



Governance of Australian Government Superannuation Schemes Act 2011

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About this compilation

This compilation

This is a compilation of the *Governance of Australian Government Superannuation Schemes Act 2011* that shows the text of the law as amended and in force on 11 September 2015 (the *compilation date*).

This compilation was prepared on 15 September 2015.

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on ComLaw (www.comlaw.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on ComLaw for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on ComLaw for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Short title.....	1
2 Commencement.....	1
3 Objects.....	1
4 Definitions.....	2
Part 2—Commonwealth Superannuation Corporation	7
Division 1—Establishment and constitution of CSC	7
5 Establishment.....	7
6 Application of the <i>Public Governance, Performance and Accountability Act 2013</i>	7
7 CSC’s constitution.....	8
8 CSC’s functions.....	8
Division 2—Board of CSC	10
Subdivision A—Establishment and function	10
9 Establishment.....	10
10 Function.....	10
11 Membership.....	10
Subdivision B—Appointment etc. of directors	11
12 Appointment of directors.....	11
13 Term of appointment.....	12
14 Remuneration and allowances.....	12
15 Leave of absence.....	12
16 Resignation.....	12
17 Termination of appointment.....	13
18 Acting appointments.....	15
Subdivision C—Meetings of the Board	16
19 Holding of meetings.....	16
20 Presiding at meetings.....	16
21 Quorum.....	17
22 Disclosure of interests to the Board.....	17
23 Voting at meetings.....	18
24 Decisions without meetings.....	18
25 Minutes of meetings.....	19

Division 3—Staff of CSC	20
26 Staff of CSC	20
27 Consultants	20
Part 3—Finance and reporting requirements	21
Division 1—Provisions relating to finance	21
28 Banking	21
29 Accounting records.....	21
29A Making payments on behalf of the Commonwealth	22
29B Receiving payments or other amounts on behalf of the Commonwealth	22
29C Recovering debts owing to the Commonwealth	22
29D Instruments in relation to payments, other amounts or debts.....	22
Division 1A—CSC Special Account	24
29E CSC Special Account	24
29F Credits to the Account.....	24
29G Purposes of the Account	24
Division 2—Reporting requirements	26
30 Annual report and financial statements.....	26
Part 4—Miscellaneous	29
Division 1—Application of other laws	29
31 Trustee Act of ACT to apply	29
32 Exemption from taxation—CSC.....	29
33 Exemption from taxation—superannuation schemes and superannuation funds administered by CSC	30
Division 2—Provisions relating to the Board	32
34 Source of funds for paying remuneration and allowances	32
35 Indemnification of directors etc	32
Division 3—Miscellaneous	34
36 Delegation by CSC	34
37 Long service leave	36
38 Regulations.....	36

Endnotes	37
Endnote 1—About the endnotes	37
Endnote 2—Abbreviation key	38
Endnote 3—Legislation history	39
Endnote 4—Amendment history	41

An Act to provide for the administration of certain Australian Government superannuation schemes by a single body, and for related purposes

Part 1—Preliminary

1 Short title

This Act may be cited as the *Governance of Australian Government Superannuation Schemes Act 2011*.

2 Commencement

This Act commences on 1 July 2011.

3 Objects

The objects of this Act are:

- (a) to provide for the administration of certain Australian government superannuation schemes, including military schemes, by a single body; and
- (b) to ensure that when performing a function under:
 - (i) a determination made under Part IIIAA of the *Defence Act 1903*; or
 - (ii) the *Defence Force Retirement and Death Benefits Act 1973*; or
 - (iii) the *Defence Forces Retirement Benefits Act 1948*; or
 - (iv) the *Military Superannuation and Benefits Act 1991*; or
 - (v) the *Australian Defence Force Superannuation Act 2015*; or
 - (vi) the *Australian Defence Force Cover Act 2015*;CSC has regard to the unique nature of military service, as recognised by the schemes established by or under those Acts.

4 Definitions

In this Act:

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

Account means the CSC Special Account established by section 29E.

Act administered by CSC means:

- (a) the *Defence Act 1903*, to the extent that the Act deals with superannuation benefit in Part IIIAA; or
- (b) the *Defence Force Retirement and Death Benefits Act 1973*; or
- (c) the *Defence Forces Retirement Benefits Act 1948*; or
- (d) the *Military Superannuation and Benefits Act 1991*; or
- (da) the *Australian Defence Force Superannuation Act 2015*; or
- (db) the *Australian Defence Force Cover Act 2015*; or
- (e) the *Papua New Guinea (Staffing Assistance) Act 1973*, to the extent that the Act deals with superannuation; or
- (f) the *Superannuation Act 1922*; or
- (g) the *Superannuation Act 1976*; or
- (h) the *Superannuation Act 1990*; or
- (i) the *Superannuation Act 2005*.

ADF Cover (short for the Australian Defence Force Cover Scheme) means the scheme provided for by the *Australian Defence Force Cover Act 2015*.

ADF Super (short for the Australian Defence Force Superannuation Scheme) has the same meaning as in the *Australian Defence Force Superannuation Act 2015*.

ADF Super Fund has the same meaning as in the *Australian Defence Force Superannuation Act 2015*.

bank has the same meaning as in the *Public Governance, Performance and Accountability Act 2013*.

Board means the Board of CSC, established by section 9.

Chair means the Chair of the Board.

CSC (short for Commonwealth Superannuation Corporation) means the body corporate continued in existence by section 5.

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

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

Defence Minister means the Minister who administers the *Defence Act 1903*.

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

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

DFSPB (short for Defence Force (Superannuation) (Productivity Benefit) Scheme) means the scheme established by determinations made under Part IIIAA of the *Defence Act 1903*.

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

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

governing deed means:

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

- (d) in relation to the ADF Super—the Trust Deed (within the meaning of the *Australian Defence Force Superannuation Act 2015*).

military schemes means:

- (a) the DFRB, DFRDB, DFSPB, MSB, ADF Super or ADF Cover; or
(b) the DFRB, DFRDB, DFSPB, MSB, ADF Super and ADF Cover.

modifications includes additions, omissions and substitutions.

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

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

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

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

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

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

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

relevant organisation means:

- (a) an organisation:
(i) a substantial number of whose members are members of a superannuation scheme administered by CSC or

eligible employees within the meaning of the *Superannuation Act 1976*; and

- (ii) whose principal purpose is to protect and promote the interest of its members in matters concerning their employment; or
- (b) an organisation that has as one of its principal purposes the protection and promotion of beneficiaries under a superannuation scheme administered by CSC in matters concerning their entitlements as beneficiaries.

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

superannuation fund administered by CSC means:

- (a) the CSS Fund; or
- (b) the MSB Fund; or
- (ba) the ADF Super Fund; or
- (c) the PSS Fund; or
- (d) the PSSAP Fund.

superannuation scheme administered by CSC means:

- (a) the 1922 scheme; or
- (b) the CSS; or
- (c) the DFRB; or
- (d) the DFRDB; or
- (e) the DFSPB; or
- (f) the MSB; or
- (fa) the ADF Super; or
- (fb) the ADF Cover; or
- (g) the PNG; or
- (h) the PSS; or
- (i) the PSSAP.

superannuation scheme and superannuation fund administered by CSC means:

- (a) each superannuation scheme administered by CSC; and
- (b) each superannuation fund administered by CSC.

Part 2—Commonwealth Superannuation Corporation

Division 1—Establishment and constitution of CSC

5 Establishment

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

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

Note 2: Subject to section 6 of this Act, the *Public Governance, Performance and Accountability Act 2013* applies to CSC. That Act deals with matters relating to corporate Commonwealth entities, including reporting and the use and management of public resources.

6 Application of the *Public Governance, Performance and Accountability Act 2013*

Despite section 5 of this Act, the following provisions of the *Public Governance, Performance and Accountability Act 2013* do not apply in relation to CSC's management and investment of money that forms part of a superannuation fund administered by CSC:

- (a) subsection 15(2) (which deals with the duty to govern a Commonwealth entity);
- (b) paragraphs 19(1)(c), (d) and (e) (which deal with the duty to keep the Minister informed);
- (c) section 36 (which deals with budget estimates);
- (d) section 59 (which deals with investment);
- (e) section 72 (which deals with the Minister informing Parliament of certain events);
- (f) any other provision of that Act prescribed by regulations made for the purposes of this Act.

7 CSC's constitution

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

8 CSC's functions

- (1) CSC has the following functions:
 - (a) such functions as are conferred on CSC by this Act and each Act administered by CSC;
 - (b) to be responsible for the general administration of this Act and each Act administered by CSC;
 - (c) to do anything incidental to, or conducive to, the performance of the above functions.
- (2) To avoid doubt, when performing a function under an Act administered by CSC, CSC is performing the function under the relevant Act and not this Act.
- (3) When performing a function under:
 - (a) a determination made under Part IIIAA of the *Defence Act 1903*; or
 - (b) the *Defence Force Retirement and Death Benefits Act 1973*; or
 - (c) the *Defence Forces Retirement Benefits Act 1948*; or
 - (d) the *Military Superannuation and Benefits Act 1991*; or

- (e) the *Australian Defence Force Superannuation Act 2015*; or
 - (f) the *Australian Defence Force Cover Act 2015*;
- CSC must have regard to the unique nature of military service, as recognised by the schemes established by or under those Acts.
- (4) CSC has power to do all things necessary or convenient to be done for or in connection with the performance of its functions.

Division 2—Board of CSC

Subdivision A—Establishment and function

9 Establishment

There is to be a Board of CSC.

10 Function

- (1) The function of the Board is to ensure that CSC performs its functions in a proper, efficient and effective manner.
- (2) The Board has the power to do all things necessary or convenient to be done for or in connection with the performance of its function.
- (3) All acts and things done in the name of, or on behalf of, CSC by the Board are taken to have been done by CSC.

11 Membership

- (1) The Board consists of:
 - (a) a Chair; and
 - (b) 10 other directors.

Note: See also subsection 38(2).
- (2) Subject to subsection (4), of the 10 other directors:
 - (a) the President of the Australian Council of Trade Unions may nominate, in writing, 3 persons; and
 - (b) the Chief of the Defence Force may nominate, in writing, 2 persons.

Note: The Minister chooses the remaining 5 other directors.

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

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

Subdivision B—Appointment etc. of directors

12 Appointment of directors

- (1) A director is to be appointed by the Minister by written instrument, on a part-time basis.

Note: A director is eligible for reappointment: see the *Acts Interpretation Act 1901*.

- (2) A person is not eligible for appointment as a director if the person's appointment would result in a contravention of a SIS fitness and propriety standard.
- (3) In the case of a director who has been nominated by the President of the Australian Council of Trade Unions or the Chief of the Defence Force, the Minister must:
 - (a) appoint a person who has been nominated; and
 - (b) appoint the person for the period specified in the nomination.
- (4) In the case of any other director, the Minister must consult the Defence Minister before making an appointment.
- (5) The Minister must obtain the Board's agreement to a person whom the Minister proposes to appoint as the Chair (other than for the appointment of a person as the first Chair).

Note: For obtaining the Board's agreement, see section 23.

Section 13

- (6) A person's appointment as a director is not invalid because of a defect or irregularity in connection with the person's appointment.

13 Term of appointment

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

14 Remuneration and allowances

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

15 Leave of absence

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

16 Resignation

- (1) A director may resign his or her appointment by giving the Minister a written resignation.
- (2) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

- (3) If a director nominated by the President of the Australian Council of Trade Unions or the Chief of the Defence Force resigns, the director must also give a copy of the resignation to the President or Chief, as appropriate.

17 Termination of appointment

Grounds for termination relating to financial circumstances etc.

- (1) The appointment of a director terminates if he or she becomes a disqualified person.
- (2) The Minister may terminate the appointment of a director if the director is not a disqualified person, but the director:
- (a) applies to take the benefit of any law for the relief of bankrupt or insolvent debtors; or
 - (b) compounds with his or her creditors; or
 - (c) makes an assignment of his or her remuneration for the benefit of his or her creditors.
- (3) The Minister may terminate the appointment of a director if the director's continuation in office would contravene a SIS fitness and propriety standard.

Other grounds for termination

- (4) Subject to subsections (7), (8) and (9), the Minister may terminate the appointment of a director:
- (a) for misbehaviour or physical or mental incapacity; or
 - (b) if the director is absent, except on leave of absence, from 3 consecutive meetings of the Board; or
 - (c) if the director fails, without reasonable excuse, to comply with section 22.

Note: The appointment of a director may also be terminated under section 30 of the *Public Governance, Performance and Accountability Act 2013* (which deals with terminating the appointment of an accountable authority, or a member of an accountable authority, for contravening general duties of officials).

Section 17

- (5) Subject to subsections (7), (8) and (9), if the Minister is of the opinion that the directors have failed to comply with paragraph 19(1)(a) or (b) of the *Public Governance, Performance and Accountability Act 2013*, the Minister may terminate the appointment of all directors or particular directors.

Consultation with the Defence Minister

- (6) If the circumstances mentioned in subsection (2), (3), (4) or (5) exist in relation to a director (other than one covered by subsections (7) to (9)), the Minister must consult the Defence Minister before terminating the appointment of the director.

Consent to termination

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

Consultation and consent requirements for termination under the Public Governance, Performance and Accountability Act 2013

- (10) Subsections (6), (7), (8) and (9) apply (subject to subsection (11)) in relation to the termination of the appointment of a director under section 30 of the *Public Governance, Performance and Accountability Act 2013* in the same way as they apply to the termination of the appointment of a director under this section.

- (11) However, subsections (7), (8) and (9) (as they apply because of subsection (10)) do not apply in relation to the termination of the appointment of a director under section 30 of that Act on the ground of a failure to comply with section 29 of that Act (which deals with the duty to disclose interests) or rules made for the purposes of that section.

18 Acting appointments

- (1) The Minister may, by written instrument, appoint a person to act as a director:
- (a) during a vacancy in the office of the director (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the director:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.
- Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.
- (2) A person is not eligible for appointment to act as a director if the person's appointment would result in a contravention of a SIS fitness and propriety standard.
- (3) In the case of an appointment under subsection (1), the Minister must consult the Defence Minister before appointing a person to act as a director.
- (4) The Minister must consult the Board about the person whom the Minister proposes to appoint to act as the Chair.
- (5) If:
- (a) a director is appointed following a nomination made by the President of the Australian Council of Trade Unions; and
 - (b) a nomination is made by the President for a person to act in place of that director;
- the Minister must:

Section 19

- (c) appoint the person who has been nominated to act as a director; and
 - (d) appoint the person for the period specified in the nomination.
- (6) If:
- (a) a director is appointed following a nomination made by the Chief of the Defence Force; and
 - (b) a nomination is made by the Chief for a person to act in place of that director;
- the Minister must:
- (c) appoint the person who has been nominated to act as a director; and
 - (d) appoint the person for the period specified in the nomination.

Subdivision C—Meetings of the Board

19 Holding of meetings

- (1) The Board is to hold such meetings as are necessary for the performance of its function.
- (2) The Chair:
 - (a) may convene a meeting at any time; and
 - (b) must convene a meeting within 30 days after receiving a written request from another director.

Note: Section 33B of the *Acts Interpretation Act 1901* provides for participation in meetings by telephone etc.

20 Presiding at meetings

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

21 Quorum

- (1) At a meeting of the Board, 9 directors constitute a quorum.
- (2) Despite subsection (1), if:
 - (a) either:
 - (i) section 22 of this Act; or
 - (ii) rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013*; prevent a director from being present during the deliberations, or taking part in any decision, of the Board with respect to a particular matter; and
 - (b) as a result, there is no longer a quorum present; and
 - (c) there are present at least 8 other directors who would be counted in determining whether a quorum is present;the remaining directors constitute a quorum for the purpose of any deliberation or decision at the meeting with respect to that matter.
- (3) For the purposes of subsections (1) and (2), if a matter being considered, or about to be considered, at a meeting of the Board concerns only the military schemes, the quorum must include a director nominated by the Chief of the Defence Force.
- (4) If an issue arises about whether a matter being considered, or about to be considered, at a meeting of the Board concerns only the military schemes, the Chair must determine the issue.
- (5) A determination made under subsection (4) is not a legislative instrument.

22 Disclosure of interests to the Board

- (1) This section only applies to the extent that the Board does a thing relating to CSC's management and investment of money that forms part of a superannuation fund administered by CSC.
- (2) A director who has any interest, pecuniary or otherwise, in a matter being considered or about to be considered by the Board must disclose the nature of the interest to a meeting of the Board.

Section 23

- (3) The disclosure must be made as soon as possible after the relevant facts have come to the director's knowledge.
- (4) The disclosure must be recorded in the minutes of the meeting.
- (5) Unless the Minister or the Board otherwise determines, the director:
 - (a) must not be present during any deliberation by the Board on the matter; and
 - (b) must not take part in any decision of the Board with respect to the matter.
- (6) For the purposes of making a determination of the Board under subsection (5), the director:
 - (a) must not be present during any deliberation of the Board for the purpose of making the determination; and
 - (b) must not take part in making the determination.
- (7) A determination under subsection (5) must be recorded in the minutes of the meeting.
- (8) This section applies in addition to section 29 of the *Public Governance, Performance and Accountability Act 2013* (which deals with the duty to disclose interests).

23 Voting at meetings

At a meeting of the Board:

- (a) if subsection 21(2) applies—a question is decided by the agreement of 8 directors; and
- (b) in any other case—a question is decided by the agreement of 9 directors.

24 Decisions without meetings

- (1) The Board is taken to have made a decision at a meeting if:
 - (a) without meeting, 9 directors indicate agreement with the proposed decision in accordance with the method determined by the Board under subsection (2); and
-

- (b) either:
 - (i) if the proposed decision concerns only the military schemes—all directors were informed of the proposed decision; or
 - (ii) in any other case—all directors were informed of the proposed decision, or reasonable efforts were made to inform all directors of the proposed decision.
- (2) Subsection (1) applies only if the Board has determined, in writing:
 - (a) that it may make decisions without meeting; and
 - (b) the method by which directors are to indicate agreement with proposed decisions.
- (3) Paragraph (1)(a) does not apply to:
 - (a) a director who is prevented by subsection 22(5) from deliberating on the proposed decision; or
 - (b) a director who is prevented by rules made for the purposes of section 29 of the *Public Governance, Performance and Accountability Act 2013* from deliberating on the proposed decision.

25 Minutes of meetings

The Board must keep minutes of its meetings.

Division 3—Staff of CSC

26 Staff of CSC

- (1) CSC may employ such persons as it considers necessary for the performance of its functions.
- (2) An employee is to be employed on the terms and conditions that the Board determines in writing.

27 Consultants

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

Part 3—Finance and reporting requirements

Division 1—Provisions relating to finance

28 Banking

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

29 Accounting records

- (1) CSC must keep proper accounts and records of the transactions and affairs of each superannuation fund administered by CSC, in accordance with the accounting principles generally applied in commercial practice.
- (2) CSC must take reasonable steps to ensure that:
 - (a) all payments out of each superannuation fund administered by CSC are correctly made and properly authorised; and
 - (b) adequate control is maintained over:
 - (i) the assets of each superannuation fund administered by CSC; and
 - (ii) the incurring of liabilities by CSC in respect of each superannuation fund administered by CSC.
- (3) A director commits an offence if:
 - (a) the director causes a requirement of this section to be breached; or
 - (b) the director fails to take reasonable steps to comply with the requirement, or secure compliance with the requirement.

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

29A Making payments on behalf of the Commonwealth

CSC may, on behalf of the Commonwealth, make payments under:

- (a) each Act administered by CSC; and
- (b) section 4 of the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008*.

29B Receiving payments or other amounts on behalf of the Commonwealth

CSC may, on behalf of the Commonwealth, receive:

- (a) payments of amounts that are payable to the Commonwealth under each Act administered by CSC; and
- (b) other amounts related to each Act administered by CSC.

29C Recovering debts owing to the Commonwealth

Rules made for the purposes of the *Public Governance, Performance and Accountability Act 2013* in relation to recovery of debts owing to the Commonwealth apply to CSC in the same way as those rules apply to a non-corporate Commonwealth entity (within the meaning of that Act).

29D Instruments in relation to payments, other amounts or debts

- (1) The Minister may, by legislative instrument, provide in relation to the performance of CSC's functions in relation to payments, other amounts or debts referred to in any of sections 29A to 29C.
- (2) Before making an instrument, the Minister must consult the Board on the instrument.
- (3) Subsection (1) does not apply to the extent that:
 - (a) an instrument relates to CSC's obligations as a trustee under a law of the Commonwealth, except to the extent permitted by such a law; or
 - (b) an instrument is inconsistent with the Board's performance of functions or exercise of powers under the *Public*

Governance, Performance and Accountability Act 2013
(including under rules made for the purposes of that Act in
relation to recovery of debts owing to the Commonwealth).

Division 1A—CSC Special Account

29E CSC Special Account

- (1) The CSC Special Account is established by this section.
- (2) The Account is a special account for the purposes of the *Public Governance, Performance and Accountability Act 2013*.

29F Credits to the Account

There must be credited to the Account amounts equal to all money received from any person for the purposes of the Account.

Note: An Appropriation Act provides for amounts to be credited to a special account if any of the purposes of the special account is a purpose that is covered by an item in the Appropriation Act.

29G Purposes of the Account

- (1) This section sets out the purposes of the Account.
- (2) Amounts standing to the credit of the Account may be debited for the following purposes:
 - (a) to pay or discharge the costs, expenses or other obligations incurred by CSC in the performance of its functions under this Act or another law of the Commonwealth, to the extent that the Commonwealth agrees, or is required under an Act administered by CSC or instrument made under such an Act, to meet those costs, expenses or obligations;
 - (b) to pay any remuneration and allowances payable to:
 - (i) a director in accordance with section 34; or
 - (ii) a member of a panel or committee (however described) established, under an Act administered by CSC or an instrument made under such an Act, to review a decision of CSC;
 - (c) to meet the expenses of administering the Account;

- (d) to repay, as required by law, amounts that have been credited to the Account;
- (e) to reduce the balance of the Account (and, therefore, the available appropriation for the Account) without making a real or notional payment.

Note: See section 80 of the *Public Governance, Performance and Accountability Act 2013* (which deals with special accounts).

Division 2—Reporting requirements

30 Annual report and financial statements

- (1) CSC must, by a date prescribed by the regulations, or, if no date is prescribed, as soon as practicable after the end of:
- (a) the financial year starting on 1 July 2011; and
 - (b) each later financial year;
- prepare and give to the Minister:
- (c) a report dealing with:
 - (i) the performance of its functions in relation to each superannuation scheme and superannuation fund administered by CSC (other than the 1922 scheme, DFRB, DFRDB, DFSPB, ADF Cover and PNG) during the year; and
 - (ii) the general administration of the Acts and provisions mentioned in subsection (2) during the year; and
 - (iii) the performance of its functions in relation to the DFSPB during the year; and
 - (d) financial statements in respect of the management of each superannuation fund administered by CSC in a form agreed between the Minister and the Board.

Note: A report prepared under this section is in addition to a report prepared by the Board and given to the Minister under section 46 of the *Public Governance, Performance and Accountability Act 2013*.

- (2) For the purpose of subparagraph (1)(c)(ii), the Acts and provisions are:
- (a) the *Defence Force Retirement and Death Benefits Act 1973*; and
 - (b) the *Defence Forces Retirement Benefits Act 1948* (other than Part III of that Act); and
 - (ba) the *Australian Defence Force Cover Act 2015*; and
 - (c) provisions of the *Papua New Guinea (Staffing Assistance) Act 1973* that deal with superannuation; and

- (d) the *Superannuation Act 1922*.
- (3) Before giving the financial statements to the Minister, CSC must submit them to the Auditor-General, who must audit and report to the Minister:
- (a) whether the statements are based on proper accounts and records; and
 - (b) whether the statements are in agreement with the accounts and records and show fairly the financial transactions and the state of each superannuation fund administered by CSC; and
 - (c) whether the receipt of money into, the payment of money out of, and the investment of money standing to the credit of, each superannuation fund administered by CSC during the year have been in accordance with:
 - (i) this Act and the relevant Acts administered by CSC; and
 - (ii) the relevant governing deeds; and
 - (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported.
- (4) The Minister must cause a copy of:
- (a) the report prepared by CSC; and
 - (b) the financial statements prepared by CSC; and
 - (c) the report of the Auditor-General in respect of the financial statements;
- to be tabled in each House of the Parliament within 15 sitting days of that House after the receipt of whichever of those documents was last received by the Minister.
- (5) If the Board has not complied with subsection (1) within a period of 6 months after the end of a financial year, CSC must, within 14 days after the end of that period, give to the Minister:
- (a) an interim report on the performance of its functions in relation to each superannuation scheme and superannuation fund administered by CSC during that year; and
 - (b) interim financial statements in respect of the management of each superannuation fund administered by CSC during that year.

Part 3 Finance and reporting requirements

Division 2 Reporting requirements

Section 30

Note: See also subsection 38(4).

- (6) The financial statements given to the Minister under subsection (5) must be in the form agreed between the Minister and the Board for the purposes of subsection (1), but need not be accompanied by a report of the Auditor-General.
- (7) If CSC gives a report and financial statements to the Minister under subsection (5), the Minister must:
 - (a) cause a copy of the report and a copy of the financial statements to be tabled in each House of the Parliament within 15 sitting days of that House after their receipt by the Minister; and
 - (b) make the report and financial statements available to the public.
- (8) A report given under paragraph (5)(a) is not a legislative instrument.

Part 4—Miscellaneous

Division 1—Application of other laws

31 Trustee Act of ACT to apply

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

32 Exemption from taxation—CSC

CSC generally exempt from taxation

- (1) CSC is not subject to taxation under a law of the Commonwealth, except:
 - (a) as provided by this section; or
 - (b) under a law prescribed by the regulations.
- (2) CSC is not subject to taxation under a law of a State or Territory, except under a law prescribed by the regulations.

CSC subject to taxation—income tax

- (3) CSC is subject to taxation under the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997*, except in relation to:
 - (a) any payment to CSC in relation to which an amount is debited from the Account; or
 - (b) any payment to CSC of money appropriated by the Parliament for the purposes of CSC.

CSC subject to taxation—goods and services tax

- (4) CSC is subject to taxation under the *A New Tax System (Goods and Services Tax) Act 1999*.

CSC subject to taxation—fringe benefits tax

- (5) CSC is subject to taxation under the *Fringe Benefits Tax Assessment Act 1986*.

33 Exemption from taxation—superannuation schemes and superannuation funds administered by CSC

- (1) Subject to this section:
- (a) CSC, when performing functions, or exercising powers, in relation to a superannuation scheme and superannuation fund administered by CSC; and
 - (b) a superannuation fund administered by CSC;
- are not subject to:
- (c) taxation under a law of the Commonwealth other than:
 - (i) the *A New Tax System (Goods and Services Tax) Act 1999*; or
 - (ii) the *Income Tax Assessment Act 1936*; or
 - (iii) the *Income Tax Assessment Act 1997*; or
 - (iv) the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*; or
 - (d) taxation under a law of a State or Territory, if the Commonwealth is not subject to the taxation.
- (2) The regulations may provide that subsection (1) does not apply in relation to taxation under a specified law.
- (3) The regulations may specify different laws for different superannuation funds administered by CSC.
- (4) In relation to the PSSAP and the PSSAP Fund:
- (a) this section has effect subject to such modifications (if any) as are prescribed by the regulations; and

- (b) the regulations may provide that this section ceases to have effect at a specified time.

Division 2—Provisions relating to the Board

34 Source of funds for paying remuneration and allowances

- (1) The Chair is to be paid remuneration and allowances as follows:
- (a) when performing functions relating to a particular Fund—out of that Fund;
 - (b) when performing functions relating to the 1922 scheme, DFRB, DFRDB, DFSPB, ADF Cover or PNG—out of the Consolidated Revenue Fund.

Note: The CSC Special Account is debited when the remuneration and allowances are paid out of the Consolidated Revenue Fund (see paragraph 29G(2)(b)).

- (2) A director (other than the Chair) is to be paid remuneration and allowances as follows:
- (a) when performing functions relating to a particular Fund— from one of the following (according to the relevant Act administered by CSC):
 - (i) that Fund;
 - (ii) the Consolidated Revenue Fund;
 - (iii) partly out of that Fund and partly out of the Consolidated Revenue Fund;
 - (b) when performing functions relating to the 1922 scheme, DFRB, DFRDB, DFSPB, ADF Cover or PNG—out of the Consolidated Revenue Fund.

Note: The CSC Special Account is debited when the remuneration and allowances are paid out of the Consolidated Revenue Fund (see paragraph 29G(2)(b)).

35 Indemnification of directors etc.

- (1) Anything done, or omitted to be done, in good faith by a director or a delegate of the Board, in the performance of his or her functions under this Act, an Act administered by CSC or a governing deed,

does not subject him or her personally to any action, liability, claim or demand.

- (2) Subsection (1) does not preclude CSC from being subject to any action, liability, claim or demand.
- (3) Except in cases where the *Superannuation Industry (Supervision) Act 1993* or regulations under that Act do not so permit, any money becoming payable by CSC in respect of an action, liability, claim or demand that relates to an Act administered by CSC, regulations made under such an Act, or a governing deed, is to be paid out of:
 - (a) in the case of the 1922 scheme, DFRB, DFRDB, DFSPB, ADF Cover or PNG—the Consolidated Revenue Fund, which is appropriated accordingly; and
 - (b) in any other case—the superannuation fund administered by CSC to which the action, liability, claim or demand relates.
- (4) If an amount is paid out of a superannuation fund administered by CSC under paragraph (3)(b), an equivalent amount is to be paid to the relevant superannuation fund administered by CSC out of the Consolidated Revenue Fund, which is appropriated accordingly.
- (5) In relation to the *Superannuation Act 2005* and the Trust Deed (within the meaning of that Act), and the *Australian Defence Force Superannuation Act 2015* and the Trust Deed (within the meaning of that Act):
 - (a) this section has effect subject to such modifications (if any) as are prescribed by the regulations; and
 - (b) the regulations may provide that this section ceases to have effect at a specified time.

Division 3—Miscellaneous

36 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
 - (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 (other than decisions relating to recovery of debts owing to the Commonwealth) 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:

Delegation of power to reconsider decisions

Item	If the decision was made by CSC or its delegate under ...	then, CSC may delegate its power to reconsider the decision to ...
1	(a) the <i>Defence Force Retirement and Death Benefits Act 1973</i> or regulations made under that Act; or (b) the <i>Defence Forces Retirement Benefits Act 1948</i> or regulations made under that Act; or (c) the <i>Australian Defence Force Cover Act 2015</i> or rules made under that Act	the Defence Force Case Assessment Panel established under section 100 of the <i>Defence Force Retirement and Death Benefits Act 1973</i> .
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.

Sub-delegations

- (3) If CSC delegates a power under subsection (1) to a director, the director may, by writing, sub-delegate the power to:
- (a) another director; or
 - (b) a person referred to in paragraph (1)(b), (e), (f), (g) or (h).
- (5) If CSC delegates a power under subsection (1) to a person referred to in paragraph (1)(b), (e), (f), (g) or (h), the delegate may, by writing, sub-delegate the power to:
- (a) another person referred to in the same paragraph; or

Section 37

- (b) a person referred to in another of those paragraphs.
- (6) Section 34AA and paragraphs 34AB(1)(a), (b) and (d) of the *Acts Interpretation Act 1901* apply in relation to a sub-delegation in a corresponding way to the way in which they apply to a delegation.
- (7) Section 34A and paragraphs 34AB(1)(c) and (d) of the *Acts Interpretation Act 1901* apply to a sub-delegation as if it were a delegation.

37 Long service leave

CSC is a public authority of the Commonwealth within the meaning of the *Long Service Leave (Commonwealth Employees) Act 1976*.

38 Regulations

- (1) The Governor-General may make regulations prescribing matters:
 - (a) required or permitted by this Act to be prescribed; or
 - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the regulations may prescribe a different number of other directors for the purpose of paragraph 11(1)(b).
- (3) If regulations allowed by subsection (2) are made, regulations must also be made that prescribe different numbers, consistent with the proportions set out in this Act, for the purposes of:
 - (a) how many persons may be nominated by the President of the Australian Council of Trade Unions and the Chief of the Defence Force; and
 - (b) quorum and voting requirements.
- (4) Without limiting subsection (1), the regulations may prescribe different time periods for the purpose of subsection 30(5). However, the regulations may not extend the 6 month period referred to in that subsection.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

A = Act	o = order(s)
ad = added or inserted	Ord = Ordinance
am = amended	orig = original
amdt = amendment	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
c = clause(s)	pres = present
C[x] = Compilation No. x	prev = previous (prev...) = previously
Ch = Chapter(s)	Pt = Part(s)
def = definition(s)	r = regulation(s)/rule(s)
Dict = Dictionary	Reg = Regulation/Regulations
disallowed = disallowed by Parliament	reloc = relocated
Div = Division(s)	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislative Instruments	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LI = Legislative Instrument	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
Governance of Australian Government Superannuation Schemes Act 2011	59, 2011	28 June 2011	1 July 2011 (s 2)	
Acts Interpretation Amendment Act 2011	46, 2011	27 June 2011	Sch 2 (items 653, 654) and Sch 3 (items 10, 11): 27 Dec 2011 (s 2(1) items 2, 4, 12)	Sch 3 (items 10, 11)
Statute Law Revision Act 2012	136, 2012	22 Sept 2012	Sch 4 (items 15, 16, 50): 22 Sept 2012 (s 2(1) item 35)	Sch 4 (item 50)
Public Governance, Performance and Accountability (Consequential and Transitional Provisions) Act 2014	62, 2014	30 June 2014	Sch 9 (items 123–134) and Sch 14: 1 July 2014 (s 2(1) items 6, 14)	Sch 14

Endnotes

Endnote 3—Legislation history

Act	Number and year	Assent	Commencement	Application, saving and transitional provisions
as amended by				
Public Governance and Resources Legislation Amendment Act (No. 1) 2015	36, 2015	13 Apr 2015	Sch 2 (items 7–9) and Sch 7: 14 Apr 2015 (s 2)	Sch 7
as amended by				
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 486): <u>awaiting commencement</u> (s 2(1) item 2)	—
Acts and Instruments (Framework Reform) (Consequential Provisions) Act 2015	126, 2015	10 Sept 2015	Sch 1 (item 495): <u>awaiting commencement</u> (s 2(1) item 2)	—
Governance of Australian Government Superannuation Schemes Legislation Amendment Act 2015	65, 2015	17 June 2015	Sch 1 (items 1–13), Sch 2 and Sch 3 (item 1): 1 July 2015 (s 2(1) item 2)	Sch 2
Defence Legislation Amendment (Superannuation and ADF Cover) Act 2015	120, 2015	10 Sept 2015	Sch 1 (items 41–53): 11 Sept 2015 (s 2(1) item 2)	—

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 3	am No 120, 2015
s 4	am No 62, 2014; No 65, 2015; No 120, 2015
Part 2	
Division 1	
s 5	am No 62, 2014
s 6	rs No 62, 2014
s 8	am No 120, 2015
Division 2	
Subdivision B	
s 17	am No 62, 2014
s 18	am No 136, 2012
Subdivision C	
s 21	am No 62, 2014
s 22	am No 62, 2014
s 24	am No 62, 2014
Part 3	
Division 1	
s 29A	ad No 65, 2015
s 29B	ad No 65, 2015
s 29C	ad No 65, 2015
s 29D	ad No 65, 2015
Division 1A	
s 29E	ad No 65, 2015
s 29F	ad No 65, 2015
s 29G	ad No 65, 2015
Division 2	
s 30	am No 62, 2014; No 120, 2015

Endnotes

Endnote 4—Amendment history

Provision affected	How affected
Part 4	
Division 1	
s 32	rs No 65, 2015
Division 2	
s 34	am No 65, 2015; No 120, 2015
s 35	am No 120, 2015
Division 3	
s 36	am No 46, 2011; No 65, 2015; No 120, 2015
s 37	rs No 65, 2015
