

Superannuation (CSS) Productivity Contribution (2024-2025) Declaration 2024 – Explanatory Statement

1 Name of Determination

This declaration is the *Superannuation (CSS) Productivity Contribution (2024-2025) Declaration 2024*.

2 Commencement

This declaration shall take effect on 1 July 2024.

3 Background

The *Superannuation Act 1976* (the Act) makes provision for, and in relation to, the Commonwealth Superannuation Scheme (CSS) which is an occupational superannuation scheme for Commonwealth employees and for certain other persons.

Part VIA of the Act comprising sections 110A to 110S provides for a funded productivity superannuation benefit for members of the scheme.

Section 110H of the Act requires the employer of a member of the scheme who does not pay productivity contributions in respect of the member to another scheme to pay fortnightly "productivity contributions" to the CSS.

In accordance with section 110N of the Act the Commonwealth Superannuation Corporation (CSC) must pay such contributions to the CSS Fund which is established by the Act.

4 Purpose and operation of instrument

The fortnightly rate of productivity contribution payable by an employer in relation to a member is set out in the Table in section 110C of the Act. This rate varies according to the member's salary. The intention is that the contribution rate be maintained at an average of 3% of salaries.

Section 110D provides that amounts of salary and contribution specified in the Table may be varied by a Declaration by CSC in relation to a period specified in the declaration. CSC has delegated this power to relevant officers in Commonwealth Superannuation Administration.

The Table set out in section 110C is amended with effect from 1 July each year by a Declaration by CSC.

5 New Productivity Contribution Rates

The new productivity contribution rates to apply with effect from 1 July 2024 are set out in the declaration.

6 Sun setting Exemptions

The following provisions assert that the CSS Instrument is exempt from sunsetting:

(1) s54(2)(b) of the *Legislation Act 2003* provides that “This Part [Sunsetting of legislative instruments] does not apply in relation to a legislative instrument if the legislative instrument is prescribed by regulation for the purposes of this paragraph”

(2) Regulation 11 (at Item 6 of the table) of the *Legislation (Exemptions and Other Matters) (LEOM) Regulation 2015* specifies that “an Instrument (other than a regulation) relating to superannuation” is not subject to sunsetting. The CSS Instrument pertains to superannuation.

These two provisions together are the source of the exemption from sunsetting.

Justification as to why this exemption is relied upon:

The CSS Instruments are used by employers (Government and Government agencies) to determine the rate payable for a member’s productivity contribution for superannuation purposes. It is therefore important that each CSS instrument is exempt from sunsetting because the current and previous instruments are required from time to time to determine rates payable to admit new members retrospectively, to rectify errors and/or changes in salary etc.

7 References to CSC

Section 5 of the *Governance of Australian Government Superannuation Schemes Act 2011* provides that “the board established by section 20 of the *Superannuation Act 1990* as the Australian Reward Investment Alliance continues in existence by force of that section as a body corporate, under and subject to the provisions of this Act, under the name Commonwealth Superannuation Corporation (CSC)”.

In accordance with section 25B of the *Acts Interpretation Act 1901*, any reference to Australian Reward Investment Alliance (ARIA) in an instrument made prior to 1 July 2011 shall be construed as a reference to the CSC.

8 Consultation

As the instrument is for internal machinery of Government purposes only, no consultation was considered necessary with other persons (see sections 15J(2) and 17 of the *Legislation Act 2003*).

Statement of Compatibility with Human Rights

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

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*.

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.