

EXPLANATORY STATEMENT

Issued by authority of the Minister for Finance and Deregulation

Superannuation Act 1990

Thirty-sixth Amending Deed to the Trust Deed to establish an occupational superannuation scheme for Australian Government employees and certain other persons pursuant to section 5 of the Superannuation Act 1990 (1990 Act).

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 1990 Act. The occupational superannuation scheme is called the Public Sector Superannuation Scheme (PSS).

Section 5 of the 1990 Act provides that the Minister may amend the Trust Deed by signed instrument, subject to obtaining the consent of the Board (the Commonwealth Superannuation Corporation (CSC)) to the amendment, where necessary, as required under subsection 5(1A) of that Act. CSC is the trustee for the PSS.

Thirty-sixth Amending Deed

On 5th July 2011 the Minister for Finance and Deregulation amended the Rules for the PSS set out in the Schedule to the Trust Deed by signed instrument. That instrument is called the Thirty-sixth Amending Deed in this statement.

The purpose of the Thirty-sixth Amending Deed is to amend the Trust Deed as a consequence of amendments to the *Remuneration Tribunal Act 1973* contained in the *Remuneration and Other Legislation Amendment Act 2011* (the ROLA Act) relating to determining salary for Departmental Secretaries.

The Thirty-sixth Amending Deed also updates an outdated reference to the *Public Service Act 1922* in Rule 6.4.6.

Background information on the changes and the details of the Thirty-sixth Amending Deed are set out in the Attachment.

CSC Approval

Although subsection 5(1) of the 1990 Act allows the Minister to amend the PSS Trust Deed, subsection 5(1A) of the 1990 Act requires CSC to consent to the amendments in most circumstances.

However, CSC consent is not required for these amendments.

Legislative Instruments Act 2003

The Thirty-sixth Amending Deed is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LIA). Although section 44 of the LIA exempts superannuation instruments from disallowance, the Thirty-sixth Amending Deed is subject to disallowance in accordance with section 45 of the 1990 Act. No consultation was required as the amendments are a consequence of machinery of government changes.

Commencement

The amendments in the Thirty-sixth Amending Deed come into effect on the later of the day after the day on which the instruments are registered on the Federal Register of Legislative Instruments, or immediately after the commencement of Part 1 of Schedule 1 of the ROLA Act.

ATTACHMENT

BACKGROUND TO AND DETAILS OF THE THIRTY-SIXTH AMENDING DEED

Commencement

Clause 1 specifies the commencement date for the amendments to the PSS Rules made by the Thirty-sixth Amending Deed (the Amending Deed) to be the later of the day after the day on which the Amending Deed is Registered on the Federal Register of Legislative instruments, or immediately after the commencement of Part 1 of Schedule 1 of the *Remuneration and Other Legislation Amendment Act 2011*.

Context

2. **Clause 2** indicates that, unless a contrary intention appears, a word or phrase in the Amending Deed has the same meaning that it has in the Trust Deed and the Rules.

Amendments to the Rules in relation to basic salary and recognised allowances for Secretaries of Departments

3. **Subclause 3.1** inserts Rule 1.2.4A which provides that an assignment under subsection 14(3) of the *Remuneration Tribunal Act 1973* of a Secretary to an amount of remuneration is taken to be a determination made under that Act in respect of the remuneration of the Secretary.

Amendment to the Rules to correct a reference in Rule 6.4.6

4. **Subclause 4.1** omits Rule 6.4.6, which contains an out of date reference to the *Public Service Act 1922*, and inserts a new Rule 6.4.6 which correctly refers to the engagement of former Secretaries under section 60 of the *Public Service Act 1999*.