

Superannuation (CSS) Continuing Contributions for Benefits Amendment Regulations 2002 (No. 1) 2002 No. 94

EXPLANATORY STATEMENT

STATUTORY RULES 2002 No. 94

Issued by the authority of the Minister for Finance and Administration

Superannuation Act 1976

Superannuation (CSS) Continuing Contributions for Benefits Amendment Regulations 2002 (No. 1)

The *Superannuation Act 1976* (the Act) makes provision for, and in relation to, the Commonwealth Superannuation Scheme (CSS) which is an occupational superannuation scheme for Commonwealth employees and for certain other persons.

Section 168 of the Act provides that the Governor-General may make regulations for the purposes of the Act.

Subsection 3(1) of the Act contains the definition of "eligible employee" which describes persons who may contribute to the CSS (ie CSS members), including those persons specified in the Superannuation (CSS) Continuing Contributions for Benefits Regulations 1981 (the Principal Regulations) pursuant to section 14A of the Act. Section 14A of the Act describes the classes of persons to whom the section applies including a class of persons specified in the regulations as a class of persons to which the section applies. The section also provides that regulations may modify the Act in relation to a person to whom the section applies.

Subsection 168(15) of the Act provides that Regulations for the purposes of section 14A may commence on a day not earlier than 12 months before their making.

The purpose of the Regulations is to amend the Principal Regulations to provide that CSS members commencing employment with two bodies specified in the Regulations continue to be CSS members subject to certain conditions set out in the Regulations. Also certain former CSS members will resume their membership on becoming employed by one of the bodies, subject to those same conditions. The conditions of CSS membership include the nature of employment (eg precludes casual and temporary part-time employment) and restrictions on contributions to other schemes.

The Regulations ensure continued membership of the CSS for employees of the Australian National Training Authority who are or were transferred to Australian Training Products (ATP Ltd) on or after that body commenced employing staff on 1 July 2001.

The Regulations also provide that CSS membership for ATP Ltd employees will cease in the circumstances set out in the regulations. For example, membership would cease when the person ceases to be employed by ATP Ltd. or where Commonwealth control of ATP Ltd ceases.

These provisions commenced on 1 July 2001, being the date from which ATP Ltd began to employ its own staff. The retrospective date of effect is consistent with subsection 168(15) of the Act. The retrospective date of effect will not have a detrimental effect on any person as the employees concerned have been treated as members since that date.

The Regulations also provide continuing membership of the CSS to employees of the Australian Strategic Policy Institute Limited (ASPI Ltd) who are CSS members immediately before commencing that employment.

The Regulations also provide CSS membership for ASPI Ltd employees who were former members of the CSS or the superannuation scheme established under the Superannuation Act 1922 who have rights of return to the CSS.

The Regulations also provide that CSS membership for ASPI Ltd employees will cease in the circumstances set out in the regulations. For example, membership would cease when the person ceases to be employed by ASPI Ltd or where that body ceases to be a Commonwealth company.

The Regulations relating to ASPI Ltd commenced on 7 November 2001, being the date from which ASPI Ltd began to employ staff. The retrospective date of effect is consistent with subsection 168(15) of the Act. The retrospective date of effect will not have a detrimental effect on any person as the employees concerned have been treated as members since that date.

Details of the Regulations are set out in the Attachment.

ATTACHMENT

SUPERANNUATION (CSS) CONTINUING CONTRIBUTIONS FOR BENEFITS AMENDMENT REGULATIONS 2002 (NO. 1)

Regulation 1

Regulation 1 provides that the Regulations are called the *Superannuation (CSS) Continuing Contributions for Benefits Amendment Regulations 2002 (No.1)*.

Regulation 2

Regulation 2 provides for the commencement of the Regulations.

Regulations 1 to 3 and Schedule 1, which relates to the application of the Regulations to employees of Australian Training Products Limited (ATP Ltd), are taken to have commenced on 1 July 2001, being the date from which that body began to employ its own staff.

Schedule 2 which relates to the continuing CSS membership for employees of Australian Strategic Policy Institute Limited (ASPI Ltd) is taken to have commenced on 7 November 2001, being the date on which ASPI Ltd began employing staff.

Regulation 3

Regulation 3 provides that the **Superannuation (CSS) Continuing Contributions for Benefits Regulations 1981** (the Principal Regulations) are amended in accordance with Schedules 1 and 2.

Schedule 1

Item 1 inserts a definition of ATP Ltd in subregulation 2(1).

Item 2 inserts paragraph 3A(1)(zb) which describes a class of persons who continue to be CSS members during their employment with ATP Ltd. The class comprises persons who became or become employees of ATP Ltd on or after 1 July 2001 and who were CSS members employed by the Australian National Training Authority immediately before commencing that employment, and who are not members of another superannuation scheme (except for top-up purposes). The class does not include persons employed on a casual or temporary part-time basis.

Paragraph 3A(1)(zb) is inserted after paragraph (v) with effect from 1 July 2001. This is necessary because a number of other paragraphs have been, or will be, inserted on a later date. Paragraphs (w), (x) and (y), although providing membership for certain classes of persons from an earlier date, were inserted on 30 August 2001 by SR 230. Paragraph (z) was inserted on 20 September 2001 also by SR 230. Note 2 to the Principal Regulations provides that a paragraph (za) will be inserted on the date on which section 59 of the *Snowy Hydro Corporatisation Act 1997* commences.

Item 3 amends subregulation 3A(1A) as a consequence of the insertion of paragraph 3A(1)(zb) by item 3.

Item 4 amends subregulation 4(1A) as a consequence of the insertion of subregulation 4(28) by item 6.

Item 5 inserts subregulation 4(28) which describes the circumstances which result in CSS membership for employees of ATP Ltd ceasing and specifies when membership ceases in each circumstance.

Paragraph 4(28)(a) provides that membership continues by virtue of these amendments only while a member remains employed by ATP Ltd.

Paragraph 4(28)(b) provides that membership ceases on the day immediately before the person joins another superannuation scheme, as defined in the Principal Regulations, other than a scheme for topup purposes (also described in the Principal Regulation).

Paragraph 4(28)(c) provides that membership ceases if and when ATP Ltd ceases to be under Commonwealth control as defined in the Principal Regulations.

Subregulation 4(28) is inserted after subregulation 4(22) on 1 July 2001. This is necessary because a number of other subregulations have been, or will be, inserted on a later date. Subregulations 4(23), (24) and (25), although making provision in relation to certain classes of persons from an earlier date, were inserted on 30 August 2001. Subregulation 4(26) was inserted on 20 September 2001. Note 2 to the Principal Regulations provides that a subregulation 4(27) will be inserted on the date on which section 59 of the *Snowy Hydro Corporatisation Act 1997* commences.

Item 6 amends Schedule 1 of the Principal Regulations which contains modifications of the 1976 Act that apply to certain persons who are members of the CSS by virtue of section 14A of that Act. The amendment includes ATP Ltd as a body that can be required to make payments to the Commonwealth in respect of benefits to be paid from the CSS to its employees who are CSS members or the administration of the CSS.

Schedule 2

Item 1 inserts a definition of ASPI Ltd into subregulation 2(1).

Item 2 amends sub-subparagraph 3A(1)(zb)(iii)(B) as a consequence of the insertion of paragraph 3A(1)(zc) by item 3.

Item 3 inserts paragraph 3A(I)(zc) which describes the class of persons employed by ASPI Ltd who become or continue to be CSS members. The class of persons comprise those who are employed on or after 7 November 2001 by ASPI Ltd otherwise than on a casual or temporary part-time basis and who, immediately before commencing that employment, were either;

- CSS members;
- persons who had deferred benefits applicable from the CSS or under the *Superannuation Act 1922* (the superseded Act);
- invalidity pensioners under the CSS or the superseded Act; or
- persons who have previously received transfer values from the CSS or under the superseded Act which are available to be paid to the CSS (referred to in the 1976 Act and the regulations as a re-employed former contributor with preserved rights).

The class of persons does not include a person who is a member of another superannuation scheme as defined in the Principal Regulations in relation to employment with ASPI Ltd, other than a scheme to which additional contributions are paid under a top-up arrangement (also described in the Principal Regulations).

Item 4 amends subregulation 3A(1A) as a consequence of the insertion of paragraph 3A(1)(ze) by item 3.

Item 5 amends subregulation 4(1A) as a consequence of the insertion of subregulation 4(29) by item 6.

Item 6 inserts subregulation 4(29) which describes the circumstances which result in CSS membership of employees of ASPI Ltd ceasing and specifies when membership ceases in each circumstance.

Paragraph 4(29)(a) provides that membership continues by virtue of these amendments only while a member remains employed by ASPI Ltd.

Paragraph 4(29)(b) provides that membership ceases on the day immediately before the person joins another superannuation scheme, as defined in the Principal Regulations, other than a scheme for top-up purposes (also described in the Principal Regulations).

Paragraph 4(29)(c) provides that membership ceases if and when ASPI Ltd ceases to be a Commonwealth company within the meaning of the *Commonwealth Authorities and Companies Act 1997*.

Item 7 amends Schedule 1 of the Principal Regulations which contains modifications of the 1976 Act that apply to certain persons who are members of the CSS by virtue of section 14A of that Act. This amendment is consequential to the amendment to Schedule 1 made by item 8.

Item 8 further amends Schedule 1 of the Principal Regulations to include ASPI Ltd as a body that can be required to make payments to the Commonwealth in respect of benefits to be paid from the CSS to its employees who are CSS members or the administration of the CSS.