

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 (ec) 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 (ec) of the definition provides that the Minister may declare a class of persons to be CSS members.

The *Superannuation (CSS) (Eligible Employees — Inclusion) Declaration 2003* (the Principal Declaration) identifies the persons who are declared to be CSS members under paragraph (ec) of the definition of eligible employee.

The purpose of the ***Superannuation (CSS) (Eligible Employees — Inclusion) Amendment Declaration 2009 (No. 1)*** (the Declaration) is to amend the Principal Declaration to provide continuing CSS membership for CSS members who are, or become, employees of Health Services Australia Limited.

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 will no longer be an “approved authority” under the 1976 Act, meaning that its employees will no longer be eligible to contribute to the CSS unless they are specifically identified as CSS members under a different paragraph of the definition of “eligible employee”.

The Declaration ensures continued membership of the CSS for a person employed by Health Services Australia Limited, other than on a temporary or part-time basis, who:

- was an employee of Health Services Australia Limited and a CSS member on 31 March 2009 and that employment has not ceased, or
- becomes employed by Health Services Australia Limited on or after 1 April 2009 and was a CSS member immediately before becoming so employed.

The Declaration precludes continuing CSS membership for an employee of Health Services Australia Limited who, in relation their employment with the company, is a member of an alternative superannuation scheme.

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 — INCLUSION) 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 — Inclusion) 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 - Inclusion) Declaration 2003*

This section provides that Schedule 1 to the Declaration amends the *Superannuation (CSS) Eligible Employees — Inclusion) 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 changes the punctuation at the end of subparagraph 4(2)(o)(iii) of the Principal Declaration from a full stop to a semi-colon as a new paragraph will follow.

Item 3 inserts paragraph 4(2)(p) into the Principal Declaration. This paragraph provides that an employee of Health Services Australia Limited, other than a casual or temporary part-time employee, can remain a CSS member if they:

- were an employee of Health Services Australia Limited and a CSS member on 31 March 2009 and that employment has not ceased; or
- become an employee of Health Services Australia on or after 1 April 2009 and were a CSS member immediately before becoming so employed.

However, the paragraph also provides that an employee is not a CSS member if they are a member of an alternative superannuation scheme, as defined in the Principal Declaration, in relation to their employment with Health Services Australia Limited.