

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Superannuation and Corporate Law, acting for and on behalf of the Minister for Finance and Deregulation

Superannuation Act 1976

Declaration under paragraph (j) of the definition of “eligible employee” in subsection 3(1)

The *Superannuation Act 1976* (the 1976 Act) makes provision for and in relation to the Commonwealth Superannuation Scheme (CSS) for Australian Government employees and for certain other persons.

Subsection 3(1) of the 1976 Act contains the definition of the term “eligible employee” that describes various classes of persons who may contribute to the CSS (CSS members). Paragraph (j) of the definition provides that the Minister may declare a class of persons not to be CSS members.

The *Superannuation (CSS) (Eligible Employees – Exclusion) Declaration 2003* (the Principal Declaration) identifies the persons who are declared not to be CSS members under paragraph (j) of the definition of eligible employee.

The purpose of the *Superannuation (CSS) (Eligible Employees – Exclusion) Amendment Declaration 2009 (No. 1)* (the Declaration) is to amend the Principal Declaration in order to provide when employees of Health Services Australia Limited cease CSS membership.

Under a merger arrangement, Health Services Australia Limited will become a wholly owned subsidiary of Medibank with effect from 1 April 2009. Health Services Australia Limited will no longer be an “approved authority” under the Act, meaning that its employees will no longer be eligible to contribute to the CSS unless they are identified as a CSS member under a different paragraph of the definition of “eligible employee”. The *Superannuation (CSS) (Eligible Employees – Inclusion) Amendment Declaration 2009 (No. 1)* (the Inclusion Declaration) makes such amendments.

The Declaration provides that CSS membership of Health Services Australia Limited employees provided by the Inclusion Declaration will cease when they cease their employment with Health Services Australia Limited or become members of an alternative superannuation scheme. It may also cease if Health Services Australia Limited ceases to be owned by Medibank or Commonwealth control of Medibank ceases. This promotes the consistency of arrangements for Health Services Australia Limited employees with Medibank employees, whose CSS membership can only continue while Medibank is subject to Commonwealth control.

Medibank and Health Services Australia Limited were consulted on the amendments contained in the Declaration.

The Declaration is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Declaration commences on 1 April 2009.

The details of the Declaration are explained in the Attachment.

ATTACHMENT

SUPERANNUATION (CSS) (ELIGIBLE EMPLOYEES – EXCLUSION) AMENDMENT DECLARATION 2009 (NO. 1)**Section 1 - Name of Declaration**

This section provides that the name of the Declaration is the *Superannuation (CSS) (Eligible Employees – Exclusion) Amendment Declaration 2009 (No. 1)*.

Section 2 - Commencement

This section provides for the Declaration to commence on 1 April 2009.

Section 3 - Amendment of *Superannuation (CSS) Eligible Employees – Exclusion) Declaration 2003*

This section provides that Schedule 1 of the Declaration amends the *Superannuation (CSS) Eligible Employees – Exclusion) Declaration 2003* (the Principal Declaration).

Schedule 1 - Amendments

Item 1 inserts a definition of Health Services Australia Limited for the purposes of the Principal Declaration. Health Services Australia Limited is defined as the company (ACN 078 934 791) that was incorporated under the Corporations Law on 17 June 1997.

Item 2 inserts item 24 into the table at Schedule 1 of the Principal Declaration. Item 24 provides that CSS membership ceases for a person who has CSS membership through paragraph 4(2)(p) of the Principal Declaration when any of the following events occur:

- the person ceases employment with Health Services Australia Limited;
- the person becomes a casual or temporary part-time employee of Health Services Australia Limited;
- Health Services Australia Limited ceases to be owned by Medibank; or
- Commonwealth control of Medibank ceases.

Item 24 also specifies the time that CSS membership is taken to cease for each of the circumstances above.