

EXPLANATORY STATEMENT

Issued by authority of the Minister for Finance and Deregulation

Superannuation Act 1990

Superannuation Act 1990 (Division of Costs) Determination No. 2 Amendment Determination 2011 (No. 1)

An occupational superannuation scheme to provide benefits for certain of the Commonwealth's employees and for certain other people was established by Trust Deed dated 21 June 1990, under section 4 of the *Superannuation Act 1990* (1990 Act). The occupational superannuation scheme is called the Public Sector Superannuation Scheme (PSS) and is managed and administered by the Australian Reward Investment Alliance (ARIA).

Subsection 34(1) of the 1990 Act provides that the costs of the administration of the 1990 Act and the Trust Deed for the PSS 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 PSS Fund by ARIA and the investment of its money.

Subsection 34(1A) of the 1990 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 PSS Fund. This relevant determination is the **Superannuation Act 1990 (Division of Costs) Determination No. 2** (the Principal Determination).

Amending Determination

The purpose of the **Superannuation Act 1990 (Division of Costs) Determination No. 2 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* (the Governance Act). Background information on the changes and the details of the Amending Determination are set out in the Attachment.

The 1990 Act specifies no conditions that need to be met before the power to make the Amending Determination may be exercised.

Commencement

The amendments in the Amending Determination commence on the commencement of the Governance Act.

ATTACHMENT**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 consolidation and the changes to superannuation administration.

Effect of the Governance Act and consequential amendments

Before commencement of the Governance Act, ARIA (referred to as ‘the Board’) had certain powers and functions in the *Superannuation Act 1990* (1990 Act) and the Public Sector Superannuation Scheme (PSS) 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”.

CSC’s functions are set out in section 8 of the Governance Act and its powers and functions in relation to the PSS and PSS Fund are set out in the 1990 Act and the PSS 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 Act 1990 (Division of Costs) Determination No. 2 Amendment Determination 2011 (No. 1)*.

Section 2 – Commencement

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

Section 3 – Amendment of Superannuation Act 1990 (Division of Costs) Determination No. 2

This section provides that Schedule 1 of the Amending Determination amends the *Superannuation Act 1990 (Division of Costs) Determination No. 2* (the Principal Determination).

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 1	Substitutes the section	To specify the name of the Principal Determination using a more modern drafting style.
2	Section 3, definition of “Costs”	Omits “the Board”, inserts “CSC”	To reflect the name of the consolidated trustee body.
3	Section 3, after definition of “Costs”	Inserts a definition of “CSC”	
4	Section 4	Omits “the Board”, inserts “CSC”	
5	Schedule 1, title	Substitutes the title	To reflect the name of the consolidated trustee body.
6	Schedule 1	Omits “the Board”, inserts “CSC”	
7	Schedule 2	Substitutes the title	To specify the title of Schedule 2 using a more modern drafting style.