

EXPLANATORY STATEMENT

Issued by authority of the Minister for Finance and Deregulation

Superannuation Act 2005

Superannuation (PSSAP) (Division of Costs) Amendment Determination 2011 (No. 1)

On 29 June 2005, the Minister for Finance and Deregulation, for and on behalf of the Commonwealth, made a deed (the Trust Deed) under section 10 of the *Superannuation Act 2005* (the 2005 Act) to, among other things, establish a superannuation scheme, to be known as the Public Sector Superannuation Accumulation Plan (PSSAP) and the PSSAP Fund from 1 July 2005.

The PSSAP is established for the benefit of most new Australian Government employees and statutory office holders. The Australian Reward Investment Alliance (ARIA) is the trustee for the PSSAP.

Subsection 34(1) of the 2005 Act provides that the costs of the administration of the Act and the Trust Deed for the PSSAP are to be paid as the Minister determines in accordance with that subsection. These costs include the costs of and incidental to the management of the PSSAP Fund by ARIA and the investment of its money.

Subsection 34(2) of the 2005 Act provides that a determination made under subsection 34(1) must identify, by amount or otherwise those costs that are payable by the Commonwealth and those costs that are payable by ARIA out of the PSSAP Fund. This relevant determination is the **Superannuation (PSSAP) (Division of Costs) Determination 2005** (the Principal Determination).

Amending Determination

The purpose of the **Superannuation (PSSAP) (Division of Costs) Amendment Determination 2011 (No. 1)** (the Amending Determination) is to amend the Principal Determination as part of public sector superannuation reforms provided for in the *Governance of Australian Government Superannuation Schemes Act 2011*. Background information on the changes and the details of the Amending Determination are set out in the Attachment.

Approval by ARIA

Although section 34 of the 2005 Act allows the Minister to amend the Principal Determination, section 32 of the 2005 Act requires ARIA to consent to the amendments in most circumstances. ARIA has consented to the amendments included in the Amending Determination.

Legislative Instruments Act 2003

The Amending Determination is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LIA). However, in accordance with subsection 34(5) of the 2005 Act, the Amending Determination is not subject to disallowance.

Section 17 of the LIA specifies that rule-makers should consult before making legislative instruments. ARIA was consulted on the amendments included in the Amending Determination.

Commencement

The amendments in the Amending Determination commence on the commencement of the *Governance of Australian Government Superannuation Act 2011*.

BACKGROUND TO AND DETAILS OF THE AMENDING DETERMINATION

Background

The Amending Determination forms part of public sector superannuation reforms. The package of reforms involves the following:

- the *Governance of Australian Government Superannuation Schemes Act 2011* (Governance Act) which merged the Australian Reward Investment Alliance (ARIA), the Military Superannuation and Benefits Board and the Defence Force Retirement and Death Benefits Authority to form a consolidated trustee body;
- the *ComSuper Act 2011* which made changes to the governance framework for superannuation administration arrangements for the main civilian and military superannuation schemes; and
- the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011* which contains the consequential and transitional provisions necessary to facilitate the merger and the changes to superannuation administration.

Effect of the Governance Act and consequential amendments

Before the commencement of the Governance Act, ARIA (referred to as ‘the Board’) had certain powers and functions in the *Superannuation Act 2005* (2005 Act) and the Public Sector Superannuation Scheme Accumulation Plan (PSSAP) Trust Deed and Rules made under that Act.

The Governance Act established the Commonwealth Superannuation Corporation (CSC) as a body corporate with a separate legal identity from the Commonwealth, by continuing in existence the body corporate that was previously called ARIA.

- As a consequence, references to “the Board” in a number of legislative instruments required amendment to refer to “CSC”.

CSC is the trustee of the superannuation schemes for which it is responsible. CSC has a governing board which comprises a Chair and ten directors (directors).

- As a consequence, references to “Trustees” in a number of legislative instruments required amendment to refer to “directors”. Also, references to the Chairperson of ARIA required amendment to refer to the new position of Chair of CSC.

CSC’s functions are set out in section 8 of the Governance Act and its powers and functions in relation to the PSSAP and PSSAP Fund are set out in the 2005 Act and the PSSAP Trust Deed and Rules made under that Act.

Details of the Amending Determination

Section 1 – Name of Determination

This section provides that the name of the instrument is the *Superannuation (PSSAP) (Division of Costs) Amendment Determination 2011 (No. 1)*.

Section 2 – Commencement

This section provides that the Amending Determination commences on the commencement of the Governance Act.

Section 3 – Amendment of Superannuation (PSSAP) (Division of Costs) Determination 2005

This section provides that Schedule 1 of the Amending Determination amends the *Superannuation (PSSAP) (Division of Costs) Determination 2005*.

Schedule 1 – Description of amendments

The amendments included in schedule 1 are described in the table below.

Item	Provision being amended	Effect of amendment	Reason for amendment
1	Section 3	Omits definition of “Board”	To reflect the name of the consolidated trustee body.
2		Includes definition of “CSC”	
2	Section 3	Omits definition of “Chairperson”, inserts definition of “Chair”	To reflect the new position of Chair of the consolidated trustee body.
2	Section 3	Includes definition of “director”	To reflect that members of the consolidated trustee body are now known as “directors” rather than “trustees”.
3		Omits definition of “trustee”	
4	Subsection 4(1)	Omits “The Board”, inserts “CSC”	To reflect the name of the consolidated trustee body.
5	Subsection 4(2)		
6	Schedule 1, title	Substitutes the title	To reflect the name of the consolidated trustee body.
7	Schedule 1, item [1]	Omits “the Board”, inserts “CSC”	
8	Schedule 1, item [1], paragraphs (a) and (b)	Omits each mention of “the Chairperson”, inserts “the Chair”	To reflect the new position of Chair of the consolidated trustee body.
9	Schedule 1, item [1], paragraph (b)	Omits “the trustees”, inserts “the directors”	To reflect that members of the consolidated trustee body are now known as “directors” rather than “trustees”.
10	Schedule 1, item [2]	Omits each mention of “the Chairperson”, inserts “the Chair”	To reflect the new position of Chair of the consolidated trustee body.
11	Schedule 2, item [1]	Omits “the trustees”, inserts “the directors”	To reflect that members of the consolidated trustee body are now known as “directors” rather than “trustees”.
12	Schedule 2, item [1]	Omits “the Chairperson”, inserts “the Chair”	To reflect the new position of Chair of the consolidated body.