



# **Superannuation (Consequential Amendments) Act 2005**

**No. 81, 2005**

**An Act to deal with consequential matters arising  
from the enactment of the *Superannuation Act  
2005*, and for other purposes**

Note: An electronic version of this Act is available in SCALEplus  
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**An Act to deal with consequential matters arising  
from the enactment of the *Superannuation Act  
2005*, and for other purposes**

[Assented to 29 June 2005]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Superannuation (Consequential  
Amendments) Act 2005*.

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## 2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	29 June 2005
2. Schedule 1, Part 1	At the same time as Part 2 of the <i>Superannuation Act 2005</i> commences. However, if Part 2 of the <i>Superannuation Act 2005</i> does not commence, the provision(s) do not commence at all.	
3. Schedule 1, Part 2	The later of: (a) the start of 1 July 2005; and (b) the commencement of Part 2 of the <i>Superannuation Act 2005</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
4. Schedule 1, Part 3	The day on which this Act receives the Royal Assent.	29 June 2005
5. Schedule 2	The later of: (a) immediately after the commencement of Part 3A of the <i>Superannuation Guarantee (Administration) Act 1992</i> ; and (b) the commencement of Part 2 of the <i>Superannuation Act 2005</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
6. Schedules 3 to 7	The later of: (a) the start of 1 July 2005; and (b) the commencement of Part 2 of the <i>Superannuation Act 2005</i> .  However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
7. Schedule 8	At the same time as Part 2 of the <i>Superannuation Act 2005</i> commences.  However, if Part 2 of the <i>Superannuation Act 2005</i> does not commence, the provision(s) do not commence at all.	

Note: This table relates only to the provisions of this Act as originally passed by the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

- (2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

### **3 Schedule(s)**

- (1) Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
- (2) The Trust Deed (within the meaning of the *Superannuation Act 1990*) is amended as set out in the applicable items in Schedule 8 to this Act, and any other item in Schedule 8 to this Act has effect according to its terms.
- (3) The amendment of the Trust Deed under subsection (2) does not prevent the Trust Deed, as so amended, from being amended under section 5 of the *Superannuation Act 1990*.

## Schedule 1—Amendment of the Superannuation Act 1990

### Part 1—Amendments relating to the PSS Board etc.

#### 1 Subsection 22(1)

After “Board”, insert “in relation to the Public Sector Superannuation Scheme and the PSS Fund”.

#### 2 At the end of section 22

Add:

Note: See also section 20 of the *Superannuation Act 2005* (functions and powers in relation to PSSAP and the PSSAP Fund).

#### 3 Subsection 26(1)

Repeal the subsection, substitute:

(1) Subject to this section, neither:

- (a) the Board (in so far as it performs functions, or exercises powers, in relation to the Public Sector Superannuation Scheme or the PSS Fund); nor
- (b) the PSS Fund;

are subject to:

- (c) taxation under a law of the Commonwealth other than:
  - (i) the *Income Tax Assessment Act 1936*; or
  - (ii) the *Income Tax Assessment Act 1997*; or
  - (iii) the *Superannuation Contributions Tax (Assessment and Collection) Act 1997*; or
- (d) taxation under a law of a State or Territory, if the Commonwealth is not subject to the taxation.

#### 4 Transitional—section 26 of the *Superannuation Act 1990*

The amendment of section 26 of the *Superannuation Act 1990* made by this Part does not affect the continuity of any regulations made for the purposes of subsection 26(3) of that Act before the commencement of this item.

#### 5 Paragraph 28(1)(a)

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After “functions”, insert “in relation to the Public Sector Superannuation Scheme and the PSS Fund”.

**6 Subsection 28(4)**

After “functions”, insert “in relation to the Public Sector Superannuation Scheme and the PSS Fund”.

**7 At the end of subsection 29(1)**

Add “in relation to the Public Sector Superannuation Scheme”.

**8 Subsection 43(3)**

After “demand”, insert “in relation to this Act, the regulations or the Trust Deed”.

## Part 2—Amendments relating to membership of the Public Sector Superannuation Scheme

### 9 Section 3

Insert:

*PSS invalidity pensioner* means a person who is an invalidity pensioner as defined by the Rules.

### 10 Subsection 6(1)

Omit “subsection (2)”, substitute “subsections (2) and (4)”.

### 11 Subsection 6(1)

Omit “by force of this section”, substitute “by force of this subsection”.

### 12 Subparagraph 6(1)(e)(i)

Omit “an invalidity pensioner within the meaning of the Rules”, substitute “a PSS invalidity pensioner”.

### 13 Subparagraph 6(1)(e)(ia)

Omit “an invalidity pensioner”, substitute “a PSS invalidity pensioner”.

### 14 Subsection 6(2)

After “not a member of the Public Sector Superannuation Scheme”, insert “by force of that subsection”.

### 15 At the end of section 6

Add:

*Closure of Public Sector Superannuation Scheme*

- (4) Despite subsection (1), a person does not become a member of the Public Sector Superannuation Scheme by force of that subsection at a particular time (the *relevant time*) on or after 1 July 2005 unless:
- (a) at the relevant time, the person is already a member of the Public Sector Superannuation Scheme; or

- (b) at the relevant time, the person is a former member of the Public Sector Superannuation Scheme in respect of whom a preserved benefit under that scheme has not yet been paid; or
- (c) at the relevant time, the person is a PSS invalidity pensioner; or
- (d) the following conditions are satisfied:
  - (i) at the end of 30 June 2005, the person was the holder of a statutory office (other than the holder of such an office to whom paragraph (1)(e) or (f) applies);
  - (ii) the person has made an election under section 7 in relation to that office;
  - (iii) the election was made during a term of appointment that included 30 June 2005;
  - (iv) at the relevant time, the person is the holder of that office; or
- (e) the following conditions are satisfied:
  - (i) at the end of 30 June 2005, the person was a temporary employee in relation to particular employment (other than a temporary employee to whom paragraph (1)(e) or (f) applies);
  - (ii) the person has made an election under section 8 in relation to that employment;
  - (iii) the election has taken effect at or before the relevant time;
  - (iv) if the person's employment is for a fixed term—the election was made during a term of employment that included 30 June 2005, and the relevant time occurs in that term;
  - (v) if the person's employment is not for a fixed term—the election was made during a period of employment that included 30 June 2005, and the relevant time occurs in that period of employment; or
- (f) the following conditions are satisfied:
  - (i) on a particular date before 1 July 2005, the person was a temporary employee (other than a temporary employee to whom paragraph (1)(e) or (f) applies);
  - (ii) on that date, the person made an election under section 8 in relation to that employment;

**Schedule 1** Amendment of the Superannuation Act 1990

**Part 2** Amendments relating to membership of the Public Sector Superannuation Scheme

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- (iii) the election has taken effect at or before the relevant time;
- (iv) if the person's employment is for a fixed term—the relevant time occurs in that term;
- (v) if the person's employment is not for a fixed term—the relevant time occurs in that period of employment; or
- (g) on or after 1 July 2005, the person makes a declaration and election under section 244 of the *Superannuation Act 1976*.

Note: Paragraph (a) would cover, for example, a person who is already a member of the Public Sector Superannuation Scheme in respect of a different instance of employment or another office.

*Special category of Public Sector Superannuation Scheme membership*

- (5) Subject to subsection (6), a person is, by force of this subsection, a member of the Public Sector Superannuation Scheme at a particular time (the *relevant time*) on or after 1 July 2006 if:
- (a) the person is not a member of that scheme by force of subsection (1); and
  - (b) at the relevant time:
    - (i) the person is an APS employee; or
    - (ii) the person is specified in a written determination made by the Minister under this subparagraph; and
  - (c) the person became an APS employee or a person covered by the determination, as the case may be, on or after 1 July 2006; and
  - (d) immediately before the person became an APS employee or a person covered by the determination, as the case may be:
    - (i) the person was a former member of the Public Sector Superannuation Scheme in respect of whom a preserved benefit under that scheme has not yet been paid; or
    - (ii) the person was a PSS invalidity pensioner; or
    - (iii) the person was covered by paragraph (2)(ba); and
  - (e) at the relevant time, there is no chosen fund for the person (within the meaning of Part 3A of the *Superannuation Guarantee (Administration) Act 1992*); and
  - (f) assuming that:
    - (i) the person were to become a member of the Public Sector Superannuation Scheme; and
-

- (ii) the person's employer (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) were to make a contribution to the Public Sector Superannuation Scheme at the relevant time for the benefit of the person;

the employer would rely on subsection 32C(2) or (6) of that Act to satisfy the choice of fund requirements in relation to the contribution.

Note: For specification by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

- (6) Despite subsection (5), a person is not a member of the Public Sector Superannuation Scheme by force of that subsection if the person is:
- (a) an eligible employee for the purposes of the *Superannuation Act 1976*; or
  - (b) a person to whom the *Judges' Pensions Act 1968* applies; or
  - (c) covered by a declaration under paragraph (2)(c); or
  - (d) specified in a written determination made by the Minister under this paragraph.
- (7) A determination under subparagraph (5)(b)(ii) or paragraph (6)(d) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (8) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to an instrument under subparagraph (5)(b)(ii) or paragraph (6)(d) of this section.

**16 At the end of paragraph 19(1)(c)**

Add "or subparagraph 6(5)(b)(ii)".

**17 Subsection 35(4) (at the end of paragraph (b) of the definition of *declared authority*)**

Add "or subparagraph 6(5)(b)(ii)".

**18 At the end of paragraph 36(d)**

Add "or subparagraph 6(5)(b)(ii)".

## **Part 3—Technical amendment**

### **19 Section 25**

Omit “*Trustee Act 1957*”, substitute “*Trustee Act 1925*”.

## **Schedule 2—Amendment of the Superannuation Guarantee (Administration) Act 1992**

### **1 Subsection 6(1)**

Insert:

*PSSAP* means the Public Sector Superannuation Accumulation Plan within the meaning of the *Superannuation Act 2005*.

### **2 After subsection 32C(4)**

Insert:

*Contributions to PSSAP*

- (4A) A contribution to a fund by an employer for the benefit of an employee at a particular time is also made in compliance with the choice of fund requirements if the contribution is made to PSSAP. This subsection ceases to have effect on 1 July 2006.

## Schedule 3—Amendment of the Superannuation (Productivity Benefit) Act 1988

### 1 Subsection 3(1)

Insert:

*PSSAP* means the Public Sector Superannuation Accumulation Plan within the meaning of the *Superannuation Act 2005*.

### 2 Subsection 3(1) (at the end of the definition of *qualified employee*)

Add:

Note 1: See also section 3AA (closure of productivity benefit scheme from 1 July 2006).

Note 2: See also section 3AB (modification of productivity benefit scheme from 1 July 2005).

### 3 After section 3

Insert:

#### 3AA Closure of productivity benefit scheme from 1 July 2006

- (1) This section applies to a person if, assuming that this section had not been enacted, the person would have become a qualified employee on or after 1 July 2006.
- (2) The person is not a qualified employee on a day that occurs on or after 1 July 2006.
- (3) Subsection (2) has effect despite anything in any other provision of this Act.

#### 3AB Modification of productivity benefit scheme from 1 July 2005

- (1) This section applies if:
  - (a) at a particular time (the *PSSAP cessation time*) during the financial year beginning on 1 July 2005, a person ceased to be an ordinary employer-sponsored member of PSSAP; and



- (b) immediately before the PSSAP cessation time:
    - (i) the person was in particular employment or held a particular statutory office (within the meaning of the *Superannuation Act 2005*); and
    - (ii) the person was eligible to be a member of PSSAP because of that employment or holding that office; and
    - (iii) assuming that the person's employer (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) had made a basic employer contribution (within the meaning of the *Superannuation Act 2005*) to PSSAP for the benefit of the person, the employer would have relied on subsection 32C(2), (4A) or (6) of the *Superannuation Guarantee (Administration) Act 1992* to satisfy the choice of fund requirements in relation to the contribution; and
  - (c) at a time after the PSSAP cessation time:
    - (i) the person is in that employment or held that office; and
    - (ii) the person is eligible to be a member of PSSAP because of that employment or holding that office; and
    - (iii) the person is a member of a fund (within the meaning of Part 3A of the *Superannuation Guarantee (Administration) Act 1992*) other than PSSAP; and
    - (iv) the person's employer (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) makes a contribution to that fund for the benefit of the person; and
    - (v) the person's employer (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) would rely on subsection 32C(1), (2) or (6) of that Act to satisfy the choice of fund requirements in relation to that contribution.
- (2) The person is not a qualified employee after the PSSAP cessation time.
- (3) Subsection (2) has effect despite anything in any other provision of this Act.

## Schedule 4—Amendment of the Superannuation Benefits (Supervisory Mechanisms) Act 1990

### 1 Subsection 3(1) (after paragraph (e) of the definition of *relevant body*)

Insert:

- (ea) an approved authority for the purposes of the *Superannuation Act 2005*; or

### 2 Subsection 3(1) (subparagraph (a)(i) of the definition of *relevant subsidiary*)

After “*Superannuation Act 1990*”, insert “or described in paragraph 8(3)(a), (b), (c) or (d) of the *Superannuation Act 2005*”.

### 3 Subsection 3(1) (definition of *superannuation benefits*)

Omit “or the *Superannuation Act 1990*”, substitute “, the *Superannuation Act 1990* or the *Superannuation Act 2005*”.

### 4 After subsection 6(1)

Insert:

- (1A) Despite subsection (1), the prescribed requirements for the provision of superannuation benefits under a superannuation arrangement have no effect to the extent (if any) that compliance with those requirements could result in:
  - (a) an employer (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) becoming liable to pay superannuation guarantee charge; or
  - (b) a Commonwealth Department (within the meaning of section 5 of the *Superannuation Guarantee (Administration) Act 1992*) becoming notionally liable to pay superannuation guarantee charge in accordance with subsection 5(2) of that Act; or
  - (c) an untaxable Commonwealth authority (within the meaning of section 5 of the *Superannuation Guarantee (Administration) Act 1992*) becoming notionally liable to pay

superannuation guarantee charge in accordance with subsection 5(2A) of that Act.

**5 Subsection 6(6)**

After “this section”, insert “(other than subsection (1A))”.

**6 Paragraphs 8(a) and (b)**

After “*Superannuation Act 1990*”, insert “, the *Superannuation Act 2005*”.

## Schedule 5—Amendment of the Governor-General Act 1974

### 1 After section 4A

Insert:

#### 4AA Benefit payable where Governor-General or surviving spouse dies on or after 1 July 2006

##### *Scope*

- (1) This section applies if:
- (a) a person who is, or has previously been, the Governor-General dies on or after 1 July 2006 without leaving a spouse; or
  - (b) a person who is, or has previously been, the Governor-General has died leaving a spouse or spouses and:
    - (i) if there was only one spouse—that spouse dies on or after 1 July 2006; or
    - (ii) if there was more than one spouse—both or all of the spouses have died and the death of the last surviving spouse occurs on or after 1 July 2006;

and, on the last day on which the person held office as Governor-General, the person was not a qualified employee (within the meaning of the *Superannuation (Productivity Benefit) Act 1988*).

##### *Benefit*

- (2) Subject to subsection (3), there is payable to the personal representative of the person an amount of benefit equal to the sum of the following amounts:
- (a) the total of the minimum amounts that the Commonwealth would have had to contribute to a complying superannuation fund or scheme for the benefit of the person in order to avoid having any individual superannuation guarantee shortfalls in respect of the person if it were assumed that:
    - (i) the person was an employee of the Commonwealth (within the meaning of the *Superannuation Guarantee*

(Administration) Act 1992) in his or her capacity as the Governor-General and had never been an employee of the Commonwealth (within the meaning of that Act) in any other capacity; and

- (ii) section 4 of this Act had not been enacted; and
  - (iii) those contributions were made on a monthly basis;
- (b) the interest that would have accrued on the contributions covered by paragraph (a) if it were assumed that interest on those contributions had accrued in accordance with the method set out in a determination made by the Minister under subsection (6).

*Personal representatives*

- (3) The amount of benefit payable to the personal representative of the person under subsection (2) is to be reduced by the sum of the amounts of the allowances (if any) that were paid to the person or any spouse of the person under section 4.
- (4) If an amount of benefit is payable under subsection (2) to the personal representative of the person and no personal representative can be found, the amount is to be paid to any individual or individuals that the Minister determines.

*Appropriation*

- (5) A benefit under subsection (2) is payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

*Interest method determination*

- (6) The Minister must, by writing, determine a method for the purposes of paragraph (2)(b).
- (7) A method determined under subsection (6) may provide for different interest rates for different periods.
- (8) A method determined under subsection (6) may be expressed to relate to a period that began before the determination was made.
- (9) A determination under subsection (6) may be varied, but not revoked, in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.

- (10) Subsection (9) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* to other instruments under this Act.
- (11) A determination under subsection (6) is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (12) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to a determination under subsection (6) of this section.

*Definitions*

- (13) In this section:

***complying superannuation fund or scheme*** has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

***individual superannuation guarantee shortfall*** has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

## **Schedule 6—Amendment of the Judges' Pensions Act 1968**

### **1 After section 12**

Insert:

#### **12A Benefit payable where Judge ceases to hold office or dies on or after 1 July 2006**

##### *Scope*

- (1) This section applies if:
- (a) a person who is a Judge ceases otherwise than by death to be a Judge on or after 1 July 2006 and no pension is payable to the person or to a spouse or an eligible child of the person; or
  - (b) a person who is, or has previously been, a Judge dies on or after 1 July 2006 without leaving a spouse or eligible child; or
  - (c) a person who is, or has previously been, a Judge has died leaving a spouse or spouses or an eligible child or eligible children and:
    - (i) the pension or pensions payable to the spouse or spouses or the child or children have ceased to be payable; and
    - (ii) the last such pension that ceased to be payable so ceased on or after 1 July 2006;

and, on the last day on which the person held office as a Judge, the person was not a qualified employee (within the meaning of the *Superannuation (Productivity Benefit) Act 1988*).

##### *Benefit*

- (2) Subject to subsection (3), there is payable to the person or, if the person has died, to the personal representative of the person an amount of benefit equal to the sum of the following amounts:
- (a) the total of the minimum amounts that the Commonwealth would have had to contribute to a complying superannuation fund or scheme for the benefit of the person in order to avoid

having any individual superannuation guarantee shortfalls in respect of the person if it were assumed that:

- (i) the person was an employee of the Commonwealth (within the meaning of the *Superannuation Guarantee (Administration) Act 1992*) in his or her capacity as a Judge and had never been an employee of the Commonwealth (within the meaning of that Act) in any other capacity; and
  - (ii) this Act had not been enacted; and
  - (iii) those contributions were made on a monthly basis;
- (b) the interest that would have accrued on the contributions covered by paragraph (a) if it were assumed that interest on those contributions had accrued in accordance with the method set out in a determination made by the Minister under subsection (6).

*Personal representatives*

- (3) If an amount of benefit is payable to the personal representative of the person under subsection (2), that amount is to be reduced by the sum of the amounts of the pensions (if any) that were paid to the person or any spouse or eligible child of the person under this Act.
- (4) If an amount of benefit is payable under subsection (2) to the personal representative of the person and no personal representative can be found, the amount is to be paid to any individual or individuals that the Minister determines.

*Appropriation*

- (5) A benefit under subsection (2) is payable out of the Consolidated Revenue Fund, which is appropriated accordingly.

*Interest method determination*

- (6) The Minister must, by writing, determine a method for the purposes of paragraph (2)(b).
- (7) A method determined under subsection (6) may provide for different interest rates for different periods.



- (8) A method determined under subsection (6) may be expressed to relate to a period that began before the determination was made.
- (9) A determination under subsection (6) takes effect on the later of the following:
  - (a) the day after the 15th sitting day of the House of Representatives after a copy of the determination is tabled in that House;
  - (b) the day after the 15th sitting day of the Senate after a copy of the determination is tabled in the Senate.
- (10) The Minister must cause a copy of a determination under subsection (6) to be tabled in each House of the Parliament within 15 sitting days of that House after the determination is made.
- (11) If either House of the Parliament, within 15 sitting days of that House after a copy of a determination under subsection (6) has been tabled in that House, passes a resolution disapproving of the determination, the determination does not come into operation.
- (12) A determination under subsection (6) may be varied, but not revoked, in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*.
- (13) Subsection (12) does not limit the application of subsection 33(3) of the *Acts Interpretation Act 1901* to other instruments under this Act.
- (14) A determination under subsection (6) is not a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.
- (15) The Minister must not exercise a power conferred by this section in a manner that is inconsistent with paragraph 72(iii) of the Constitution.

*Definitions*

- (16) In this section:

***complying superannuation fund or scheme*** has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

*individual superannuation guarantee shortfall* has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992*.

## **Schedule 7—Amendment of other Acts**

### ***Income Tax Assessment Act 1936***

#### **1 At the end of subsection 24AJ(1)**

Add:

- ; (l) any payment made under a scheme established by or under the *Superannuation Act 2005*.

### ***Income Tax Assessment Act 1997***

#### **2 At the end of subsection 55-5(1)**

Add:

- ; (l) *Superannuation Act 2005*.

#### **3 CGT roll-over—transfer of PSS Fund assets to pooled superannuation trust**

##### *Object*

- (1) The object of this item is to provide for a CGT roll-over so as to facilitate the exercise by the PSS Board of its powers under:
  - (a) section 22 of the *Superannuation Act 1990* in relation to the PSS Fund; and
  - (b) section 20 of the *Superannuation Act 2005* in relation to the PSSAP Fund;

to set up and/or operate a pooled superannuation trust that is used for investing the assets of the PSS Fund and the assets of the PSSAP Fund.

##### *Roll-over*

- (2) There is a roll-over if:
  - (a) one or more CGT events happen because the PSS Board ceases to hold all of the CGT assets of the PSS Fund; and
  - (b) because of the cessation, CGT assets (the ***identical assets***) that, together, are identical to all the CGT assets of the PSS Fund just before the happening of the CGT events start to be held by the trustee (the ***transferee trustee***) of a pooled

- superannuation trust (whether or not all the identical assets were assets of the PSS Fund just before the CGT events); and
- (c) the cessation is part of a scheme under which CGT assets of the PSS Fund are replaced with units in the pooled superannuation trust.

Note: The transferee trustee may be the PSS Board—see subsection 960-100(3) of the *Income Tax Assessment Act 1997*.

- (3) A capital gain or capital loss the PSS Board makes from each of the CGT events is disregarded.
- (4) For the transferee trustee, the first element of the cost base of each of the identical assets the transferee trustee holds is the cost base of the corresponding asset for the PSS Board at the time of the relevant CGT event.
- (5) For the transferee trustee, the first element of the reduced cost base of each of the identical assets the transferee trustee holds is the reduced cost base of the corresponding asset for the PSS Board at the time of the relevant CGT event.
- (6) For the purposes of the *Income Tax Assessment Act 1997*, a roll-over covered by this item is taken to be a same-asset roll-over.

*Interpretation*

- (7) An expression used in this item and in the *Income Tax Assessment Act 1997* has the same meaning in this item as it has in that Act.

## **Schedule 8—Amendment of the Trust Deed of the Public Sector Superannuation Scheme**

### **1 At the end of clause 1**

Add:

1.5 In this Deed “PSS functions” of the Board means the functions set out in subclause 3.1.

1.6 In this Deed “PSS powers” of the Board means the powers set out in subclause 3.2.

### **2 Subclause 3.1**

Omit “are to administer the Public Sector Superannuation Scheme”, substitute “in relation to the Public Sector Superannuation Scheme and the PSS Fund are to administer the scheme”.

### **3 Subclause 3.2**

Before “functions”, insert “PSS”.

### **4 Subclause 3.2A**

Omit “functions and powers”, insert “PSS functions and PSS powers”.

### **5 Subclause 3.3**

Omit “functions and powers” (first occurring), substitute “PSS functions and PSS powers”.

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*[Minister's second reading speech made in—  
House of Representatives on 12 May 2005  
Senate on 14 June 2005]*

(59/05)

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