

EXPLANATORY STATEMENT

Issued by the Minister for Finance and Deregulation

Superannuation Act 1976

Declaration under paragraph (ec) of the definition of “eligible employee” included in subsection 3(1)

The *Superannuation Act 1976* (the 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 Act contains the definition of the term “eligible employee” that describes various classes of persons who may contribute to the CSS (that is, 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 CSS members under paragraph (ec) of the definition of eligible employees.

The purpose of the *Superannuation (CSS) (Eligible Employees — Inclusion) Amendment Declaration 2012 (No. 1)* (the Declaration) is to amend the Principal Declaration to provide CSS membership for certain persons who commence employment with the Australian Children’s Education and Care Quality Authority (ACECQA).

The employees involved are persons who immediately before commencing employment with ACECQA were CSS members.

ACECQA is a national regulatory agency responsible for guiding the delivery of early childhood education and care services. ACECQA is established by Part 11 of the *Education and Care Services National Law Act 2010 (Vic)*.

The amendments contained in the Declaration are as a result of a request from ACECQA.

The Declaration is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

The Declaration commences on the day after it is registered.

The details of the Declaration are explained in Attachment A.

A Statement of Compatibility with Human Rights is at Attachment B.

ATTACHMENT A

SUPERANNUATION (CSS) (ELIGIBLE EMPLOYEES — INCLUSION) AMENDMENT DECLARATION 2012 (NO. 1)

Section 1 – Name of Declaration

This clause provides that the name of the Declaration is the *Superannuation (CSS) (Eligible Employees – Inclusion) Amendment Declaration 2012 (No. 1)*.

Section 2 – Commencement

This clause provides for the Declaration to commence on the day after it is registered.

Section 3 – Amendment of Superannuation (CSS) (Eligible Employees — Inclusion) Declaration 2003

This clause provides that Schedule 1 of the Declaration amends the *Superannuation (CSS) (Eligible Employees — Inclusion) Declaration 2003* (the Principal Declaration).

Schedule 1 – Amendments

Item 1 inserts a definition of ACECQA, short for the Australian Children’s Education and Care Quality Authority.

Item 2 changes the punctuation at the end of subparagraph 4(2)(p)(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)(q) into the Principal Declaration. This paragraph provides that an employee of ACECQA, other than a casual or temporary part-time employee, can remain a CSS member if they were a CSS member immediately before becoming 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 ACECQA.

Item 4 replaces the reference to ‘paragraphs (2) (a) to (l)’ with a reference to ‘subsection (2)’. This removes the requirement to amend the Note if further paragraphs are added to the declaration at a later date.

ATTACHMENT B

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

**Superannuation (CSS) (Eligible Employees — Inclusion) Amendment
Declaration 2012 (No. 1)**

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the *Superannuation (CSS) (Eligible Employees — Inclusion) Amendment Declaration 2012 (No. 1)* is to amend the *Superannuation (CSS) (Eligible Employees — Inclusion) Declaration 2003* to provide Commonwealth Superannuation Scheme membership for certain persons who commence employment with the Australian Children's Education and Care Quality Authority.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

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