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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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**Governance of Australian Government
Superannuation Schemes Bill 2011**

No. , 2011

(Finance and Deregulation)

**A Bill for an Act to provide for the administration
of certain Australian Government superannuation
schemes by a single body, and for related purposes**

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1 **A Bill for an Act to provide for the administration**
2 **of certain Australian Government superannuation**
3 **schemes by a single body, and for related purposes**

4 The Parliament of Australia enacts:

5 **Part 1—Preliminary**
6

7 **1 Short title**

8 This Act may be cited as the *Governance of Australian*
9 *Government Superannuation Schemes Act 2011*.

Section 2

1 **2 Commencement**

2 This Act commences on 1 July 2011.

3 **3 Objects**

4 The objects of this Act are:

- 5 (a) to provide for the administration of certain Australian
6 government superannuation schemes, including military
7 schemes, by a single body; and
8 (b) to ensure that when performing a function under:
9 (i) a determination made under Part IIIAA of the *Defence*
10 *Act 1903*; or
11 (ii) the *Defence Force Retirement and Death Benefits Act*
12 *1973*; or
13 (iii) the *Defence Forces Retirement Benefits Act 1948*; or
14 (iv) the *Military Superannuation and Benefits Act 1991*;
15 CSC has regard to the unique nature of military service, as
16 recognised by the schemes established by or under those
17 Acts.

18 **4 Definitions**

19 In this Act:

20 *1922 scheme* means the scheme established under the
21 *Superannuation Act 1922*.

22 *Act administered by CSC* means:

- 23 (a) the *Defence Act 1903*, to the extent that the Act deals with
24 superannuation benefit in Part IIIAA; or
25 (b) the *Defence Force Retirement and Death Benefits Act 1973*;
26 or
27 (c) the *Defence Forces Retirement Benefits Act 1948*; or
28 (d) the *Military Superannuation and Benefits Act 1991*; or
29 (e) the *Papua New Guinea (Staffing Assistance) Act 1973*, to the
30 extent that the Act deals with superannuation; or
31 (f) the *Superannuation Act 1922*; or

1 (g) the *Superannuation Act 1976*; or

2 (h) the *Superannuation Act 1990*; or

3 (i) the *Superannuation Act 2005*.

4 **bank** has the same meaning as in the *Commonwealth Authorities*
5 *and Companies Act 1997*.

6 **Board** means the Board of CSC, established by section 9.

7 **Chair** means the Chair of the Board.

8 **CSC** (short for Commonwealth Superannuation Corporation)
9 means the body corporate continued in existence by section 5.

10 **CSS** (short for Commonwealth Superannuation Scheme) has the
11 same meaning as in the *Superannuation Act 1976*.

12 **CSS Fund** has the same meaning as Fund has in the
13 *Superannuation Act 1976*.

14 **Defence Minister** means the Minister who administers the *Defence*
15 *Act 1903*.

16 **DFRB** (short for Defence Forces Retirement Benefits Scheme)
17 means the scheme provided for by the *Defence Forces Retirement*
18 *Benefits Act 1948*.

19 **DFRDB** (short for Defence Force Retirement and Death Benefits
20 Scheme) means the scheme provided for by the *Defence Force*
21 *Retirement and Death Benefits Act 1973*.

22 **DFSPB** (short for Defence Force (Superannuation) (Productivity
23 Benefit) Scheme) means the scheme established by determinations
24 made under Part IIIAA of the *Defence Act 1903*.

25 **director** means a director of the Board, and includes the Chair.

26 **disqualified person** has the same meaning as in Part 15 of the
27 *Superannuation Industry (Supervision) Act 1993*.

28 **governing deed** means:

29 (a) in relation to the MSB—the Trust Deed (within the meaning
30 of the *Military Superannuation and Benefits Act 1991*); or

Section 4

1 (b) in relation to the PSS—the Trust Deed (within the meaning
2 of the *Superannuation Act 1990*); or

3 (c) in relation to the PSSAP—the Trust Deed (within the
4 meaning of the *Superannuation Act 2005*).

5 **military schemes** means:

6 (a) the DFRB, DFRDB, DFSPB or MSB; or

7 (b) the DFRB, DFRDB, DFSPB and MSB.

8 **modifications** includes additions, omissions and substitutions.

9 **MSB** (short for Military Superannuation and Benefits Scheme) has
10 the same meaning as Scheme has in the *Military Superannuation*
11 *and Benefits Act 1991*.

12 **MSB Fund** has the same meaning as Fund has in the *Military*
13 *Superannuation and Benefits Act 1991*.

14 **PNG** (short for Papua New Guinea Scheme) means the scheme
15 provided for by regulations made under the *Papua New Guinea*
16 *(Staffing Assistance) Act 1973*.

17 **PSS** (short for Public Sector Superannuation Scheme) has the same
18 meaning as Public Sector Superannuation Scheme has in the
19 *Superannuation Act 1990*.

20 **PSSAP** (short for Public Sector Superannuation Accumulation
21 Plan) has the same meaning as in the *Superannuation Act 2005*.

22 **PSSAP Fund** has the same meaning as in the *Superannuation Act*
23 *2005*.

24 **PSS Fund** has the same meaning as in the *Superannuation Act*
25 *1990*.

26 **relevant organisation** means:

27 (a) an organisation:

28 (i) a substantial number of whose members are members of
29 a superannuation scheme administered by CSC or
30 eligible employees within the meaning of the
31 *Superannuation Act 1976*; and

- 1 (ii) whose principal purpose is to protect and promote the
2 interest of its members in matters concerning their
3 employment; or
4 (b) an organisation that has as one of its principal purposes the
5 protection and promotion of beneficiaries under a
6 superannuation scheme administered by CSC in matters
7 concerning their entitlements as beneficiaries.

8 ***SIS fitness and propriety standard*** means a standard prescribed
9 under Part 3 of the *Superannuation Industry (Supervision) Act*
10 *1993* relating to fitness and propriety for trustees of funds (within
11 the meaning of that Act) and RSE licensees (within the meaning of
12 that Act).

13 ***superannuation fund administered by CSC*** means:

- 14 (a) the CSS Fund; or
15 (b) the MSB Fund; or
16 (c) the PSS Fund; or
17 (d) the PSSAP Fund.

18 ***superannuation scheme administered by CSC*** means:

- 19 (a) the 1922 scheme; or
20 (b) the CSS; or
21 (c) the DFRB; or
22 (d) the DFRDB; or
23 (e) the DFSPB; or
24 (f) the MSB; or
25 (g) the PNG; or
26 (h) the PSS; or
27 (i) the PSSAP.

28 ***superannuation scheme and superannuation fund administered***
29 ***by CSC*** means:

- 30 (a) each superannuation scheme administered by CSC; and
31 (b) each superannuation fund administered by CSC.
32

1 **Part 2—Commonwealth Superannuation**
2 **Corporation**

3 **Division 1—Establishment and constitution of CSC**

4 **5 Establishment**

5 The board established by section 20 of the *Superannuation Act*
6 *1990* as the Australian Reward Investment Alliance continues in
7 existence by force of this section as a body corporate, under and
8 subject to the provisions of this Act, under the name
9 Commonwealth Superannuation Corporation (**CSC**).

10 Note 1: See also section 25B of the *Acts Interpretation Act 1901*.

11 Note 2: Subject to section 6 of this Act, the *Commonwealth Authorities and*
12 *Companies Act 1997* applies to CSC. That Act deals with matters
13 relating to Commonwealth authorities, including reporting and
14 accountability, banking and investment, and the conduct of officers.

15 **6 Modification of the *Commonwealth Authorities and Companies Act***
16 ***1997***

- 17 (1) Despite section 5 of this Act:
18 (a) section 15 of the *Commonwealth Authorities and Companies*
19 *Act 1997*; and
20 (b) any other provision of that Act prescribed by the regulations;
21 do not apply in relation to CSC's management and investment of
22 money that forms part of a superannuation fund administered by
23 CSC.
- 24 (2) If, at any time, CSC does not hold money on its own account, then,
25 despite section 7 of the *Commonwealth Authorities and Companies*
26 *Act 1997*, CSC is treated as if it were a Commonwealth authority
27 for the purposes of that Act.

28 **7 CSC's constitution**

- 29 (1) CSC:
30 (a) must have a seal; and

- 1 (b) may acquire, hold and dispose of real and personal property;
2 and
3 (c) may sue and be sued in its corporate name.
- 4 (2) The seal of CSC is to be kept in such custody as the Board directs
5 and must not be used except as authorised by the Board.
- 6 (3) All courts, judges and persons acting judicially must:
7 (a) take judicial notice of the imprint of the seal of CSC
8 appearing on a document; and
9 (b) presume that the document was duly sealed.

10 **8 CSC's functions**

- 11 (1) CSC has the following functions:
12 (a) such functions as are conferred on CSC by this Act and each
13 Act administered by CSC;
14 (b) to be responsible for the general administration of this Act
15 and each Act administered by CSC;
16 (c) to do anything incidental to, or conducive to, the performance
17 of the above functions.
- 18 (2) To avoid doubt, when performing a function under an Act
19 administered by CSC, CSC is performing the function under the
20 relevant Act and not this Act.
- 21 (3) When performing a function under:
22 (a) a determination made under Part IIIAA of the *Defence Act*
23 *1903*; or
24 (b) the *Defence Force Retirement and Death Benefits Act 1973*;
25 or
26 (c) the *Defence Forces Retirement Benefits Act 1948*; or
27 (d) the *Military Superannuation and Benefits Act 1991*;
28 CSC must have regard to the unique nature of military service, as
29 recognised by the schemes established by or under those Acts.
- 30 (4) CSC has power to do all things necessary or convenient to be done
31 for or in connection with the performance of its functions.
32

1 **Division 2—Board of CSC**

2 **Subdivision A—Establishment and function**

3 **9 Establishment**

4 There is to be a Board of CSC.

5 **10 Function**

- 6 (1) The function of the Board is to ensure that CSC performs its
7 functions in a proper, efficient and effective manner.
- 8 (2) The Board has the power to do all things necessary or convenient
9 to be done for or in connection with the performance of its
10 function.
- 11 (3) All acts and things done in the name of, or on behalf of, CSC by
12 the Board are taken to have been done by CSC.

13 **11 Membership**

- 14 (1) The Board consists of:
15 (a) a Chair; and
16 (b) 10 other directors.
- 17 Note: See also subsection 38(2).
- 18 (2) Subject to subsection (4), of the 10 other directors:
19 (a) the President of the Australian Council of Trade Unions may
20 nominate, in writing, 3 persons; and
21 (b) the Chief of the Defence Force may nominate, in writing, 2
22 persons.
- 23 Note: The Minister chooses the remaining 5 other directors.
- 24 (3) However, a person is not eligible for nomination if the person's
25 appointment would result in a contravention of a SIS fitness and
26 propriety standard.

- 1 (4) Before nominating a person, the President of the Australian
2 Council of Trade Unions must consult with one or more relevant
3 organisations.
- 4 (5) Before nominating a person, the Chief of the Defence Force must
5 consult with one or more relevant organisations.
- 6 (6) A nomination must specify the period for which the nominee is to
7 be appointed. The period may not be more than 3 years.
- 8 (7) The performance of a function or the exercise of a power of the
9 Board is not affected by a vacancy in the membership of the Board.

10 **Subdivision B—Appointment etc. of directors**

11 **12 Appointment of directors**

- 12 (1) A director is to be appointed by the Minister by written instrument,
13 on a part-time basis.

14 Note: A director is eligible for reappointment: see the *Acts Interpretation*
15 *Act 1901*.

- 16 (2) A person is not eligible for appointment as a director if the
17 person's appointment would result in a contravention of a SIS
18 fitness and propriety standard.
- 19 (3) In the case of a director who has been nominated by the President
20 of the Australian Council of Trade Unions or the Chief of the
21 Defence Force, the Minister must:
- 22 (a) appoint a person who has been nominated; and
23 (b) appoint the person for the period specified in the nomination.
- 24 (4) In the case of any other director, the Minister must consult the
25 Defence Minister before making an appointment.
- 26 (5) The Minister must obtain the Board's agreement to a person whom
27 the Minister proposes to appoint as the Chair (other than for the
28 appointment of a person as the first Chair).

29 Note: For obtaining the Board's agreement, see section 23.

Section 13

- 1 (6) A person's appointment as a director is not invalid because of a
2 defect or irregularity in connection with the person's appointment.

3 **13 Term of appointment**

- 4 (1) A director holds office for the period specified in the instrument of
5 appointment. The period must not exceed 3 years.

- 6 (2) A director must not hold office continuously for more than 9 years.

7 **14 Remuneration and allowances**

- 8 (1) A director is to be paid the remuneration that is determined by the
9 Remuneration Tribunal. If no determination of that remuneration
10 by the Tribunal is in operation, a director is to be paid the
11 remuneration that is prescribed by the regulations.

- 12 (2) A director is to be paid the allowances that are prescribed by the
13 regulations.

- 14 (3) This section has effect subject to the *Remuneration Tribunal Act*
15 *1973*.

16 **15 Leave of absence**

- 17 (1) The Minister may grant leave of absence to the Chair on the terms
18 and conditions that the Minister determines.

- 19 (2) The Chair may grant leave of absence to another director on the
20 terms and conditions that the Chair determines.

21 **16 Resignation**

- 22 (1) A director may resign his or her appointment by giving the
23 Minister a written resignation.

- 24 (2) The resignation takes effect on the day it is received by the
25 Minister or, if a later day is specified in the resignation, on that
26 later day.

- 27 (3) If a director nominated by the President of the Australian Council
28 of Trade Unions or the Chief of the Defence Force resigns, the

1 director must also give a copy of the resignation to the President or
2 Chief, as appropriate.

3 **17 Termination of appointment**

4 *Grounds for termination relating to financial circumstances etc.*

- 5 (1) The appointment of a director terminates if he or she becomes a
6 disqualified person.
- 7 (2) The Minister may terminate the appointment of a director if the
8 director is not a disqualified person, but the director:
- 9 (a) applies to take the benefit of any law for the relief of
10 bankrupt or insolvent debtors; or
- 11 (b) compounds with his or her creditors; or
- 12 (c) makes an assignment of his or her remuneration for the
13 benefit of his or her creditors.
- 14 (3) The Minister may terminate the appointment of a director if:
- 15 (a) the director's continuation in office would contravene a SIS
16 fitness and propriety standard; or
- 17 (b) the director fails, without reasonable excuse, to comply with
18 an obligation imposed on him or her by section 27F or 27J of
19 the *Commonwealth Authorities and Companies Act 1997*.

20 *Other grounds for termination*

- 21 (4) Subject to subsections (7), (8) and (9), the Minister may terminate
22 the appointment of a director:
- 23 (a) for misbehaviour or physical or mental incapacity; or
- 24 (b) if the director is absent, except on leave of absence, from 3
25 consecutive meetings of the Board; or
- 26 (c) if the director fails, without reasonable excuse, to comply
27 with section 22.
- 28 (5) Subject to subsections (7), (8) and (9), if the Minister is of the
29 opinion that the directors have failed to comply with paragraph
30 16(1)(a) or (b) of the *Commonwealth Authorities and Companies*
31 *Act 1997*, the Minister may terminate the appointment of all
32 directors or particular directors.
-

Section 18

1 *Consultation with the Defence Minister*

- 2 (6) If the circumstances mentioned in subsection (2), (3), (4) or (5)
3 exist in relation to a director (other than one covered by
4 subsections (7) to (9)), the Minister must consult the Defence
5 Minister before terminating the appointment of the director.

6 *Consent to termination*

- 7 (7) The Minister must not terminate the appointment of a director
8 nominated by the President of the Australian Council of Trade
9 Unions on a ground mentioned in subsection (4) or (5) unless the
10 President consents to the termination.
- 11 (8) The Minister must not terminate the appointment of a director
12 nominated by the Chief of the Defence Force on a ground
13 mentioned in subsection (4) or (5) unless the Chief consents to the
14 termination.
- 15 (9) However, if the President of the Australian Council of Trade
16 Unions or the Chief of the Defence Force consents to the
17 termination of a director, the Minister must terminate the director's
18 appointment.

19 **18 Acting appointments**

- 20 (1) The Minister may, by written instrument, appoint a person to act as
21 a director:
22 (a) during a vacancy in the office of the director (whether or not
23 an appointment has previously been made to the office); or
24 (b) during any period, or during all periods, when the director:
25 (i) is absent from duty or from Australia; or
26 (ii) is, for any reason, unable to perform the duties of the
27 office.
- 28 (2) A person is not eligible for appointment to act as a director if the
29 person's appointment would result in a contravention of a SIS
30 fitness and propriety standard.

- 1 (3) In the case of an appointment under subsection (1), the Minister
2 must consult the Defence Minister before appointing a person to
3 act as a director.
- 4 (4) The Minister must consult the Board about the person whom the
5 Minister proposes to appoint to act as the Chair.
- 6 (5) If:
7 (a) a director is appointed following a nomination made by the
8 President of the Australian Council of Trade Unions; and
9 (b) a nomination is made by the President for a person to act in
10 place of that director;
11 the Minister must:
12 (c) appoint the person who has been nominated to act as a
13 director; and
14 (d) appoint the person for the period specified in the nomination.
- 15 (6) If:
16 (a) a director is appointed following a nomination made by the
17 Chief of the Defence Force; and
18 (b) a nomination is made by the Chief for a person to act in place
19 of that director;
20 the Minister must:
21 (c) appoint the person who has been nominated to act as a
22 director; and
23 (d) appoint the person for the period specified in the nomination.
- 24 (7) Anything done by or in relation to a person purporting to act under
25 an appointment is not invalid merely because:
26 (a) the occasion for the appointment had not arisen; or
27 (b) there was a defect or irregularity in connection with the
28 appointment; or
29 (c) the appointment had ceased to have effect; or
30 (d) the occasion to act had not arisen or had ceased.
- 31 Note: See the *Acts Interpretation Act 1901*.

Section 19

1 **Subdivision C—Meetings of the Board**

2 **19 Holding of meetings**

3 (1) The Board is to hold such meetings as are necessary for the
4 performance of its function.

5 (2) The Chair:

6 (a) may convene a meeting at any time; and

7 (b) must convene a meeting within 30 days after receiving a
8 written request from another director.

9 Note: Section 33B of the *Acts Interpretation Act 1901* provides for
10 participation in meetings by telephone etc.

11 **20 Presiding at meetings**

12 (1) The Chair presides at all meetings of the Board at which he or she
13 is present.

14 (2) If the Chair is not present at a meeting:

15 (a) a director nominated by the Chair presides; or

16 (b) if a director is not nominated—the directors present must
17 elect one of themselves to preside.

18 **21 Quorum**

19 (1) At a meeting of the Board, 9 directors constitute a quorum.

20 (2) Despite subsection (1), if:

21 (a) either:

22 (i) section 22 of this Act; or

23 (ii) section 27J of the *Commonwealth Authorities and*
24 *Companies Act 1997*;

25 prevents a director from being present during the
26 deliberations, or taking part in any decision, of the Board
27 with respect to a particular matter; and

28 (b) as a result, there is no longer a quorum present; and

29 (c) there are present at least 8 other directors who would be
30 counted in determining whether a quorum is present;

- 1 the remaining directors constitute a quorum for the purpose of any
2 deliberation or decision at the meeting with respect to that matter.
- 3 (3) For the purposes of subsections (1) and (2), if a matter being
4 considered, or about to be considered, at a meeting of the Board
5 concerns only the military schemes, the quorum must include a
6 director nominated by the Chief of the Defence Force.
- 7 (4) If an issue arises about whether a matter being considered, or about
8 to be considered, at a meeting of the Board concerns only the
9 military schemes, the Chair must determine the issue.
- 10 (5) A determination made under subsection (4) is not a legislative
11 instrument.

12 **22 Disclosure of interests to the Board**

- 13 (1) This section only applies to the extent that the Board does a thing
14 relating to CSC's management and investment of money that forms
15 part of a superannuation fund administered by CSC.
- 16 (2) A director who has any interest, pecuniary or otherwise, in a matter
17 being considered or about to be considered by the Board must
18 disclose the nature of the interest to a meeting of the Board.
- 19 (3) The disclosure must be made as soon as possible after the relevant
20 facts have come to the director's knowledge.
- 21 (4) The disclosure must be recorded in the minutes of the meeting.
- 22 (5) Unless the Minister or the Board otherwise determines, the
23 director:
24 (a) must not be present during any deliberation by the Board on
25 the matter; and
26 (b) must not take part in any decision of the Board with respect
27 to the matter.
- 28 (6) For the purposes of making a determination of the Board under
29 subsection (5), the director:
30 (a) must not be present during any deliberation of the Board for
31 the purpose of making the determination; and

Section 23

1 (b) must not take part in making the determination.

2 (7) A determination under subsection (5) must be recorded in the
3 minutes of the meeting.

4 **23 Voting at meetings**

5 At a meeting of the Board:

6 (a) if subsection 21(2) applies—a question is decided by the
7 agreement of 8 directors; and

8 (b) in any other case—a question is decided by the agreement of
9 9 directors.

10 **24 Decisions without meetings**

11 (1) The Board is taken to have made a decision at a meeting if:

12 (a) without meeting, 9 directors indicate agreement with the
13 proposed decision in accordance with the method determined
14 by the Board under subsection (2); and

15 (b) either:

16 (i) if the proposed decision concerns only the military
17 schemes—all directors were informed of the proposed
18 decision; or

19 (ii) in any other case—all directors were informed of the
20 proposed decision, or reasonable efforts were made to
21 inform all directors of the proposed decision.

22 (2) Subsection (1) applies only if the Board has determined, in writing:

23 (a) that it may make decisions without meeting; and

24 (b) the method by which directors are to indicate agreement with
25 proposed decisions.

26 (3) Paragraph (1)(a) does not apply to:

27 (a) a director who is prevented by subsection 22(5) from
28 deliberating on the proposed decision; or

29 (b) to the extent that the *Commonwealth Authorities and*
30 *Companies Act 1997* applies—a director who is prevented by
31 section 27J of that Act from deliberating on the proposed
32 decision.

1 **25 Minutes of meetings**

2 The Board must keep minutes of its meetings.

3

1 **Division 3—Staff of CSC**

2 **26 Staff of CSC**

3 (1) CSC may employ such persons as it considers necessary for the
4 performance of its functions.

5 (2) An employee is to be employed on the terms and conditions that
6 the Board determines in writing.

7 **27 Consultants**

8 CSC may engage consultants to assist in the performance of its
9 functions.
10

1 **Part 3—Finance and reporting requirements**

2 **Division 1—Provisions relating to finance**

3 **28 Banking**

4 CSC must pay all money received by it in respect of each
5 superannuation fund administered by CSC into an account
6 maintained by it with a bank.

7 **29 Accounting records**

8 (1) CSC must keep proper accounts and records of the transactions and
9 affairs of each superannuation fund administered by CSC, in
10 accordance with the accounting principles generally applied in
11 commercial practice.

12 (2) CSC must take reasonable steps to ensure that:

13 (a) all payments out of each superannuation fund administered
14 by CSC are correctly made and properly authorised; and

15 (b) adequate control is maintained over:

16 (i) the assets of each superannuation fund administered by
17 CSC; and

18 (ii) the incurring of liabilities by CSC in respect of each
19 superannuation fund administered by CSC.

20 (3) A director commits an offence if:

21 (a) the director causes a requirement of this section to be
22 breached; or

23 (b) the director fails to take reasonable steps to comply with the
24 requirement, or secure compliance with the requirement.

25 Penalty: Imprisonment for 6 months or 30 penalty units, or both.
26

1 **Division 2—Reporting requirements**

2 **30 Annual report and financial statements**

- 3 (1) CSC must, by a date prescribed by the regulations, or, if no date is
4 prescribed, as soon as practicable after the end of:
- 5 (a) the financial year starting on 1 July 2011; and
 - 6 (b) each later financial year;
- 7 prepare and give to the Minister:
- 8 (c) a report dealing with:
 - 9 (i) the performance of its functions in relation to each
10 superannuation scheme and superannuation fund
11 administered by CSC (other than the 1922 scheme,
12 DFRB, DFRDB, DFSPB and PNG) during the year; and
 - 13 (ii) the general administration of the Acts and provisions
14 mentioned in subsection (2) during the year; and
 - 15 (iii) the performance of its functions in relation to the
16 DFSPB during the year; and
 - 17 (d) financial statements in respect of the management of each
18 superannuation fund administered by CSC in a form agreed
19 between the Minister and the Board.
- 20 (2) For the purpose of subparagraph (1)(c)(ii), the Acts and provisions
21 are:
- 22 (a) the *Defence Force Retirement and Death Benefits Act 1973*;
23 and
 - 24 (b) the *Defence Forces Retirement Benefits Act 1948* (other than
25 Part III of that Act); and
 - 26 (c) provisions of the *Papua New Guinea (Staffing Assistance)*
27 *Act 1973* that deal with superannuation; and
 - 28 (d) the *Superannuation Act 1922*.
- 29 (3) Before giving the financial statements to the Minister, CSC must
30 submit them to the Auditor-General, who must audit and report to
31 the Minister:
- 32 (a) whether the statements are based on proper accounts and
33 records; and

- 1 (b) whether the statements are in agreement with the accounts
2 and records and show fairly the financial transactions and the
3 state of each superannuation fund administered by CSC; and
4 (c) whether the receipt of money into, the payment of money out
5 of, and the investment of money standing to the credit of,
6 each superannuation fund administered by CSC during the
7 year have been in accordance with:
8 (i) this Act and the relevant Acts administered by CSC; and
9 (ii) the relevant governing deeds; and
10 (d) as to such other matters arising out of the statements as the
11 Auditor-General considers should be reported.
- 12 (4) The Minister must cause a copy of:
13 (a) the report prepared by CSC; and
14 (b) the financial statements prepared by CSC; and
15 (c) the report of the Auditor-General in respect of the financial
16 statements;
17 to be tabled in each House of the Parliament within 15 sitting days
18 of that House after the receipt of whichever of those documents
19 was last received by the Minister.
- 20 (5) If the Board has not complied with subsection (1) within a period
21 of 6 months after the end of a financial year, CSC must, within 14
22 days after the end of that period, give to the Minister:
23 (a) an interim report on the performance of its functions in
24 relation to each superannuation scheme and superannuation
25 fund administered by CSC during that year; and
26 (b) interim financial statements in respect of the management of
27 each superannuation fund administered by CSC during that
28 year.
- 29 Note: See also subsection 38(4).
- 30 (6) The financial statements given to the Minister under subsection (5)
31 must be in the form agreed between the Minister and the Board for
32 the purposes of subsection (1), but need not be accompanied by a
33 report of the Auditor-General.
- 34 (7) If CSC gives a report and financial statements to the Minister
35 under subsection (5), the Minister must:
-

Part 3 Finance and reporting requirements

Division 2 Reporting requirements

Section 30

- 1 (a) cause a copy of the report and a copy of the financial
2 statements to be tabled in each House of the Parliament
3 within 15 sitting days of that House after their receipt by the
4 Minister; and
5 (b) make the report and financial statements available to the
6 public.
- 7 (8) A report given under paragraph (5)(a) is not a legislative
8 instrument.
9

1 **Part 4—Miscellaneous**

2 **Division 1—Application of other laws**

3 **31 Trustee Act of ACT to apply**

4 Except in so far as it is inconsistent with a law of the
5 Commonwealth, the *Trustee Act 1925* of the Australian Capital
6 Territory applies to, and in relation to, the directors acting in the
7 performance of their functions, or the exercise of their powers,
8 under a governing deed.

9 **32 Exemption from taxation—CSC**

10 (1) CSC is not subject to:

11 (a) taxation under a law of the Commonwealth other than:

12 (i) the *A New Tax System (Goods and Services Tax) Act*
13 *1999*; or

14 (ii) the *Fringe Benefits Tax Assessment Act 1986*; or

15 (iii) the *Income Tax Assessment Act 1936*; or

16 (iv) the *Income Tax Assessment Act 1997*; or

17 (b) taxation under a law of a State or Territory.

18 (2) The regulations may provide that subsection (1) does not apply in
19 relation to taxation under a specified law.

20 **33 Exemption from taxation—superannuation schemes and**
21 **superannuation funds administered by CSC**

22 (1) Subject to this section:

23 (a) CSC, when performing functions, or exercising powers, in
24 relation to a superannuation scheme and superannuation fund
25 administered by CSC; and

26 (b) a superannuation fund administered by CSC;

27 are not subject to:

28 (c) taxation under a law of the Commonwealth other than:

29 (i) the *A New Tax System (Goods and Services Tax) Act*
30 *1999*; or

Part 4 Miscellaneous

Division 1 Application of other laws

Section 33

- 1 (ii) the *Income Tax Assessment Act 1936*; or
2 (iii) the *Income Tax Assessment Act 1997*; or
3 (iv) the *Superannuation Contributions Tax (Assessment and*
4 *Collection) Act 1997*; or
5 (d) taxation under a law of a State or Territory, if the
6 Commonwealth is not subject to the taxation.
- 7 (2) The regulations may provide that subsection (1) does not apply in
8 relation to taxation under a specified law.
- 9 (3) The regulations may specify different laws for different
10 superannuation funds administered by CSC.
- 11 (4) In relation to the PSSAP and the PSSAP Fund:
12 (a) this section has effect subject to such modifications (if any)
13 as are prescribed by the regulations; and
14 (b) the regulations may provide that this section ceases to have
15 effect at a specified time.
16

1 **Division 2—Provisions relating to the Board**

2 **34 Source of funds for paying remuneration and allowances**

- 3 (1) The Chair is to be paid remuneration and allowances as follows:
- 4 (a) when performing functions relating to a particular Fund—out
- 5 of that Fund;
- 6 (b) when performing functions relating to the 1922 scheme,
- 7 DFRB, DFRDB, DFSPB or PNG—out of the Consolidated
- 8 Revenue Fund, which is appropriated accordingly.
- 9 (2) A director (other than the Chair) is to be paid remuneration and
- 10 allowances as follows:
- 11 (a) when performing functions relating to a particular Fund—
- 12 from one of the following (according to the relevant Act
- 13 administered by CSC):
- 14 (i) that Fund;
- 15 (ii) the Consolidated Revenue Fund;
- 16 (iii) partly out of that Fund and partly out of the
- 17 Consolidated Revenue Fund;
- 18 (b) when performing functions relating to the 1922 scheme,
- 19 DFRB, DFRDB, DFSPB or PNG—out of the Consolidated
- 20 Revenue Fund, which is appropriated accordingly.
- 21 (3) In relation to the PSSAP and the PSSAP Fund:
- 22 (a) this section has effect subject to such modifications (if any)
- 23 as are prescribed by the regulations; and
- 24 (b) the regulations may provide that this section ceases to have
- 25 effect at a specified time.

26 **35 Indemnification of directors etc.**

- 27 (1) Anything done, or omitted to be done, in good faith by a director or
- 28 a delegate of the Board, in the performance of his or her functions
- 29 under this Act, an Act administered by CSC or a governing deed,
- 30 does not subject him or her personally to any action, liability, claim
- 31 or demand.

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Division 2 Provisions relating to the Board

Section 35

- 1 (2) Subsection (1) does not preclude CSC from being subject to any
2 action, liability, claim or demand.
- 3 (3) Except in cases where the *Superannuation Industry (Supervision)*
4 *Act 1993* or regulations under that Act do not so permit, any money
5 becoming payable by CSC in respect of an action, liability, claim
6 or demand that relates to an Act administered by CSC, regulations
7 made under such an Act, or a governing deed, is to be paid out of:
8 (a) in the case of the 1922 scheme, DFRB, DFRDB, DFSPB or
9 PNG—the Consolidated Revenue Fund, which is
10 appropriated accordingly; and
11 (b) in any other case—the superannuation fund administered by
12 CSC to which the action, liability, claim or demand relates.
- 13 (4) If an amount is paid out of a superannuation fund administered by
14 CSC under paragraph (3)(b), an equivalent amount is to be paid to
15 the relevant superannuation fund administered by CSC out of the
16 Consolidated Revenue Fund, which is appropriated accordingly.
- 17 (5) In relation to the *Superannuation Act 2005* and the Trust Deed
18 (within the meaning of that Act):
19 (a) this section has effect subject to such modifications (if any)
20 as are prescribed by the regulations; and
21 (b) the regulations may provide that this section ceases to have
22 effect at a specified time.
23

Division 3—Miscellaneous

36 Delegation by CSC

Delegations by CSC

- (1) CSC may, by writing, delegate to:
- (a) a director; or
 - (b) a member of the staff of CSC; or
 - (c) the CEO of ComSuper; or
 - (d) a member of the staff of ComSuper; or
 - (e) an APS employee in the Department or in the Department responsible for the administration of the *Defence Act 1903*; or
 - (f) a member of the Australian Defence Force; or
 - (g) an officer or employee of a person who is responsible for investing money forming part of a superannuation fund administered by CSC; or
 - (h) any other person who performs duties in connection with the operation of a governing deed, an Act administered by CSC or regulations made under such an Act; or
 - (i) a committee consisting of 2 or more persons each of whom is a person referred to in any of the above paragraphs;
- all or any of its powers under an Act administered by CSC or regulations made under such an Act.
- (2) Despite subsection (1), CSC may only delegate its power to reconsider its own decisions or decisions made by its delegates under an Act mentioned in column 1 of the following table to a Committee mentioned in column 2 of the table in relation to the item:

Delegation of power to reconsider decisions

Item	If the decision was made by CSC or its delegate under ...	then, CSC may delegate its power to reconsider the decision to ...
1	the <i>Defence Force Retirement and Death Benefits Act 1973</i> , the	the Defence Force Case Assessment Panel established

Section 36

Delegation of power to reconsider decisions

Item	If the decision was made by CSC or its delegate under ...	then, CSC may delegate its power to reconsider the decision to ...
	<i>Defence Forces Retirement Benefits Act 1948</i> or regulations made under either of those Acts	under section 100 of the <i>Defence Force Retirement and Death Benefits Act 1973</i> .
2	the <i>Papua New Guinea (Staffing Assistance) Act 1973</i> or regulations made under that Act	a Reconsideration Advisory Committee established under section 55 of that Act.
3	the <i>Superannuation Act 1922</i> or regulations made under that Act	a Reconsideration Advisory Committee established under section 127 of that Act.
4	the <i>Superannuation Act 1976</i> or regulations made under that Act	a Reconsideration Advisory Committee established under section 153AB of that Act.

Sub-delegations

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- (3) If CSC delegates a power under subsection (1) to a director, the director may, by writing, sub-delegate the power to:
- (a) another director; or
 - (b) a person referred to in paragraph (1)(b), (c), (d), (e), (f), (g) or (h).
- (4) If CSC delegates a power under subsection (1) to the CEO of ComSuper, the CEO may, by writing, sub-delegate the power to a person referred to in paragraph (1)(d), (e), (f), (g) or (h).
- (5) If CSC delegates a power under subsection (1) to a person referred to in paragraph (1)(b), (d), (e), (f), (g) or (h), the delegate may, by writing, sub-delegate the power to:
- (a) another person referred to in the same paragraph; or
 - (b) a person referred to in another of those paragraphs.
- (6) Section 34AA and paragraphs 34AB(a), (b) and (d) of the *Acts Interpretation Act 1901* apply in relation to a sub-delegation in a corresponding way to the way in which they apply to a delegation.

- 1 (7) Section 34A and paragraphs 34AB(c) and (d) of the *Acts*
2 *Interpretation Act 1901* apply to a sub-delegation as if it were a
3 delegation.

4 **37 Review of operation of Act**

- 5 (1) The Minister must cause a review to be undertaken of the first 5
6 years of the operation of this Act.
- 7 (2) Before the review is undertaken, the Minister must consult the
8 Defence Minister about the terms of the review.
- 9 (3) The persons undertaking the review must give the Minister a
10 written report of the review within 6 months after the end of the 5
11 year period.
- 12 (4) The Minister must cause a copy of the report of the review to be
13 laid before each House of the Parliament within 15 sitting days of
14 that House after its receipt by the Minister.

15 **38 Regulations**

- 16 (1) The Governor-General may make regulations prescribing matters:
17 (a) required or permitted by this Act to be prescribed; or
18 (b) necessary or convenient to be prescribed for carrying out or
19 giving effect to this Act.
- 20 (2) Without limiting subsection (1), the regulations may prescribe a
21 different number of other directors for the purpose of paragraph
22 11(1)(b).
- 23 (3) If regulations allowed by subsection (2) are made, regulations must
24 also be made that prescribe different numbers, consistent with the
25 proportions set out in this Act, for the purposes of:
26 (a) how many persons may be nominated by the President of the
27 Australian Council of Trade Unions and the Chief of the
28 Defence Force; and
29 (b) quorum and voting requirements.
- 30 (4) Without limiting subsection (1), the regulations may prescribe
31 different time periods for the purpose of subsection 30(5).

Part 4 Miscellaneous
Division 3 Miscellaneous

Section 38

1 However, the regulations may not extend the 6 month period
2 referred to in that subsection.