

## **EXPLANATORY STATEMENT**

Issued by the Minister for Finance and the Public Service

*Superannuation Act 1990*

Declaration under paragraph (b) of the definition of “Approved Authority”

*Superannuation (PSS) Approved Authority Inclusion Amendment Declaration (No.1) 2019*

The *Superannuation Act 1990* (the 1990 Act) makes provisions for, and in relation to, the Public Sector Superannuation Scheme (PSS) for Australian Government employees and certain other persons.

Persons who are eligible to contribute under the 1990 Act includes certain persons employed by an “approved authority” (subject to certain other requirements). Under paragraph (b) of the definition of “approved authority” in section 3 of the 1990 Act, an approved authority includes an authority or other body declared by the Minister to be an approved authority for the purposes of the 1990 Act, being an authority of a kind described by the definition.

A consolidated list of bodies that have been declared by the Minister to be approved authorities for the purpose of the 1990 Act is contained in the *Superannuation (PSS) Approved Authority Inclusion Declaration 1995* (the Principal Declaration).

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of an legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument.

### **Amending Declaration**

The purpose of the *Superannuation (PSS) Approved Authority Inclusion Amendment Declaration (No.1) 2019* (the Amending Declaration) is to amend the Principal Declaration by including the National Housing Finance and Investment Corporation (NHFIC) in the list of bodies declared by the Minister to be approved authorities for the purposes of the 1990 Act.

The NHFIC was established by the *National Housing Finance and Investment Corporation Act 2018* on 30 June 2018 as a body corporate with power to engage employees necessary for the performance of its functions.

NHFIC is a body of a kind described by the definition of “approved authority” in section 3 of the 1990 Act.

The details of the Amending Declaration are at [Attachment A](#).

**Legislation Act 2003**

The Amending Declaration is a legislative instrument for the purposes of the *Legislation Act 2003*, and is subject to disallowance in accordance with subsection 45(2) of the 1990 Act.

**Consultation**

Section 17 of the *Legislation Act 2003* specifies that rule-makers should consult before making legislative instruments. Commonwealth Superannuation Corporation, the trustee of the PSS, and NHFIC have been consulted the Amending Declaration.

The Office of Best Practice Regulation (OBPR) assessed that the changes do not require a Regulations Impact Statement as they are machinery of government and do not substantially alter existing arrangements (OBPR Reference Number 24977)

**Commencement**

The Amending Declaration commences the day after it is registered on the Federal Register of Legislation.

**Statement of Compatibility with Human Rights**

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

***Superannuation (PSS) Approved Authority Inclusion Amendment Declaration (No.1) 2019***

**Name**

1. **Section 1** provides that the name of the instrument is the *Superannuation (PSS) Approved Authority Inclusion Amendment Declaration (No.1) 2019* (Amending Declaration).

**Commencement**

2. **Section 2** provides for the instrument to commence on the day after it is registered on the Federal Register of Legislation.

**Authority**

3. **Section 3** identifies the authority for the instrument as the *Superannuation Act 1990* (1990 Act).

**Schedules**

4. **Section 4** provides that each instrument specified in a Schedule to the instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the instrument has effect according to its terms.

**Schedule 1 - Amendments**

5. Schedule 1 amends the *Superannuation (PSS) Approved Authority Inclusion Declaration 1995* (the Principal Declaration).
6. **Item 1** of Schedule 1 to the Amending Declaration amends section 4 of the Principal Declaration to include the National Housing Finance and Investment Corporation in the list of bodies that are approved authorities for the purposes of the 1990 Act.

## **Statement of Compatibility with Human Rights**

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

### **Superannuation (PSS) Approved Authority Inclusion Amendment Declaration (No.1) 2019**

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 (PSS) Approved Authority Inclusion Amendment Declaration (No.1) 2019* (the Amending Declaration) is to declare the National Housing Finance and Investment Corporation an approved authority for the purposes of the *Superannuation Act 1990*. Depending on an individual's circumstances, a person who is an employee of an approved authority is eligible for membership of the Public Sector Superannuation Scheme.

#### **Human rights implications**

The 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.

**Senator the Hon Mathias Cormann, Minister for Finance and the Public Service**