

## **EXPLANATORY STATEMENT**

*Issued by authority of the Minister for Finance*

*Superannuation Act 1976, Superannuation Act 1990 and Superannuation Act 2005  
Superannuation Legislation (CSS, PSS and PSSAP Membership) Amendment Declaration  
2025*

The *Superannuation Act 1976* (1976 Act), *Superannuation Act 1990* (1990 Act) and *Superannuation Act 2005* (2005 Act) make provision for and in relation to the Commonwealth Superannuation Scheme (CSS), Public Sector Superannuation Scheme (PSS) and the Public Sector Superannuation Accumulation Plan (PSSAP) respectively, which are established to provide superannuation benefits for persons employed by the Commonwealth and certain other persons.

### CSS

The definition of “eligible employee” in subsection 3(1) of the 1976 Act prescribes persons who accrue CSS superannuation benefits in respect of employment. They include, among others listed in the definition, permanent employees, comprising permanent employees of the Commonwealth and approved authorities, subject to certain limitations, and certain temporary employees of the Commonwealth and approved authorities.

The term “approved authority” is also defined in subsection 3(1) of the 1976 Act. Under paragraph (a) of that definition, an approved authority includes an authority or other body of a specified kind that is declared by the Minister by legislative instrument to be an approved authority for the purposes of the 1976 Act. The *Superannuation (CSS) Approved Authority Declaration 1995* sets out the authorities or bodies that are declared by the Minister to be approved authorities for the purposes of the 1976 Act.

Paragraphs (ec) and (j) of the definition of “eligible employee” enable the Minister to declare by legislative instrument a class of persons to be and not to be eligible employees for the purposes of the 1976 Act respectively. The *Superannuation (CSS) (Eligible Employees—Inclusion) Declaration 2003* and the *Superannuation (CSS) (Eligible Employees—Exclusion) Declaration 2003* have been made under paragraphs (ec) and (j) of the definition of “eligible employee” respectively for these purposes.

### PSS

Section 6 of the 1990 Act prescribes persons who are PSS members and, therefore, accrue superannuation benefits in respect of their employment within the PSS. PSS members include, among other persons, permanent and temporary employees of approved authorities, subject to certain limitations. Paragraphs 6(1)(j) and 6(2)(c) of the 1990 Act enable the Minister to declare, in writing, persons to be and not to be PSS members respectively.

The term “approved authority” is defined in section 3 of the 1990 Act. Under paragraph (a) of the definition, “approved authority” includes the authorities or bodies that were approved authorities for the purposes of the 1976 Act immediately before commencement of the 1990 Act, except for Australian Airlines Limited and any such authority or body that the Minister has declared, in writing, not to be an approved authority for the purposes of the 1990 Act. Paragraph (b) of the definition enables the Minister to declare, in writing, an

authority or body of the kind specified in that paragraph to be an approved authority for the purposes of the 1990 Act.

The *Superannuation (PSS) Approved Authority Inclusion Declaration 1995* and the *Superannuation (PSS) Approved Authority Exclusion Declaration* set out the authorities or bodies that the Minister has declared, in writing, to be and not to be approved authorities for the purposes of paragraphs (b) and (a) of the definition of “approved authority” respectively.

The *Superannuation (PSS) Membership Inclusion Declaration 2006* and the *Superannuation (PSS) Membership Exclusion Declaration 1995* set out persons who the Minister has declared, in writing, to be and not to be PSS members under subsections 6(1)(j) and 6(2)(c) of the 1990 Act respectively.

### PSSAP

Section 13 of the 2005 Act prescribes persons who are eligible for contributory membership of PSSAP to include, among other persons, Commonwealth employees and employees of approved authorities. Commonwealth employees and employees of approved authorities come within the definition of “public sector employee” in section 5 of the 2005 Act. Subparagraph 13(1)(a)(ii) and paragraph 13(2)(h) enable the Minister to declare in writing persons who are eligible, subject to certain limitations, and are not eligible to become members of PSSAP respectively.

Under subsection 8(2) of the 2005 Act, an authority or body is an approved authority if it was an approved authority for the purposes of the 1990 Act at the end of 30 June 2005, unless the Minister has declared in writing the authority or body not to be an approved authority. Subsection 8(3) enables the Minister to declare, by writing, an authority or body of a kind specified in the subsection to be an approved authority for the purposes of the 2005 Act.

The *Superannuation (PSSAP) Approved Authority Inclusion Declaration 2008* and *Superannuation (PSSAP) Approved Authority Exclusion Declaration 2005* set out authorities or bodies that are and are not approved authorities under subsection 8(3) and paragraph 8(2)(b) of the 2005 Act.

The *Superannuation (PSSAP) Membership Eligibility (Inclusion) Declaration 2005* and *Superannuation (PSSAP) Membership Eligibility (Exclusion) Declaration 2005* set out those persons the Minister has declared in writing to be and not to be eligible to become members of PSSAP under subparagraph 13(1)(a)(ii) and paragraph 13(2)(h) of the 2005 Act respectively.

### **Amendment Instrument**

The *Superannuation Legislation (CSS, PSS and PSSAP Membership) Amendment Declaration 2025* (Amendment Instrument) amends 11 principal instruments that, together with the Acts under which they are made, govern the membership of the relevant Commonwealth superannuation schemes.

The purpose of the Amendment Instrument is to make amendments to the principal instruments as part of their ongoing maintenance.

The amendments made by the Amendment Instrument largely repeal provisions that are inoperative or otherwise redundant because the authority or body to which they relate has ceased, been divested by the Commonwealth or is now staffed by persons employed by the Commonwealth under the *Public Service Act 1999*. The Amendment Instrument also amends some of the principal instruments to take account of changes to the names of certain authorities or bodies and organisational restructuring, and to correct a drafting error.

Details of the Amendment Instrument are set out in [Attachment A](#).

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 a 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.

### ***Legislation Act 2003***

The Amendment Instrument is a legislative instrument. It is subject to disallowance in accordance with subsection 3(1BD) and section 4A of the *Superannuation Act 1976*, subsection 45(2) of the *Superannuation Act 1990* and subsections 8(6) and 13(5) of the *Superannuation Act 2005*.

The Amendment Instrument and the principal instruments that it amends are not subject to sunseting because section 11 of the *Legislation (Exemptions and Other Matters) Regulation 2015* specifies, via item 6 of the table in that section, “an instrument (other than a regulation) relating to superannuation” to be a class of legislative instrument that is not subject to sunseting under Part 4 of Chapter 3 of the *Legislation Act 2003*. The exemption was put in place because it was considered that sunseting of instruments relating to superannuation could cause commercial uncertainty, as well as uncertainty for superannuation fund members and providers. These instruments are intended to have enduring operation and it would not be appropriate to subject them to sunseting.

### **Consultation**

Section 17 of the *Legislation Act 2003* specifies that rule-makers should consult before making legislative instruments. The Commonwealth Superannuation Corporation, the trustee of the CSS, PSS and PSSAP, was consulted and advised that it has no concerns with the Amendment Instrument.

### **Commencement**

The whole of the Amendment Instrument commences on 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](#).

## DETAILS OF THE AMENDMENT INSTRUMENT

### Name

1. **Section 1** provides that the name of the instrument is the *Superannuation Legislation (CSS, PSS and PSSAP Membership) Amendment Declaration 2025* (the Amendment Instrument).

### Commencement

2. **Section 2** sets out the commencement provision for the Amendment Instrument. Item 1 in the table in subsection 2(1) provides that the whole of the Amendment Instrument commences on the day after the Amendment Instrument is registered on the Federal Register of Legislation. Subsection 2(2) provides that any information in column 3 of the table is not part of the Amendment Instrument.

### Authority

3. **Section 3** identifies the authority for the Amendment Instrument as:
- paragraph (a) of the definition of approved authority in subsection 3(1) of the *Superannuation Act 1976* (1976 Act);
  - paragraph (ec) of the definition of eligible employee in subsection 3(1) of the *Superannuation Act 1976*;
  - paragraph (j) of the definition of eligible employee in subsection 3(1) of the *Superannuation Act 1976*;
  - paragraph (a) of the definition of approved authority in section 3 of the *Superannuation Act 1990* (1990 Act);
  - paragraph (b) of the definition of approved authority in section 3 of the *Superannuation Act 1990*;
  - paragraph 6(1)(j) of the *Superannuation Act 1990*;
  - paragraph 6(2)(c) of the *Superannuation Act 1990*;
  - paragraph 8(2)(b) of the *Superannuation Act 2005* (2005 Act);
  - subsection 8(3) of the *Superannuation Act 2005*;
  - subparagraph 13(1)(a)(ii) of the *Superannuation Act 2005*; and
  - paragraph 13(2)(h) of the *Superannuation Act 2005*.

### Schedules

4. **Section 4** provides that each instrument specified in a Schedule to the Amendment 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 Amendment Instrument has effect according to its terms.

## **Schedule 1—Amendments**

### *Superannuation (CSS) Approved Authority Declaration 1995*

5. Section 4 of the *Superannuation (CSS) Approved Authority Declaration 1995* (First Instrument) lists authorities or bodies that are declared, under paragraph (a) of the definition of approved authority in subsection 3(1) of the 1976 Act, to be approved authorities for the purposes of the Act.

6. **Item 1** omits from the list in section 4 of the First Instrument the names of 39 authorities or bodies that have ceased, been divested by the Commonwealth (some subsequently ceased), no longer require approved authority status because staff are now persons employed by the Commonwealth under the *Public Service Act 1999* who are automatically “eligible employees” for the purposes of the 1976 Act if they meet relevant requirements, been renamed or been replaced. The new names of authorities or bodies that have been renamed are inserted by item 2. The following table details the authorities or bodies omitted from the list in section 4 of the First Instrument and the reasons for their omission.

<b>Authority or body</b>	<b>Reason for Omission</b>
Aboriginal and Torres Strait Islander Commercial Development Corporation	Name changed to Indigenous Business Australia
Adelaide Symphony Orchestra Pty Ltd.	Divested
Anglo-Australian Telescope Board	Ceased
ANL Limited	Divested
Australia Foundation for Culture and the Humanities Ltd.	Ceased
Australian Defence Industries Pty. Ltd.	Divested
Australian Film Commission	Ceased
Australian Fisheries Management Authority	Staff employed under the <i>Public Service Act 1999</i>
Australian Marine Science and Technology Limited	Ceased
Australian Meat and Live-stock Corporation	Ceased
Australian National Training Authority	Ceased
Australian Pork Corporation	Ceased
Australian Sports Drug Agency	Ceased
Australian Trade Commission	Staff of the now named Australian Trade and Investment Commission are employed under the <i>Public Service Act 1999</i>
Australian Wine and Brandy Corporation	Replaced by Wine Australia
Australian Wool Research and Promotion Organisation	Divested
Commonwealth Funds Management Limited	Divested
Dairy Research and Development Corporation	Ceased
Energy Research and Development Corporation	Ceased
Film Australia Pty. Limited	Ceased
Forest and Wood Products Research and Development Corporation	Ceased
Horticultural Research and Development Corporation	Ceased

Indigenous Land Corporation	Name changed to Indigenous Land and Sea Corporation
Institute of Family Studies	Staff of the now named Australian Institute of Family Studies are employed under the <i>Public Service Act 1999</i>
Land and Water Resources Research and Development Corporation	Ceased
Meat Research Corporation	Ceased
Melbourne Symphony Orchestra	Divested
National Housing Finance and Investment Corporation	Name changed to Housing Australia
National Registration Authority for Agricultural and Veterinary Chemicals	Staff of the now named Australian Pesticides and Veterinary Medicines Authority are employed under the <i>Public Service Act 1999</i>
National Training Board	Ceased
Nuclear Safety Bureau	Ceased
Pig Research and Development Corporation	Ceased
Private Health Insurance Complaints Commissioner	Ceased
Queensland Orchestras Pty Limited (ACN 094 916 444)	Divested
Special Broadcasting Service	Name changed to Special Broadcasting Service Corporation
Sydney Symphony Orchestra Holdings Pty Limited	Divested
Symphony Australia Holdings Pty Ltd.	Divested
Tasmanian Symphony Orchestra Holdings Pty Limited (ACN 088 230 184)	Divested
West Australian Symphony Orchestra Holdings Pty Ltd	Divested

7. **Item 2** inserts into the list of approved authorities or bodies in section 4 of the First Instrument the new names of, or names of replacements for, five of those approved authorities or bodies omitted by item 1. They are Housing Australia, Indigenous Business Australia, Indigenous Land and Sea Corporation, Special Broadcasting Service Corporation and Wine Australia.

*Superannuation (CSS) (Eligible Employees—Inclusion) Declaration 2003*

8. Section 3 of the *Superannuation (CSS) (Eligible Employees—Inclusion) Declaration 2003* (Second Instrument) defines terms used in the instrument. **Item 3** repeals definitions of the terms “ATP Ltd”, “Australian Government Solicitor”, “Health Services Australia Limited” and “Medibank” from subsection 3(1), as provisions in the Second Instrument referencing these authorities or bodies are repealed by item 4.

9. Subsection 4(2) of the Second Instrument prescribes, for the purposes of paragraph (ec) of the definition of eligible employee in subsection 3(1) of the 1976 Act, classes of persons who are eligible employees. **Item 4** of Schedule 1 repeals paragraphs 4(2)(a), (c), (e), (g), (h), (j) and (p), relating to classes of persons who were employees of the Dairy Research

and Development Corporation, Australian Meat Technology Pty Limited, Medibank, Australian Government Solicitor, Bankstown Airport Ltd, ATP Ltd and Health Services Australia Limited respectively, as they are inoperative. These authorities or bodies have ceased, been divested by the Commonwealth or, in the case of the Australian Government Solicitor, currently employ persons on behalf of the Commonwealth under the *Public Service Act 1999* who are automatically eligible employees by virtue of that employment if they meet relevant requirements.

10. The class of persons who may become eligible employees under section 4(1) of the Second Instrument is defined by reference to provisions of the Eligible Employees Regulations listed in Schedule 1 to the Second Instrument. **Item 5** corrects the provision referenced in the second column of item 12 of Schedule 1 to the Second Instrument (the item incorrectly referred to subparagraph 4(1)(zm)(v) instead of paragraph 4(1)(zm)).

*Superannuation (CSS) (Eligible Employees—Exclusion) Declaration 2003*

11. **Item 6** repeals the definitions of the terms ATP Ltd, Australian Government Solicitor, Health Services Australia Limited, and Medibank, contained in subsection 3(1) of Part 1 of the *Superannuation (CSS) (Eligible Employees—Exclusion) Declaration 2003* (Third Instrument), as provisions in Schedule 1 to the Third Instrument referencing these authorities or bodies are repealed by item 8.

12. Part 2 of the Third Instrument, comprising of sections 5 and 6, prescribes persons who cease to be eligible employees for the purposes of the 1976 Act, including because of the compulsory payment of benefits or because of an event specified in Schedule 1 to the Third Instrument. Part 3, comprising of section 7, specifies persons who are not eligible employees for the purposes of the 1976 Act.

13. **Item 7** repeals paragraph 7(1)(o) of the Third Instrument, which is inoperative as it relates to a class of Mersey Hospital Australian Public Service employees that does not exist. The Mersey Hospital transferred from Commonwealth to Tasmanian Government ownership in 2017.

14. **Item 8** repeals items 6, 7 and 9, 10, 13, 14, 16, 17, 20 and 24 of Schedule 1 to the Third Instrument, which prescribes, for the purposes of section 6, the events and times at which certain persons cease to be eligible employees. These items relate, in turn, to certain employees of the Australian and Overseas Telecommunications Corporation, the Dairy Research and Development Corporation, Australian Meat Technology Pty Limited, Medibank, Employment National (Administration) Pty Ltd, the Australian Government Solicitor, Bankstown Airport Ltd, ATP Ltd, and Health Services Australia Limited. The repealed items are inoperative. Generally, this is because they relate to persons who have already ceased to be eligible employees because, for example, an eligible employee cessation event specified in the item has already occurred.

*Superannuation (PSS) Approved Authority Inclusion Declaration 1995*

15. Section 4 of the *Superannuation (PSS) Approved Authority Inclusion Declaration 1995* (Fourth Instrument) lists authorities and bodies that are declared to be an approved authority for the purposes of the 1990 Act under paragraph (b) of the definition of approved authority in section 3 of that Act.

16. **Item 9** omits the names of 25 authorities and bodies from the list of declared approved authorities in section 4 of the Fourth Instrument. The omitted authorities and bodies include the NEPC Service Corporation, which has ceased. The remaining 24 authorities or bodies are omitted for the same reason they were omitted from section 4 of the First Instrument by item 1.

17. **Item 10** inserts into the list of approved authorities and bodies in section 4 of the Fourth Instrument the new names of four of the approved authorities or bodies omitted by item 9. They are Housing Australia, Indigenous Business Australia, Indigenous Land and Sea Corporation, and Special Broadcasting Service Corporation.

*Superannuation (PSS) Approved Authority Exclusion Declaration*

18. Section 4 of the *Superannuation (PSS) Approved Authority Exclusion Declaration* (Fifth Instrument) includes a list of authorities and bodies that are declared, under paragraph (a) of the definition of approved authority in section 3 of the 1990 Act, not to be approved authorities for the purposes of that Act. These authorities and bodies would otherwise be approved authorities for the purposes of the 1990 Act because they were approved authorities for the purposes of the 1976 Act immediately before the Public Sector Superannuation Scheme (PSS) commenced.

19. **Item 11** omits the names of six authorities and bodies for which an approved authority exclusion in respect of the 1990 Act is no longer necessary because they have ceased (in some cases after they have been divested by the Commonwealth). They are ANL Limited, Australian Industry Development Corporation, Australian Meat and Live-stock Corporation, Australian Wool Research and Promotion Organisation, Coselco Mimotopes Pty. Ltd. and Film Australia Pty. Ltd.

20. **Item 12** inserts the name Aboriginal Hostels Limited in the list of excluded authorities in section 4 of the Fifth Instrument. Aboriginal Hostels Limited does not require approved authority status as its staff are persons employed by the Commonwealth under the *Public Service Act 1999* who are automatically PSS members if they meet relevant requirements.

*Superannuation (PSS) Membership Inclusion Declaration 2006*

21. Section 3 of the *Superannuation (PSS) Membership Inclusion Declaration 2006* (Sixth Instrument), comprising subsections 3(1) and 3(2), defines terms used in the instrument. **Item 13** repeals definitions of the terms “AWB Limited”, “Health Services Australia Limited” and “Medibank” currently included in subsection 3(1), as provisions in the Sixth Instrument relating to employees of these authorities and bodies are repealed by items 14 and 15.

22. Section 4 of the Sixth Instrument prescribes persons to whom section 6 of the 1990 Act applies, that is, persons who are members of the PSS for the purposes of paragraph 6(1)(j) of that section. Under subsection 4(1) of the Sixth Instrument, those persons are the persons prescribed in Schedule 1 to the Sixth Instrument, subject to limitations set down in subsections 4(2) to 4(25). These subsections broadly specify the period when certain persons in Schedule 1 are PSS members or when they cease to be PSS members.

23. **Item 14** repeals subsections 4(2), (3), (7), (8), (9), (10), (12) and (19) relating, in turn, to certain employees of Australian Meat Technology Pty Limited, Australian Information Media Pty Limited, Medibank, Employment National (Administration) Pty Ltd, AWB Limited, the Australian Government Solicitor, ATP Ltd and Health Services Australia Limited, as they are inoperative or are otherwise redundant. In most cases, this is because the entity has ceased or there are no remaining persons for whom the subsection is relevant because the PSS membership cessation event prescribed by the subsection (for example, the cessation of Commonwealth control of the relevant authority or body) has already occurred. Subsection 4(10) is redundant as it relates to the Australian Government Solicitor's previous operation as a corporate Commonwealth entity. The Australian Government Solicitor is now part of the Attorney-General's Department, and its staff are persons employed by the Commonwealth under the *Public Service Act 1999* who are automatically PSS members under the 1990 Act if they meet relevant requirements.

24. **Item 15** amends Schedule 1 to the Sixth Instrument, which specifies persons who are PSS members for the purposes of paragraph 6(1)(j) of section 6 of the 1990 Act, by repealing items that are inoperative because the relevant entity has ceased, the item has ceased to apply to all persons described in the item because of a PSS membership cessation event prescribed in a subsection in section 4 or the item is otherwise redundant. The items concerned are items 6, 7, 8, 9, 15, 16, 17, 18, 20 and 26, which relate to certain employees of the Australian Wool Research and Promotion Organisation, Wool International, Australian Meat Technology Pty Limited, Australian Information Media Pty Limited, Medibank, Employment National (Administration) Pty Ltd, AWB Limited, the Australian Government Solicitor, ATP Ltd and Health Services Australia Limited respectively. Item 18, relating to the Australian Government Solicitor, is being repealed because the Australian Government Solicitor is now staffed by persons employed under the *Public Service Act 1999* who are automatically PSS members under the 1990 Act if they meet relevant requirements.

*Superannuation (PSS) Membership Exclusion Declaration 1995*

25. Section 3 of the *Superannuation (PSS) Membership Exclusion Declaration 1995* (Seventh Instrument) prescribes definitions of terms used in the instrument. **Item 16** repeals the definition of the term "designated position" currently included in subsection 3(1), as items 9, 10 and 11 of the Schedule to the Seventh Instrument, which are the only items to use this term, are repealed by item 17.

26. Section 4 of the Seventh Instrument deals with persons to whom section 6 of the 1990 Act does not apply, that is, persons who are excluded from being PSS members. Subsection 4(1) essentially provides that persons mentioned in the Schedule to the Seventh Instrument are not PSS members under that provision, subject to limitations set out in subsection 4(2). **Item 17** repeals items 9, 10, 11 and 21 of the Schedule to the Seventh Instrument as they are inoperative. All except for item 21 relate to persons employed in positions designated by the Governor of the State of New South Wales under now repealed provisions of the *Meat Industry Act 1978* of that State. Item 21 relates to certain employees of the now ceased Australian Wheat Board.

27. **Item 18** repeals item 22 of the Schedule to the Seventh Instrument, which relates to persons who hold a statutory office under the *Air Services Act 1995*, *Australian Industry Development Corporation Act 1970*, *Australian Meat and Live-stock Corporation Act 1977*, *Australian National University Act 1991*, *Australian Postal Corporation Act 1989* and *Maritime College Act 1978* and substitutes a new item 22. New item 22 essentially omits

from the list of Acts in the provision the *Australian Industry Development Corporation Act 1970*, *Australian Meat and Live-stock Corporation Act 1977* and *Maritime College Act 1978*, as these Acts have been repealed.

28. **Item 19** repeals items 24, 25, 26, 27, 28 and 43 of the Schedule to the Seventh Instrument as they are inoperative. All except for item 43 relate to certain officers, employees or the holder of a statutory office in the Australian National Railways Commission, as relevant, which no longer exists. Item 43 relates to a class of Mersey Hospital Australian Public Service employees that does not exist. The Mersey Hospital transferred from Commonwealth to Tasmanian Government ownership in 2017.

*Superannuation (PSSAP) Approved Authority Inclusion Declaration 2008*

29. Subsection 4(1) of the *Superannuation (PSSAP) Approved Authority Inclusion Declaration 2008* (Eighth Instrument) provides that an authority or body listed in Schedule 1 to the instrument is declared, under subsection 8(3) of the 2005 Act, to be an approved authority for the purposes of that Act. **Item 20** amends Schedule 1 to the Eighth Instrument by omitting the National Housing Finance and Investment Corporation from the list of approved authorities as the name of the body has changed. **Item 21** inserts the body's new name "Housing Australia" in the list of approved authorities in Schedule 1 to the Eighth Instrument.

*Superannuation (PSSAP) Approved Authority Exclusion Declaration 2005*

30. Subsection 4(1) of the *Superannuation (PSSAP) Approved Authority Exclusion Declaration 2005* (Ninth Instrument) provides that an authority or body listed in Schedule 1 to the instrument is specified for the purposes of paragraph 8(2)(b) of the 2005 Act and, therefore, is not an approved authority for the purposes of the 2005 Act. These authorities or bodies would otherwise be approved authorities for the purposes of the 2005 Act under paragraph 8(2)(a) of the Act, as they were approved authorities for the 1990 Act immediately before the 2005 Act commenced.

31. **Item 22** inserts the names of nine authorities and bodies in the list in Schedule 1 to the Ninth Instrument. Six of the authorities or bodies inserted by the item are orchestras that have been divested by the Commonwealth and operate in the private sector. The remaining three authorities and bodies, being Aboriginal Hostels Limited, Australian Fisheries Management Authority and Sport Integrity Australia, do not require approved authority status as staff of these authorities and bodies are persons employed by the Commonwealth under the *Public Service Act 1999* who are able to become members of the PSSAP by virtue of this employment.

*Superannuation (PSSAP) Membership Eligibility (Inclusion) Declaration 2005*

32. Subsection 4(1) of the *Superannuation (PSSAP) Membership Eligibility (Inclusion) Declaration 2005* (Tenth Instrument) specifies that persons listed in Schedule 1 to the instrument are eligible to become a member of PSSAP. Items 5 and 7 of Schedule 1 include employees of the Australian Government Solicitor and ATP Ltd. Subsection 4(2) of the Tenth Instrument specifies when the persons listed in Schedule 1 cease to be eligible to become a member of PSSAP under subsection 4(1). Paragraphs 4(2)(c) and 4(2)(e) specify when employees of the Australian Government Solicitor and ATP Ltd, covered by items 5 and 7 of Schedule 1 respectively, cease to be eligible to become members of PSSAP. **Items 23 and 24**

repeal items 5 and 7 of Schedule 1, and paragraphs 4(2)(c) and 4(2)(e) as they are no longer operative or otherwise redundant. The Australian Government Solicitor is now staffed by persons employed by the Commonwealth under the *Public Service Act 1999* who are eligible to be PSSAP members under the 2005 Act if they meet relevant requirements. ATP Ltd has ceased.

*Superannuation (PSSAP) Membership Eligibility (Exclusion) Declaration 2005*

33. Subsection 4(1) of the *Superannuation (PSSAP) Membership Eligibility (Exclusion) Declaration 2005* (Eleventh Instrument) provides that a person listed in Schedule 1 to the instrument is not eligible to be a PSSAP member. **Item 25** repeals item 7 of Schedule 1 to the Eleventh Instrument, which relates to persons who hold a statutory office under any of the *Air Services Act 1995*, *Australian National University Act 1991*, *Australian Postal Corporation Act 1989* and *Maritime College Act 1978*, and substitutes a new item 7. New item 7 of Schedule 1 to the Eleventh Instrument references only the first three of these Acts, as the *Maritime College Act 1978* is no longer in force.

34. **Item 26** repeals item 12 of the list in Schedule 1 to the Eleventh Instrument. Item 12 relates to a cohort of Mersey Hospital Australian Public Service employees that does not exist. The Mersey Hospital transferred from Commonwealth to Tasmanian Government ownership in 2017.

## Statement of Compatibility with Human Rights

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

### ***Superannuation Legislation (CSS, PSS and PSSAP Membership) Amendment Declaration 2025***

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 *Superannuation Legislation (CSS, PSS and PSSAP Membership) Amendment Declaration 2025* (Amendment Instrument), signed by the Minister for Finance, amends 11 principal instruments that, together with the Acts under which they are made, govern the membership of the relevant Commonwealth superannuation schemes.

The purpose of the Amendment Instrument is to make amendments to the principal instruments as part of their ongoing maintenance.

The amendments made by the Amendment Instrument largely repeal provisions that are inoperative or otherwise redundant because the authority or body to which they relate has ceased, been divested by the Commonwealth or is now staffed by persons employed by the Commonwealth under the *Public Service Act 1999*. The Amendment Instrument also amends some of the principal instruments to take account of changes to the names of certain authorities or bodies and organisational restructuring, and to correct a drafting error.

#### **Human Rights Implications**

This Legislative Instrument does not engage any of the applicable rights or freedoms as it makes only minor and technical amendments that do not involve any policy change.

#### **Conclusion**

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

**Senator the Hon Katy Gallagher, Minister for Finance**