



# **Superannuation (PSSAP) Membership Eligibility (Inclusion) Declaration 2005**

made under paragraph 13(1)(b) of the

*Superannuation Act 2005*

## **Compilation No. 8**

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Prepared by the Office of Parliamentary Counsel, Canberra

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## About this compilation

### This compilation

This is a compilation of the *Superannuation (PSSAP) Membership Eligibility (Inclusion) Declaration 2005* that shows the text of the law as amended and in force on 1 July 2019 (the *compilation date*).

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 the Legislation Register ([www.legislation.gov.au](http://www.legislation.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 the Legislation Register 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.

### Editorial changes

For more information about any editorial changes made in this compilation, see 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 the Legislation Register 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## 1 Name of Declaration

This Declaration is the *Superannuation (PSSAP) Membership Eligibility (Inclusion) Declaration 2005*.

## 3 Definitions

In this Declaration:

**1990 Act** means the Superannuation Act 1990.

**1995 Inclusion Declaration** means the *Superannuation (PSS) Membership Inclusion Declaration 1995* as in force at 1 July 2005.

**2005 Act** means the *Superannuation Act 2005*.

**AHPRA** means the Australian Health Practitioner Regulation Agency established upon commencement of Part 2 of the *Health Practitioner Regulation National Law (ACT) Act 2010* and representing the Australian Capital Territory.

**alternative superannuation scheme**, in relation to a person who is employed in a particular capacity, or who is the holder of a particular office:

- (a) means a superannuation scheme to which contributions are made in relation to the person's employment or holding of the office; but
- (b) does not include any of the following:
  - (i) a scheme to which contributions are made in relation to the person for:
    - (A) if the person is employed in a particular capacity—other employment or the holding of an office; or
    - (B) if the person is the holder of a particular office—other employment or the holding of another office;
  - (ii) a scheme to the extent that membership of that scheme by the person is for the preservation, or payment, of productivity benefits;
  - (iii) a scheme to the extent that participation in that scheme on the person's behalf is for purposes solely related to satisfying obligations under the *Superannuation Guarantee (Administration) Act 1992*;
  - (iv) a scheme to which contributions are made in relation to the person only in relation to performance pay;
  - (v) for a prescribed person—a scheme of which the person is taken, under subsection (2), to be a member for top-up purposes.

### Example

If a person is a member, and is making voluntary contributions to an RSA without any employer contributions, the RSA will not be an alternative superannuation scheme. However, if the person's employer makes contributions to the RSA, above the superannuation guarantee rate, the RSA will be an alternative superannuation scheme.

**APRA** means the Australian Prudential Regulation Authority established by the *Australian Prudential Regulation Authority Act 1998*.

**ASIC** means the Australian Securities and Investments Commission established by the *Australian Securities and Investments Commission Act 1989* and continued in existence by the *Australian Securities and Investments Commission Act 2001*.

**Australian Hearing Services** means the body corporate established under Part 2 of the *Australian Hearing Services Act 1991*.

**Calvary Commencement Date** means the date the *Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2008* commenced.

**Commencement Date** means the date the *Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2006* commenced.

**CSC** (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**ordinary employer-sponsored member** has the same meaning as in the **2005 Act**.

**PHIAC** means the Private Health Insurance Administration Council established by the *National Health Act 1953* and continued in existence under Part 6-3 of the *Private Health Insurance Act 2007*.

**PSS** has the same meaning as in the **2005 Act**.

**PSSAP** means the Public Sector Superannuation Accumulation Plan established by Trust Deed in accordance with section 10 of the **2005 Act**.

**PSSAP member** has the same meaning as in the Trust Deed made under section 10 of the **2005 Act**.

#### **4 Persons eligible to become PSSAP members under Section 13 of the 2005 Act**

- (1) Subject to subsection (2), a person listed in Schedule 1 is eligible to become a **PSSAP member**.
- (2) Subsection (1) will cease to apply to a person referred to:
  - (a) in item [3] of the Schedule, when the controlling interest in ACTTAB Limited is no longer held in accordance with subsection 3 (4) of the **1995 Inclusion Declaration**; and
  - (c) in item [5] of the Schedule, at the end of the first occurring of the events listed in subsection 3 (10) of the **1995 Inclusion Declaration**; and
  - (d) in item [6] of the Schedule, at the end of the first occurring of the events listed in subsection 3 (11) of the **1995 Inclusion Declaration**; and
  - (e) in item [7] of the Schedule, at the end of the first occurring of the events listed in subsection 3 (12) of the **1995 Inclusion Declaration**; and
  - (f) in item [8] of the Schedule, at the end of the first occurring of the events listed in subsection 3 (13) of the **1995 Inclusion Declaration**; and
  - (g) in item [9] of the Schedule, at the end of the earlier of:
    - (i) the day on which the person ceases to be an employee of **CSC**;

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- (ii) the day immediately before the day on which the person becomes, in relation to the person's employment with **CSC**, a member of an **alternative superannuation scheme**; or
  - (iii) if **CSC** ceases to be a Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013* – the last day on which **CSC** is a Commonwealth entity; and
- (h) in item [12] of the Schedule, at the end of the earlier of:
- (i) the day on which the person ceases to be an employee of **AHPRA**;
  - (ii) the day immediately before the day on which the person becomes, in relation to the person's employment with **AHPRA**, a member of an **alternative superannuation scheme**; or
  - (iii) if **AHPRA** ceases to be a statutory authority of the Australian Capital Territory—the last day on which **AHPRA** is a statutory authority; and
- (i) in item [13] of the Schedule, at the end of the earlier of:
- (i) the day on which the person ceases to be an employee of **Australian Hearing Services**; and
  - (ii) the day immediately before the day on which the person becomes, in relation to the person's employment with **Australian Hearing Services**, a member of an **alternative superannuation scheme**; or
  - (iii) if **Australian Hearing Services** ceases to be a corporate Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013*—the last day on which **Australian Hearing Services** is a corporate Commonwealth entity; and
- (j) in item [14] of the Schedule, at the end of the earlier of:
- (i) the day on which the person ceases to be an employee of **APRA**;
  - (ii) the day immediately before the day on which the person becomes, in relation to the person's employment with **APRA**, a member of an **alternative superannuation scheme**; or
  - (iii) if **APRA** ceases to be a Commonwealth entity within the meaning of **the** *Public Governance, Performance and Accountability Act 2013* – the last day on which **APRA** is a Commonwealth entity; and
- (k) in item [15] of the Schedule, at the end of the earlier of:
- (i) the day on which the person ceases to be an employee of **ASIC**;
  - (ii) the day immediately before the day on which the person becomes, in relation to the person's employment with **ASIC**, a member of an **alternative superannuation scheme**;
  - (iii) the day immediately before the day on which the person becomes a member of a superannuation scheme to which contributions are made by **ASIC** for purposes solely related to satisfying obligations under the *Superannuation Guarantee (Administration) Act 1992*; or
  - (iv) if **ASIC** ceases to be a Commonwealth entity within the meaning of the *Public Governance, Performance and Accountability Act 2013* – the last day on which **ASIC** is a Commonwealth entity.

## Schedule 1—Persons eligible to become PSSAP members

(section 4)

- [2] A person who:
- (a) becomes an employee of the Northern Land Council (Council) on or after 1 July 2005; and
  - (b) meets the requirements set out in paragraph (c) and, if applicable, paragraph (d) of item 4 of the **1995 Inclusion Declaration**; and
  - (c) immediately before last becoming an employee of the Council, was an **ordinary employer-sponsored member** in respect of other employment.
- [3] A person who:
- (a) becomes an employee of ACTTAB Limited on or after 1 July 2005; and
  - (b) meets the requirements set out in sub paragraph (b) (ii), if applicable, and paragraph (c) of item 11 of the **1995 Inclusion Declaration**; and
  - (c) immediately before last becoming an employee of ACTTAB Limited, was an **ordinary employer-sponsored member** in respect of other employment.
- [5] A person who:
- (a) becomes an employee of the Australian Government Solicitor on or after 1 July 2005; and
  - (b) meets the requirements set out in paragraphs (a) and (c) of item 18 of the **1995 Inclusion Declaration**; and
  - (c) immediately before last becoming an employee of the Australian Government Solicitor, was an **ordinary employer-sponsored member** in respect of other employment.
- [6] A person who:
- (a) becomes an employee of the Sydney Harbour Federation Trust (the **Trust**) on or after 1 July 2005; and
  - (b) meets the requirements set out in paragraph (b) of item 19 of the **1995 Inclusion Declaration**; and
  - (c) immediately before last becoming an employee of the Trust, was a **PSSAP member**.
- [7] A person who:
- (a) becomes an employee of Australian Training Products Limited (ATP Ltd) on or after 1 July 2005; and
  - (b) meets the requirements set out in paragraphs (a) and (c) of item 20 of the **1995 Inclusion Declaration**; and
  - (c) immediately before becoming such an employee of ATP Ltd, was an **ordinary employer-sponsored member** in respect of employment with the Australian National Training Authority.



- [8] A person who:
- (a) becomes an employee of the Australian Strategic Policy Institute Limited (ASPI Ltd) on or after 1 July 2005; and
  - (b) meets the requirements set out in paragraphs (a) and (c) of item 21 of the **1995 Inclusion Declaration**; and
  - (c) immediately before becoming such an employee of ASPI Ltd, was a **PSSAP member**.
- [9] A person who:
- (a) is an employee of **CSC**; and
  - (b) is not, in relation to the person's employment with **CSC**, a member of an **alternative superannuation scheme**.
- [10] A person who:
- (a) immediately before the **Commencement Date**, was employed by the Australian Capital Territory; and
  - (b) immediately before the **Commencement Date**, was an **ordinary employer-sponsored member** in respect of that employment,
- for so long as that person continues to be employed by that employer on and after the Commencement Date.
- [11] A person who:
- (a) immediately before the **Calvary Commencement Date**, was employed by Calvary Health Care ACT Limited; and
  - (b) immediately before the **Calvary Commencement Date**, was an **ordinary employer-sponsored member** in respect of that employment,
- for so long as that person continues to be employed by that employer on and after the **Calvary Commencement Date**.
- [12] A person who:
- (a) becomes an employee of **AHPRA**, during the period 1 July 2010 to 1 July 2013 inclusive; and
  - (b) immediately before becoming so employed was an ordinary employer-sponsored member employed under the *Public Sector Management Act 1994* of the Australian Capital Territory; and
  - (c) immediately before becoming so employed was performing duties for **AHPRA** in accordance with the document entitled 'Memorandum of Understanding between **AHPRA** and the Department of ACT Health regarding the transition of staff to the National Registration and Accreditation Scheme' and dated March 2010.
- [13] A person who:
- (a) is an employee of Australian **Hearing Services**; and
  - (b) in respect of whom contributions were accepted, purportedly under the Act, on or after 1 July 2005, in relation to the person's employment with **Australian Hearing Services**; and
- [14] A person who:
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- (a) became, or becomes, an employee of **APRA** as a result of item 31 of Part 3 of Schedule 2 to the *Private Health Insurance (Prudential Supervision) (Consequential Amendments and Transitional Provisions) Act 2015*; and
- (b) immediately before becoming so employed, was an ordinary employer-sponsored member of PSSAP in respect of employment with **PHIAC**; and
- (c) is not, in relation to the person's employment with **APRA**, a member of an **alternative superannuation scheme**.

[15]

A person who:

- (a) ceases to be employed by the Commonwealth and becomes an employee of **ASIC** on 1 July 2019 as a result of section 310 or section 311 of the *Australian Securities and Investments Commission Act 2001*; and
- (b) immediately before becoming so employed by **ASIC**, was an **ordinary employer-sponsored member** of **PSSAP** in relation to the person's employment at **ASIC**.

## 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

### 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.

### Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

### 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

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#### Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	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

Name	FRLI registration	Commencement	Application, saving and transitional provisions
Superannuation (PSSAP) Membership Eligibility (Inclusion) Declaration 2005	30 June 2005 (F2005L01895)	1 July 2005	
Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2006	6 Oct 2006 (F2006L03272)	7 Oct 2006	—
Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2008	15 Apr 2008 (F2008L01087)	16 Apr 2008 (s 2)	—
Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2009 (No. 1)	25 Mar 2009 (F2009L01155)	1 Apr 2009	—
Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2010 (No. 1)	24 June 2010 (F2010L01737)	1 July 2010	—
Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2011 (No. 1)	30 June 2011 (F2011L01383)	1 July 2011 (s 2)	—
Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2015 (No. 1)	24 June 2015 (F2015L00902)	14 July 2005 (s 2)	—
Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2015 (No. 2)	29 June 2015 (F2015L00976)	27 June 2015 (s 2)	—
Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2015 (No. 3)	7 Sept 2015 (F2015L01407)	8 Sept 2015 (s 2)	—
Superannuation (PSSAP) Membership Eligibility (Inclusion) Amendment Declaration 2019 (No. 1)	25 Feb 2019 (F2019L00192)	1 July 2019 (s 2)	—

## Endnotes

### Endnote 4—Amendment history

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### Endnote 4—Amendment history

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<b>Provision affected</b>	<b>How affected</b>
s 2 .....	rep LA s 48D
s 3 .....	am F2006L03272; F2008L01087; 2010 No 1; 2011 No 1; 2015 No 1; 2015 No 2; F2019L00192
s 4 .....	am 2010 No 1; 2011 No 1; 2015 No 1; 2015 No 2; 2015 No 3; F2019L00192
<b>Schedule 1</b>	
Schedule 1 .....	am F2006L03272; F2008L01087; 2009 No 1; 2010 No 1; 2011 No 1; 2015 No 1; 2015 No 2; 2015 No 3; F2019L00192 ed C8

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**Endnote 5—Editorial changes**

In preparing this compilation for registration, the following kinds of editorial change(s) were made under the *Legislation Act 2003*.

**Paragraph 12(c) of Schedule 1****Kind of editorial change**

Removal of redundant text

**Details of editorial change**

Paragraph 12(c) of Schedule 1 reads as follows:

- (c) immediately before becoming so employed was performing duties for **AHPRA** in accordance with the document entitled ‘Memorandum of Understanding between **AHPRA** and the Department of ACT Health regarding the the transition of staff to the National Registration and Accreditation Scheme’ and dated March 2010.

Paragraph 12(c) of Schedule 1 contains two consecutive occurrences of the word “the”.

This compilation was editorially changed to omit the redundant word “the” (fourth occurring) from paragraph 12(c) of Schedule 1.