income Tax Assessment Act 1997*; or

17

18 (b) taxation under a law of a State or Territory.

18

19 (2) The regulations may provide that subsection (1) does not apply in  
20 relation to taxation under a specified law.

19

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21 **32 Exemption from taxation—superannuation schemes and**  
22 **superannuation funds administered by CSC**

21

22

23 (1) Subject to this section:

23

24 (a) CSC, when performing functions, or exercising powers, in  
25 relation to a superannuation scheme and superannuation fund  
26 administered by CSC; and

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27 (b) a superannuation fund administered by CSC;

27

28 are not subject to:

28

29 (c) taxation under a law of the Commonwealth other than:

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- 1 (i) the *A New Tax System (Goods and Services Tax) Act*  
2 *1999*; or  
3 (ii) the *Income Tax Assessment Act 1936*; or  
4 (iii) the *Income Tax Assessment Act 1997*; or  
5 (iv) the *Superannuation Contributions Tax (Assessment and*  
6 *Collection) Act 1997*; or  
7 (d) taxation under a law of a State or Territory, if the  
8 Commonwealth is not subject to the taxation.
- 9 (2) The regulations may provide that subsection (1) does not apply in  
10 relation to taxation under a specified law.
- 11 (3) The regulations may specify different laws for different  
12 superannuation funds administered by CSC.
- 13 (4) In relation to the PSSAP and the PSSAP Fund:  
14 (a) this section has effect subject to such modifications (if any)  
15 as are prescribed by the regulations; and  
16 (b) the regulations may provide that this section ceases to have  
17 effect at a specified time.

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2 **Division 2—Provisions relating to the Board**

3 **33 Source of funds for paying remuneration and allowances**

- 4 (1) The Chair is to be paid remuneration and allowances as follows:
- 5 (a) when performing functions relating to a particular Fund—out
- 6 of that Fund;
- 7 (b) when performing functions relating to the 1922 scheme,
- 8 DFRB, DFRDB or PNG—out of the Consolidated Revenue
- 9 Fund, which is appropriated accordingly.
- 10 (2) A director (other than the Chair) is to be paid remuneration and
- 11 allowances as follows:
- 12 (a) when performing functions relating to a particular Fund—
- 13 from one of the following (according to the relevant Act
- 14 administered by CSC):
- 15 (i) that Fund;
- 16 (ii) the Consolidated Revenue Fund;
- 17 (iii) partly out of that Fund and partly out of the
- 18 Consolidated Revenue Fund;
- 19 (b) when performing functions relating to the 1922 scheme,
- 20 DFRB, DFRDB or PNG—out of the Consolidated Revenue
- 21 Fund, which is appropriated accordingly.
- 22 (3) In relation to the PSSAP and the PSSAP Fund:
- 23 (a) this section has effect subject to such modifications (if any)
- 24 as are prescribed by the regulations; and
- 25 (b) the regulations may provide that this section ceases to have
- 26 effect at a specified time.

27 **34 Indemnification of directors etc.**

- 28 (1) Anything done, or omitted to be done, in good faith by a director or
- 29 a delegate of the Board, in the performance of his or her functions
- 30 under this Act, an Act administered by CSC or a governing deed,
- 31 does not subject him or her personally to any action, liability, claim
- 32 or demand.

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- 1 (2) Subsection (1) does not preclude CSC from being subject to any  
2 action, liability, claim or demand.
- 3 (3) Except in cases where the *Superannuation Industry (Supervision)*  
4 *Act 1993* or regulations under that Act do not so permit, any money  
5 becoming payable by CSC in respect of an action, liability, claim  
6 or demand that relates to an Act administered by CSC, regulations  
7 made under such an Act, or a governing deed, is to be paid out of:  
8 (a) in the case of the 1922 scheme, DFRB, DFRDB or PNG—  
9 the Consolidated Revenue Fund, which is appropriated  
10 accordingly; and  
11 (b) in any other case—the superannuation fund administered by  
12 CSC to which the action, liability, claim or demand relates.
- 13 (4) If an amount is paid out of a superannuation fund administered by  
14 CSC under paragraph (3)(b), an equivalent amount is to be paid to  
15 the relevant superannuation fund administered by CSC out of the  
16 Consolidated Revenue Fund, which is appropriated accordingly.
- 17 (5) In relation to the *Superannuation Act 2005* and the Trust Deed  
18 (within the meaning of that Act):  
19 (a) this section has effect subject to such modifications (if any)  
20 as are prescribed by the regulations; and  
21 (b) the regulations may provide that this section ceases to have  
22 effect at a specified time.

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**Division 3—Miscellaneous**

**35 Delegation by CSC**

*Delegations by CSC*

- (1) CSC may, by writing, delegate to:
- (a) a director; or
  - (b) a member of the staff of CSC; or
  - (c) the CEO of ComSuper; or
  - (d) a member of the staff of ComSuper; or
  - (e) an APS employee in the Department or in the Department responsible for the administration of the *Defence Act 1903*; or
  - (f) a member of the Australian Defence Force; or
  - (g) an officer or employee of a person who is responsible for investing money forming part of a superannuation fund administered by CSC; or
  - (h) any other person who performs duties in connection with the operation of a governing deed, an Act administered by CSC or regulations made under such an Act; or
  - (i) a committee consisting of 2 or more persons each of whom is a person referred to in any of the above paragraphs;
- all or any of its powers under an Act administered by CSC or regulations made under such an Act.
- (2) Despite subsection (1), CSC may only delegate its power to reconsider its own decisions or decisions made by its delegates under an Act mentioned in column 1 of the following table to a Committee mentioned in column 2 of the table in relation to the item:

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<b>Delegation of power to reconsider decisions</b>		
<b>Item</b>	<b>If the decision was made by CSC or its delegate under ...</b>	<b>then, CSC may delegate its power to reconsider the decision to ...</b>
1	the <i>Defence Force Retirement</i>	the Defence Force Case

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**Delegation of power to reconsider decisions**

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<b>Item</b>	<b>If the decision was made by CSC or its delegate under ...</b>	<b>then, CSC may delegate its power to reconsider the decision to ...</b>
	<i>and Death Benefits Act 1973, the Defence Forces Retirement Benefits Act 1948 or regulations made under either of those Acts</i>	Assessment Committee established under section 100 of that Act.
2	the <i>Papua New Guinea (Staffing Assistance) Act 1973</i> or regulations made under that Act	a Reconsideration Advisory Committee established under section 55 of that Act.
3	the <i>Superannuation Act 1922</i> or regulations made under that Act	a Reconsideration Advisory Committee established under section 127 of that Act.
4	the <i>Superannuation Act 1976</i> or regulations made under that Act	a Reconsideration Advisory Committee established under section 153AB of that Act.

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*Sub-delegations*

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- 2 (3) If CSC delegates a power under subsection (1) to a director, the
- 3 director may, by writing, sub-delegate the power to:
- 4 (a) another director; or
- 5 (b) a person referred to in paragraph (1)(b), (c), (d), (e), (f), (g)
- 6 or (h).
- 7 (4) If CSC delegates a power under subsection (1) to the CEO of
- 8 ComSuper, the CEO may, by writing, sub-delegate the power to a
- 9 person referred to in paragraph (1)(d), (e), (f), (g) or (h).
- 10 (5) If CSC delegates a power under subsection (1) to a person referred
- 11 to in paragraph (1)(b), (d), (e), (f), (g) or (h), the delegate may, by
- 12 writing, sub-delegate the power to:
- 13 (a) another person referred to in the same paragraph; or
- 14 (b) a person referred to in another of those paragraphs.
- 15 (6) Section 34AA and paragraphs 34AB(a), (b) and (d) of the *Acts*
- 16 *Interpretation Act 1901* apply in relation to a sub-delegation in a
- 17 corresponding way to the way in which they apply to a delegation.

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- 1                   (7) Section 34A and paragraphs 34AB(c) and (d) of the *Acts*  
2                         *Interpretation Act 1901* apply to a sub-delegation as if it were a  
3                         delegation.

4                   **36 Regulations**

- 5                   (1) The Governor-General may make regulations prescribing matters:  
6                         (a) required or permitted by this Act to be prescribed; or  
7                         (b) necessary or convenient to be prescribed for carrying out or  
8                         giving effect to this Act.
- 9                   (2) Without limiting subsection (1), the regulations may prescribe a  
10                        different number of other directors for the purpose of paragraph  
11                        10(1)(b).
- 12                   (3) If regulations allowed by subsection (2) are made, regulations must  
13                        also be made that prescribe different numbers, consistent with the  
14                        proportions set out in this Act, for the purposes of:  
15                        (a) how many persons may be nominated by the President of the  
16                            Australian Council of Trade Unions and the Chief of the  
17                            Defence Force; and  
18                        (b) quorum and voting requirements.
- 19                   (4) Without limiting subsection (1), the regulations may prescribe  
20                        different time periods for the purpose of subsection 29(5).  
21                        However, the regulations may not extend the 6 month period  
22                        referred to in that subsection.