





# **Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011**

**No. 58, 2011**

**An Act to deal with consequential and transitional  
matters arising from the enactment of the  
*Governance of Australian Government  
Superannuation Schemes Act 2011* and the  
*ComSuper Act 2011*, and for other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# **Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011**

**No. 58, 2011**

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**An Act to deal with consequential and transitional  
matters arising from the enactment of the  
*Governance of Australian Government  
Superannuation Schemes Act 2011* and the  
*ComSuper Act 2011*, and for other purposes**

[Assented to 28 June 2011]

The Parliament of Australia enacts:

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## 1 Short title

This Act may be cited as the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011*.

## 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.

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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>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 June 2011
2. Schedules 1 and 2	Immediately after the commencement of section 2 of the <i>Governance of Australian Government Superannuation Schemes Act 2011</i> .	1 July 2011

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

## 3 Schedule(s)

- (1) Each Act, and each set of regulations, that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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- (2) The amendment of any regulation under subsection (1) does not prevent the regulation, as so amended, from being amended or repealed by the Governor-General.

## Schedule 1—Consequential amendments

### Part 1—General amendments

#### *Administrative Appeals Tribunal Act 1975*

##### **1 Subsection 3(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

##### **2 Subsections 13(12), (13) and (14)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

##### **3 Subsections 24K(4), (5) and (6)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

#### *Auditor-General Act 1997*

##### **4 Subsection 5(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

##### **5 Subsection 14(1)**

Repeal the subsection, substitute:

- (1) A person or body whose financial statements are audited as mentioned in:
  - (a) section 12 or 13 of this Act; or
  - (b) subsection 30(3) of the *Governance of Australian Government Superannuation Schemes Act 2011*;is liable to pay audit fees for the audit, based on a scale of fees determined by the Auditor-General.

**6 Paragraph 6(4)(b) of Schedule 1**

Omit “the Board (within the meaning of the *Superannuation Act 1976*)”, substitute “CSC”.

**7 Paragraph 6(5)(b) of Schedule 1**

Omit “the Board (within the meaning of the *Superannuation Act 1990*)”, substitute “CSC”.

**8 Paragraph 6(6)(b) of Schedule 1**

Omit “the Board (within the meaning of the *Superannuation Act 2005*)”, substitute “CSC”.

**9 Paragraph 5(4)(b) of Schedule 2**

Omit “the Board (within the meaning of the *Superannuation Act 1976*)”, substitute “CSC”.

**10 Paragraph 5(5)(b) of Schedule 2**

Omit “the Board (within the meaning of the *Superannuation Act 1990*)”, substitute “CSC”.

**11 Paragraph 5(6)(b) of Schedule 2**

Omit “the Board (within the meaning of the *Superannuation Act 2005*)”, substitute “CSC”.

***Australian Crime Commission Act 2002***

**12 Subsection 4(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**13 Subsections 44(4), (5) and (6)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

**14 Subsections 46H(3), (4) and (5)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

### ***Australian Federal Police Act 1979***

#### **15 Subsection 4(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

#### **16 Subsections 32(4), (5) and (6)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

#### **17 Section 41 (definition of *superannuation authority*)**

Repeal the definition, substitute:

*superannuation authority* means:

- (a) in relation to the superannuation scheme established by the *Superannuation Act 1976* or by deed under the *Superannuation Act 1990*—CSC; or
- (b) in any other case—the person (however described) responsible for the administration of the relevant superannuation scheme.

### ***Australian Prudential Regulation Authority Act 1998***

#### **18 Subsection 3(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

#### **19 Subsections 25(3), (4) and (5)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

### ***Australian Radiation Protection and Nuclear Safety Act 1998***

#### **20 Section 13**

Insert:

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*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**21 Paragraph 51(4)(b)**

Omit “the Board (within the meaning of the *Superannuation Act 1976*)”, substitute “CSC”.

**22 Paragraph 51(5)(b)**

Omit “the Board (within the meaning of the *Superannuation Act 1990*)”, substitute “CSC”.

**23 Paragraph 51(6)(b)**

Omit “the Board (within the meaning of the *Superannuation Act 2005*)”, substitute “CSC”.

***Australian Securities and Investments Commission Act 2001***

**24 Subsection 5(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**25 Subsections 111(3), (4) and (5)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

***Building and Construction Industry Improvement Act 2005***

**26 Subsection 4(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**27 Subsections 24(3), (4) and (5)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

***Classification (Publications, Films and Computer Games)  
Act 1995***

**28 Section 5**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**29 Subsections 65(4), (5) and (5A)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

**30 Subsections 83(4), (5) and (6)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

***Coordinator-General for Remote Indigenous Services Act  
2009***

**31 Section 4**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**32 Subsections 26(3), (4) and (5)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

***Crimes (Superannuation Benefits) Act 1989***

**33 Subsection 2(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**34 Subsection 2(1) (definition of *superannuation authority*)**

---

Repeal the definition, substitute:

*superannuation authority* means:

- (a) in relation to the superannuation scheme established by the *Superannuation Act 1976* or by deed under the *Superannuation Act 1990*—CSC; or
- (b) in any other case—the person (however described) responsible for the administration of the relevant superannuation scheme.

## ***Defence Act 1903***

### **35 Section 53**

Omit “the Authority established under section 8 of the *Defence Force Retirement and Death Benefits Act 1973*”, substitute “CSC (within the meaning of the *Governance of Australian Government Superannuation Schemes Act 2011*)”.

## ***Defence Force Retirement and Death Benefits Act 1973***

### **36 Subsection 3(1) (at the end of the definition of *Authority*)**

Add “, as in force before its repeal by item 44 of Schedule 1 to the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011*”.

Note: For other amendments of this Act, see Part 2 of this Schedule.

### **37 Subsection 3(1) (definition of *Board*)**

Repeal the definition.

### **38 Subsection 3(1) (definition of *Commissioner for Superannuation*)**

Repeal the definition, substitute:

*Commissioner for Superannuation* has the same meaning as Commissioner has in the Superannuation Act.

### **39 Subsection 3(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**40 Subsection 3(1)**

Insert:

*decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

**41 Subsection 3(1)**

Insert:

*decision of CSC* means a decision of CSC or a delegate of CSC under:

- (a) this Act; or
- (b) the *Defence Forces Retirement Benefits Act 1948*; or
- (c) any other Act that relates to retirement benefits for members of the Defence Force and modifies or affects the provisions of the *Defence Forces Retirement Benefits Act 1948*.

**42 Subsection 3(1)**

Insert:

*Defence Force Case Assessment Panel* means the Panel established under section 100.

**43 Subsection 3(1)**

Insert:

*Defence Forces Retirement Benefits Board or Board* means the Defence Forces Retirement Benefits Board as in existence before being abolished by section 91 of the *Defence Legislation Amendment Act 1984*.

**44 Part II**

Repeal the Part.

**45 Subparagraph 36(1)(b)(i)**

Omit “the Commissioner for Superannuation”, substitute “CSC”.

**46 Subsection 49C(2)**

Omit “the Chairman”, substitute “CSC”.

**47 Section 61**

Omit “the Commissioner for Superannuation”, substitute “CSC”.

Note: The heading to section 61 is altered by omitting “**Commissioner for Superannuation**” and substituting “CSC”.

**48 Section 61**

Omit “the Commissioner”, substitute “CSC”.

**49 Section 61A**

Omit “the Board” (wherever occurring), substitute “CSC”.

Note: The heading to section 61A is altered by omitting “**Board**” and substituting “CSC”.

**50 Subsection 85(1) (definition of *Board*)**

Repeal the definition.

**51 Part XI (heading)**

Repeal the heading, substitute:

**Part XI—Review of decisions by CSC**

**52 Before section 99**

Insert:

**Division 1—Review of decisions by CSC**

**53 Subsection 99(1)**

Repeal the subsection.

Note: The heading to section 99 is altered by omitting “**Authority**” and substituting “CSC”.

**54 Subsection 99(2)**

Omit “the Authority” (wherever occurring), substitute “CSC”.

**55 Subsection 99(4)**

Repeal the subsection, substitute:

**Schedule 1** Consequential amendments

**Part 1** General amendments

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(4) After receiving a request for reconsideration of a decision, CSC must:

- (a) refer the decision to the Defence Force Case Assessment Panel for the Panel to make recommendations to CSC in relation to the decision; or
- (b) refer the decision to the Defence Force Case Assessment Panel for the Panel to reconsider the decision; or
- (c) reconsider the decision itself.

(4A) If CSC reconsiders a decision, it may:

- (a) confirm the decision; or
- (b) vary the decision; or
- (c) set aside the decision and substitute a new decision.

**56 Subsection 99(5)**

Omit “The Authority”, substitute “CSC”.

**57 Subsection 99(6)**

Repeal the subsection.

**58 At the end of Part XI**

Add:

**Division 2—Defence Force Case Assessment Panel**

**100 Establishment**

CSC must establish the Defence Force Case Assessment Panel.

**101 Members**

(1) The Panel comprises:

- (a) a director of CSC nominated by the Chief of the Defence Force under the *Governance of Australian Government Superannuation Schemes Act 2011*, as determined by CSC; and
- (b) a person nominated, in writing, by the Chief of the Air Force; and
- (c) a person nominated, in writing, by the Chief of the Army; and

- (d) a person nominated, in writing, by the Chief of the Navy; and
  - (e) up to 2 other persons, as determined by CSC.
- (2) The director of CSC determined by CSC under paragraph (1)(a) is to be the Chair of the Panel.

## **102 Functions**

- (1) The functions of the Panel are to review any decision referred to it under this Part and:
- (a) if CSC has delegated its powers to reconsider the decision to the Panel—to confirm, vary, substitute or set aside the decision; or
  - (b) if CSC has delegated to the Panel any of CSC's powers in relation to the decision (other than the power to reconsider the decision)—to exercise those powers; or
  - (c) in any other case—to make recommendations to CSC in relation to the decision.

Note: Paragraph (c)—see section 106.

- (2) When reviewing a decision, the Panel:
- (a) must take into account any evidence relevant to the decision that is submitted to it; and
  - (b) may also take steps to obtain any other evidence that it considers necessary for a proper review of the decision.

## **103 Proceedings**

- (1) Subject to any directions given by CSC, the Panel may regulate its proceedings as the Panel thinks fit.
- (2) If a direction is given in writing, the direction is not a legislative instrument.

## **104 Indemnification**

Any matter or thing done, or omitted to be done, in good faith by a member of the Panel in the performance of functions under this Division does not subject him or her to any action, liability, claim or demand.

## Schedule 1 Consequential amendments

### Part 1 General amendments

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Note: See also section 35 of the *Governance of Australian Government Superannuation Schemes Act 2011*.

#### 105 Remuneration and allowances

- (1) A member of the Panel is to be paid such remuneration as is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid such remuneration as is prescribed.
- (2) A member of the Panel is to be paid such allowances (if any) as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

#### 106 Recommendations by Panel to CSC

- (1) If the Panel makes recommendations to CSC in relation to a decision referred to it, then, after CSC takes into account:
  - (a) the recommendations of the Panel; and
  - (b) any other matter that CSC considers relevant;CSC must make a decision in writing:
  - (c) confirming the decision under review; or
  - (d) varying the decision under review; or
  - (e) setting aside the decision under review and substituting a new decision.
- (2) CSC's written decision must include the reasons for its decision.
- (3) CSC must make a copy of its written decision available to the applicant.

### Division 3—Review of decisions by the Administrative Appeals Tribunal

#### 107 Review by the Administrative Appeals Tribunal

Applications may be made to the Administrative Appeals Tribunal for:

- (a) review of a decision of CSC that has been confirmed or varied by CSC under paragraph 99(4A)(a) or (b); and

- (b) review of a decision of CSC that has been confirmed or varied by the Panel under paragraph 102(1)(a); and
- (c) review of a decision of CSC that has been confirmed or varied by CSC under paragraph 106(1)(c) or (d).

## ***Defence Forces Retirement Benefits Act 1948***

### **59 Subsection 4(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

### **60 Subsection 4(1) (definition of *the Authority*)**

Repeal the definition, substitute:

*the Authority* means the Defence Force Retirement and Death Benefits Authority established by section 8 of the *Defence Force Retirement and Death Benefits Act 1973*, as in force before its repeal by item 44 of Schedule 1 to the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011*.

### **61 Section 12A**

Repeal the section.

### **62 Paragraphs 57(3)(b) and (3A)(b)**

Omit “the Authority”, substitute “CSC”.

### **63 Subsections 58(2), 63(1) and 64AA(1)**

Omit “the Authority” (wherever occurring), substitute “CSC”.

### **64 Subsection 64AA(2)**

Omit “The Authority”, substitute “CSC”.

### **65 Subsection 64AA(2)**

Omit “the Authority”, substitute “CSC”.

### **66 Paragraphs 64AA(3)(b) and (5)(b)**

Omit “the Authority”, substitute “CSC”.

**67 Subsection 64AB(1)**

Omit “the Authority” (wherever occurring), substitute “CSC”.

**68 Paragraph 64AB(2)(b)**

Omit “the Authority”, substitute “CSC”.

**69 Subsection 64AC(1)**

Omit “the Authority” (wherever occurring), substitute “CSC”.

**70 Paragraph 64AC(2)(b)**

Omit “the Authority”, substitute “CSC”.

**71 Section 64A**

Omit “the Authority” (wherever occurring), substitute “CSC”.

**72 Section 80A (definition of *Chairman*)**

Repeal the definition.

**73 Paragraph 80B(1)(a)**

Omit “the Chairman”, substitute “CSC”.

**74 Subsection 80C(2)**

Omit “the Chairman”, substitute “CSC”.

**75 Subsection 85A(1)**

Omit “the Authority”, substitute “CSC”.

**76 Subsections 85A(2) and (4)**

Omit “the Authority” (wherever occurring), substitute “CSC”.

**77 Subsection 85A(6)**

Omit “the Authority”, substitute “CSC”.

**78 Paragraphs 85A(8)(a) and (b)**

Omit “the Authority”, substitute “CSC”.

**79 Section 86**

Omit “The Authority”, substitute “CSC”.

**80 Section 86A**

Omit “the Authority” (wherever occurring), substitute “CSC”.

***Director of Public Prosecutions Act 1983***

**81 Subsection 3(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**82 Subsections 23(3), (4) and (5)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

***Family Law Act 1975***

**83 Subsection 4(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**84 Subsections 38K(4), (5) and (6)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

***Federal Court of Australia Act 1976***

**85 Section 4**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**Schedule 1** Consequential amendments

**Part 1** General amendments

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**86 Subsections 18K(4), (5) and (6)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

**87 Subsections 37I(3), (4) and (5)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

***Financial Management and Accountability Regulations 1997***

**88 Part 1 of Schedule 1 (table item 135)**

Repeal the item, substitute:

135	ComSuper, comprising:	Chief Executive Officer
	(a) the Chief Executive Officer; and	
	(b) the staff mentioned in section 19 of the <i>ComSuper Act 2011</i> ; and	
	(c) consultants engaged under section 20 of that Act.	

*See Note B*

**89 Part 2 of Schedule 1**

Repeal the Part.

***Gene Technology Act 2000***

**90 Subsection 10(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**91 Paragraph 119(5)(b)**

Omit “the Board (within the meaning of the *Superannuation Act 1976*)”, substitute “CSC”.

**92 Paragraph 119(6)(b)**

Omit “the Board (within the meaning of the *Superannuation Act 1990*)”, substitute “CSC”.

**93 Paragraph 119(7)(b)**

Omit “the Board (within the meaning of the *Superannuation Act 2005*)”, substitute “CSC”.

***Governor-General Act 1974***

**94 Subsection 2A(2)**

Insert:

*Finance Department* means the Department administered by the Minister administering the *Financial Management and Accountability Act 1997*.

*Finance Secretary* means the Secretary of the Finance Department.

**95 Subsection 2A(2) (definition of *the Commissioner*)**

Repeal the definition.

**96 Paragraph 2B(3)(b)**

Omit “Commissioner”, substitute “Finance Secretary”.

**97 Subsection 2B(5)**

Omit “Commissioner”, substitute “Finance Secretary”.

**98 Subparagraph 2C(b)(iii)**

Omit “Commissioner’s”, substitute “Finance Secretary’s”.

**99 Subsections 4A(1) and (3)**

Omit “Commissioner”, substitute “Finance Secretary”.

**100 Section 4B**

Omit “Commissioner”, substitute “Finance Secretary”.

**101 After section 15**

Insert:

## **16 Delegation by the Finance Secretary**

- (1) The Finance Secretary may delegate, in writing, all or any of the Finance Secretary's powers under this Act to an SES employee or acting SES employee in the Finance Department.
- (2) In exercising powers under a delegation, the delegate must comply with any written directions of the Finance Secretary.

## ***Inspector-General of Taxation Act 2003***

### **102 Section 4**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

### **103 Subsections 35(3), (4) and (5)**

Omit "the Board (within the meaning of that Act)", substitute "CSC".

## ***Military Superannuation and Benefits Act 1991***

### **104 Subsection 3(1) (at the end of the definition of *Board*)**

Add ", as in force before its repeal by item 110 of Schedule 1 to the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011*".

Note: For other amendments of this Act, see Part 2 of this Schedule.

### **105 Subsection 3(1) (definition of *Chairperson*)**

Repeal the definition.

### **106 Subsection 3(1) (definition of *Commissioner*)**

Repeal the definition.

### **107 Subsection 3(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**108 Subsection 3(1) (at the end of the definition of *Fund*)**

Add:

Note: From 1 July 2011, the fund is vested in CSC.

**109 Subsection 3(1) (definition of *trustee*)**

Repeal the definition.

**110 Parts 6 and 7**

Repeal the Parts, substitute:

**Part 6—CSC**

**18 Functions and powers**

- (1) The functions and powers of CSC are those set out in the Trust Deed.

Note: For other functions of CSC, see section 8 of the *Governance of Australian Government Superannuation Schemes Act 2011*.

- (2) CSC is also responsible for the general administration of this Act.

**111 Paragraphs 47(1)(a), (b) and (c)**

Repeal the paragraphs.

Note: The heading to section 47 is altered by omitting “**of trustees etc.**”.

**112 After section 48**

Insert:

**49 Amendments to Trust Deed disallowable under the *Legislative Instruments Act 2003***

Despite section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to an instrument amending the Trust Deed.

**113 After paragraph 51(a)**

Insert:

- (aa) a director (within the meaning of the *Governance of Australian Government Superannuation Schemes Act 2011*);  
or

**114 Paragraph 51(c)**

Repeal the paragraph, substitute:

- (c) the CEO of ComSuper or a member of the staff of ComSuper in the performance of the CEO's functions in relation to this Act; or

***National Blood Authority Act 2003***

**115 Section 3**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**116 Paragraph 35(4)(b)**

Omit “the Board (within the meaning of the *Superannuation Act 1976*)”, substitute “CSC”.

**117 Paragraph 35(5)(b)**

Omit “the Board (within the meaning of the *Superannuation Act 1990*)”, substitute “CSC”.

**118 Paragraph 35(6)(b)**

Omit “the Board (within the meaning of the *Superannuation Act 2005*)”, substitute “CSC”.

***Native Title Act 1993***

**119 Subsections 104(4), (5) and (6)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

**120 Subsections 119(4), (5) and (6)**

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Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

**121 Section 222 (table)**

Insert:

CSC 253

**122 Section 253**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

***Ombudsman Act 1976***

**123 Subsection 3(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**124 Subsections 28B(1), (2) and (3)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

***Papua New Guinea (Staffing Assistance) Act 1973***

**125 Subsection 3(1) (definition of *Commissioner*)**

Repeal the definition.

**126 Subsection 3(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**127 Subsection 3(1)**

Insert:

*decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

**128 Subsection 3(1)**

Insert:

*decision of CSC* means a decision of CSC, or a delegate of CSC, under this Act or the regulations.

**129 Subsection 3(1)**

Insert:

*Reconsideration Advisory Committee* means a Committee established under section 55.

**130 Part IV**

Repeal the Part.

**131 Before section 54**

Insert:

**Division 1—Review of decisions by CSC**

**132 Subsection 54(1)**

Repeal the subsection.

Note: The heading to section 54 is altered by omitting “**Commissioner**” and substituting “**CSC**”.

**133 Subsection 54(2)**

Omit “the Commissioner” (wherever occurring), substitute “**CSC**”.

**134 Subsection 54(4)**

Repeal the subsection, substitute:

- (4) After receiving a request for reconsideration of a decision, CSC must:
  - (a) refer the decision to a Reconsideration Advisory Committee for the Committee to make recommendations to CSC in relation to the decision; or

- (b) refer the decision to a Reconsideration Advisory Committee for the Committee to reconsider the decision; or
- (c) reconsider the decision itself.

(4A) If CSC reconsiders a decision, it may:

- (a) confirm the decision; or
- (b) vary the decision; or
- (c) set aside the decision and substitute a new decision.

**135 Subsection 54(5)**

Omit “The Commissioner”, substitute “CSC”.

**136 Subsection 54(5)**

Omit “his reconsideration”, substitute “its reconsideration”.

**137 Subsection 54(6)**

Repeal the subsection.

**138 After section 54**

Insert:

**Division 2—Reconsideration Advisory Committees**

**55 Establishment of Committee**

CSC may establish such Reconsideration Advisory Committees as CSC considers necessary.

**55A Member of Committee**

A Committee comprises such persons as CSC determines.

**55B Functions of Committee**

- (1) The functions of a Committee are to review any decision referred to it under this Act and:
  - (a) if CSC has delegated its powers to reconsider the decision to the Committee—to confirm, vary, substitute or set aside the decision; or

- (b) if CSC has delegated to the Committee any of CSC's powers in relation to the decision (other than the power to reconsider the decision)—to exercise those powers; or
- (c) in any other case—to make recommendations to CSC in relation to the decision.

Note: Paragraph (c)—see section 55F.

- (2) When reviewing a decision, a Committee:
  - (a) must take into account any evidence relevant to the decision that is submitted to it; and
  - (b) may also take steps to obtain any other evidence that it considers necessary for a proper review of the decision.

### **55C Proceedings of Committee**

- (1) Subject to any directions given by CSC, the Committee may regulate its proceedings as the Committee thinks fit.
- (2) If a direction is given in writing, the direction is not a legislative instrument.

### **55D Indemnification of members of a Committee**

Any matter or thing done, or omitted to be done, in good faith by a member of a Committee in the performance of functions under this Act does not subject him or her to any action, liability, claim or demand.

Note: See also section 35 of the *Governance of Australian Government Superannuation Schemes Act 2011*.

### **55E Remuneration and allowances**

- (1) A member of a Committee is to be paid such remuneration as is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid such remuneration as is prescribed.
- (2) A member of a Committee is to be paid such allowances (if any) as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### **55F Recommendations by Committee to CSC**

- (1) If a Committee makes recommendations to CSC in relation to a decision referred to it, then, after CSC takes into account:
  - (a) the recommendations of the Committee; and
  - (b) any other matter that CSC considers relevant;CSC must make a decision in writing:
  - (c) confirming the decision under review; or
  - (d) varying the decision under review; or
  - (e) setting aside the decision under review and substituting a new decision.
- (2) CSC's written decision must include the reasons for its decision.
- (3) CSC must make a copy of its written decision available to the applicant.

### **Division 3—Review of decisions by the Administrative Appeals Tribunal**

#### **55G Review by the Administrative Appeals Tribunal**

Applications may be made to the Administrative Appeals Tribunal for:

- (a) review of a decision of CSC that has been confirmed or varied by CSC under paragraph 54(4A)(a) or (b); and
- (b) review of a decision of CSC that has been confirmed or varied by a Reconsideration Advisory Committee under paragraph 55B(1)(a); and
- (c) review of a decision of CSC that has been confirmed or varied by CSC under paragraph 55F(1)(c) or (d).

### **Division 4—Miscellaneous**

#### **55H Minister may request the supply of information relating to superannuation**

CSC must give the Minister such information relating to the general administration and operation of this Act to the extent that it

**Schedule 1** Consequential amendments

**Part 1** General amendments

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deals with superannuation, as the Minister may from time to time require.

**139 Subsection 56(2)**

Omit “the Commissioner”, substitute “CSC”.

**140 Subsection 56(3)**

Omit “The Commissioner”, substitute “CSC”.

**141 Section 57**

Repeal the section.

**142 Subsection 61(1)**

Omit “the Commissioner”, substitute “CSC”.

**143 Subsections 61(2), (4) and (6)**

Omit “the Commissioner” (wherever occurring), substitute “CSC”.

**144 Subsection 61(7)**

Omit “the Commissioner”, substitute “CSC”.

**145 Subsection 61(8)**

Omit “the Commissioner” (wherever occurring), substitute “CSC”.

**146 Subsection 64(1)**

Omit “or the Commissioner”.

**147 Subsections 64(2) and (3)**

Omit “or by the Commissioner, as the case may be”.

***Parliamentary Contributory Superannuation Act 1948***

**148 Subsection 4(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**149 Subparagraphs 16A(1)(b)(ii) and (d)(ii)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

**150 Sub-subparagraph 16A(1)(e)(iv)(B)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

**151 Subparagraph 22Q(5)(d)(ii)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

***Productivity Commission Act 1998***

**152 Subsection 3(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**153 Subsections 37(1), (2) and (3)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

***Renewable Energy (Electricity) Act 2000***

**154 Subsection 5(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**155 Paragraph 147(5)(b)**

Omit “the Board (within the meaning of the *Superannuation Act 1976*)”, substitute “CSC”.

**156 Paragraph 147(6)(b)**

Omit “the Board (within the meaning of the *Superannuation Act 1990*)”, substitute “CSC”.

**157 Paragraph 147(7)(b)**

Omit “the Board (within the meaning of the *Superannuation Act 2005*)”, substitute “CSC”.

### ***Social Security (Administration) Act 1999***

#### **158 Subclause 1(1) of Schedule 1**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

#### **159 Subclauses 17(9), (10) and (11) of Schedule 3**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

### ***Superannuation Act 1922***

#### **160 After section 2**

Insert:

#### **3 Operation of this Act on or after 1 July 2011**

For the purposes of applying this Act on or after 1 July 2011, any reference to the Board, the Commissioner or the Commissioner for Superannuation is, unless the context otherwise requires, taken to be a reference to CSC.

#### **161 Subsection 4(1)**

Insert:

*Commissioner* has the same meaning as in the *Superannuation Act 1976*.

#### **162 Subsection 4(1)**

Insert:

*Commissioner for Superannuation* has the same meaning as Commissioner.

#### **163 Subsection 4(1)**

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Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**164 Subsection 4(1)**

Insert:

*decision* has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

**165 Subsection 4(1)**

Insert:

*decision of CSC* means a decision of CSC, or a delegate of CSC, under this Act or the regulations.

**166 Subsection 4(1)**

Insert:

*Reconsideration Advisory Committee* means a Committee established under section 128.

**167 Subsection 4(1) (definition of *The Commissioner or the Commissioner for Superannuation*)**

Repeal the definition.

**168 Subsection 119WA(19)**

Repeal the subsection.

**169 After Part XI**

Insert:

## **Part XIA—Review of decisions by CSC**

### **Division 1—Review of decisions by CSC**

#### **127 Review of decisions by CSC**

- (1) A person affected by a decision of CSC who is dissatisfied with the decision may request, in writing, that CSC reconsider the decision.
- (2) The request must be made within 30 days of being notified of the decision or within such further period as CSC allows.
- (3) The request must set out the reasons for making it.
- (4) After receiving a request for reconsideration of a decision, CSC must:
  - (a) refer the decision to a Reconsideration Advisory Committee for the Committee to make recommendations to CSC in relation to the decision; or
  - (b) refer the decision to a Reconsideration Advisory Committee for the Committee to reconsider the decision; or
  - (c) reconsider the decision itself.
- (5) If CSC reconsiders a decision, it may:
  - (a) confirm the decision; or
  - (b) vary the decision; or
  - (c) set aside the decision and substitute a new decision.
- (6) If CSC reconsiders a decision, CSC must, by notice in writing given to the person who made the request, inform the person of the result of the reconsideration of the decision and the reasons for the result.

### **Division 2—Reconsideration Advisory Committees**

#### **128 Establishment of Committee**

CSC may establish such Reconsideration Advisory Committees as CSC considers necessary.

## **129 Members of Committee**

A Committee comprises such persons as CSC determines.

## **130 Functions of Committee**

- (1) The functions of a Committee are to review any decision referred to it under this Part and:
  - (a) if CSC has delegated to the Committee CSC's powers to reconsider the decision—to confirm, vary, substitute or set aside the decision; or
  - (b) if CSC has delegated to the Committee any of CSC's powers in relation to the decision (other than the power to reconsider the decision)—to exercise those powers; or
  - (c) in any other case—to make recommendations to CSC in relation to the decision.

Note: Paragraph (c)—see section 133A.
- (2) When reviewing a decision, a Committee:
  - (a) must take into account any evidence relevant to the decision that is submitted to it; and
  - (b) may also take steps to obtain any other evidence that it considers necessary for a proper review of the decision.

## **131 Proceedings of Committee**

- (1) Subject to any directions given by CSC, a Committee may regulate its proceedings as the Committee thinks fit.
- (2) If a direction is given in writing, the direction is not a legislative instrument.

## **132 Indemnification of members of a Committee**

Any matter or thing done, or omitted to be done, in good faith by a member of a Committee in the performance of functions under this Part does not subject him or her personally to any action, liability, claim or demand.

Note: See also section 35 of the *Governance of Australian Government Superannuation Schemes Act 2011*.

### **133 Remuneration and allowances**

- (1) A member of a Committee is to be paid such remuneration as is determined by the Remuneration Tribunal. If no determination of that remuneration by the Tribunal is in operation, the member is to be paid such remuneration as is prescribed.
- (2) A member of a Committee is to be paid such allowances (if any) as are prescribed.
- (3) This section has effect subject to the *Remuneration Tribunal Act 1973*.

### **133A Recommendations by Committee to CSC**

- (1) If a Committee makes recommendations to CSC in relation to a decision referred to it, then, after CSC takes into account:
  - (a) the recommendations of the Committee; and
  - (b) any other matter that CSC considers relevant;CSC must make a decision in writing:
  - (c) confirming the decision under review; or
  - (d) varying the decision under review; or
  - (e) setting aside the decision under review and substituting a new decision.
- (2) CSC's written decision must include the reasons for its decision.
- (3) CSC must make available a copy of its written decision to the applicant.

## **Division 3—Review of decisions by the Administrative Appeals Tribunal**

### **133B Review by the Administrative Appeals Tribunal**

Applications may be made to the Administrative Appeals Tribunal for:

- (a) review of a decision of CSC that has been confirmed or varied by CSC under paragraph 127(5)(a) or (b); and

- (b) review of a decision of CSC that has been confirmed or varied by a Reconsideration Advisory Committee under paragraph 130(1)(a); and
- (c) review of a decision of CSC that has been confirmed or varied by CSC under paragraph 133A(1)(c) or (d).

### **170 Before section 134**

Insert:

### **133C CSC to keep records with respect to benefits paid**

CSC must cause proper records to be kept in respect of benefits paid under this Act.

### **171 After section 149A**

Insert:

### **149AA Minister may request the supply of information**

CSC must give the Minister such information relating to the general administration and operation of this Act as the Minister may from time to time require.

### **149AB Making false statements to CSC**

- (1) If a person is convicted of an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act, the court may, in addition to imposing a penalty in respect of the offence, order the person to pay to CSC an amount equal to any amount of benefit paid to the person as a result of the act, failure or omission in respect of which the person was convicted.
- (2) For the purposes of subsection (1), a certificate by CSC stating that an amount specified in the certificate is the amount of benefit that has been paid to a person specified in the certificate in consequence of an act, failure or omission specified in the certificate is prima facie evidence of the matters specified in the certificate.
- (3) In any proceeding, a document purporting to be a certificate under subsection (2) is taken, unless the contrary is proved, to be such a certificate and to have been duly given.

(4) In this section:

*benefit* includes pension or other money payable.

**172 Section 149B**

Omit “On and after 1 July 1976”, substitute “From 1 July 1976 to 30 June 2011 (both dates inclusive)”.

**173 Section 149B**

Omit “that date” wherever occurring, substitute “1 July 1976”.

***Superannuation Act 1976***

**174 Subsection 3(1) (at the end of the definition of Commissioner)**

Add “appointed under section 17, as in force before its repeal by item 183 of Schedule 1 to the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011*”.

Note: For other amendments of this Act, see Part 2 of this Schedule.

**175 Subsection 3(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**176 Subsection 3(1) (at the end of paragraphs (a) to (ec) of the definition of eligible employee)**

Add “and”.

**177 Subsection 3(1) (at the end of paragraph (f) of the definition of eligible employee)**

Omit “and”.

**178 Subsection 3(1) (paragraph (g) of the definition of eligible employee)**

Repeal the paragraph.

**179 Subsection 3(1) (at the end of the definition of *Fund* or *Superannuation Fund*)**

Add:

Note: From 1 July 2011, the CSS Fund is vested in CSC.

**180 Subparagraph 4B(c)(iii)**

Omit “(including the office of Commissioner)”.

**181 Subsection 15(1)**

Omit “(1)”.

**182 Subsection 15A(2)**

Omit all the words before paragraph (c), substitute:

- (2) If, on or after 1 July 1990, a person (other than a person to whom subsection (1) applies) becomes a permanent employee, that person is excluded from the definition of *eligible employee* in subsection 3(1) unless:

**183 Part II**

Repeal the Part.

**184 Paragraph 27C(1)(b)**

Omit “other than section 154”.

**185 At the end of subsection 27C(1)**

Add:

Note: For other functions of CSC, see section 8 of the *Governance of Australian Government Superannuation Schemes Act 2011*.

**186 Sections 27Q and 27R**

Repeal the sections.

**187 Subsection 42(5)**

Omit “, and is not subject to taxation under a law of the Commonwealth (other than the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*) or a law of, a Territory or a State”.

**188 Subsections 42(5A) and (5B)**

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Repeal the subsections.

**189 Sections 44 and 44A**

Repeal the sections.

**190 Subsection 74(11)**

Repeal the subsection, substitute:

- (11) Nothing in this section shall be taken, by implication, to exclude or limit the application of Part XIA of the superseded Act to decisions of CSC (within the meaning of that Act) under this section.

**191 Paragraph 135(1A)(d)**

Omit “the Commissioner or”.

**192 Paragraphs 136(2A)(d) and (2F)(d)**

Omit “the Commissioner or”.

**193 Section 154**

Repeal the section.

**194 Subsection 156A(1)**

Omit “the Commissioner or” (wherever occurring).

**195 Sections 161, 161A and 162**

Repeal the sections.

**196 Subsection 163(1)**

Repeal the subsection.

**197 Section 163**

Omit “(3)”.

**198 Subsection 163A(7)**

Omit “, under the Commissioner’s hand,”.

**199 Section 163B**

Repeal the section.

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**200 Section 164**

Omit “, the Commissioner or the Board,”, substitute “or CSC”.

**201 Paragraphs 165(b), (c) and (d)**

Repeal the paragraphs, substitute:

- (b) a director (within the meaning of the *Governance of Australian Government Superannuation Schemes Act 2011*);  
or
- (c) the CEO of ComSuper; or
- (d) a member of the staff of ComSuper in the performance of the CEO’s functions in relation to this Act; or

**202 Subsection 167(3)**

Repeal the subsection, substitute:

- (3) If a person is convicted of an offence against section 135.2, 136.1, 137.1 or 137.2 of the *Criminal Code* that relates to this Act, the Court may, in addition to imposing a penalty in respect of the offence, order the person to pay CSC an amount equal to any amount of benefit paid to the person as a result of the act, failure or omission in respect of which the person was convicted.

Note: The heading to section 167 is altered by omitting “, **Commissioner etc.**”.

**203 Subsection 167(4)**

Omit “the Commissioner or”.

**204 Subsection 167(5)**

Repeal the subsection.

**205 Paragraph 168(14)(b)**

After “section 154”, insert “, as in force at the commencement of this subsection,”.

**206 Subsection 240(1)**

Omit “(1)”.

***Superannuation Act 1990***

**207 Section 3 (at the end of the definition of *Board*)**

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**Schedule 1** Consequential amendments

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Add “, as in force before its repeal by item 216 of Schedule 1 to the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011*”.

Note: For other amendments of this Act, see Part 2 of this Schedule.

**208 Section 3 (definition of *Chairperson*)**

Repeal the definition.

**209 Section 3 (definition of *Commissioner*)**

Repeal the definition.

**210 Section 3**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**211 Section 3 (at the end of the definition of *PSS Fund*)**

Add:

Note: From 1 July 2011, the Fund is vested in CSC.

**212 Section 3 (definition of *trustee*)**

Repeal the definition.

**213 Subsection 5(1AA)**

Repeal the subsection.

**214 Paragraph 6(1)(b)**

Repeal the paragraph.

**215 Paragraph 6B(1)(a)**

Omit “a member of the PSSAP (other than by paragraph 13(2)(a) of that Act)”, substitute “an ordinary employer-sponsored member of PSSAP (within the meaning of that Act), other than by paragraph 13(2)(a) of that Act”.

**216 Parts 6 and 7**

Repeal the Parts, substitute:

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## Part 6—CSC

### 22 Functions and powers

- (1) The functions and powers of CSC in relation to the Public Sector Superannuation Scheme and the PSS Fund are those set out in the Trust Deed.
- (2) CSC is also responsible for the general administration of this Act.

Note: For other functions of CSC, see section 8 of the *Governance of Australian Government Superannuation Schemes Act 2011*.

### 217 Subsection 43(1)

Repeal the subsection, substitute:

- (1) Any matter or thing done, or omitted to be done, in good faith by a person who is a member of a Reconsideration Advisory Committee established under the Trust Deed in the performance of his or her functions under the Trust Deed in relation to the Public Sector Superannuation Scheme or the PSS Fund does not subject him or her personally to any action, liability, claim or demand.

Note: The heading to section 43 is altered by omitting “of trustees etc.”.

### 218 At the end of subsection 43(2)

Add:

Note: See section 35 of the *Governance of Australian Government Superannuation Schemes Act 2011*.

### 219 Subsections 43(3) and (4)

Repeal the subsections.

### 220 After paragraph 47(a)

Insert:

- (aa) a director (within the meaning of the *Governance of Australian Government Superannuation Schemes Act 2011*);  
or

### 221 Paragraph 47(c)

Repeal the paragraph, substitute:

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- (c) the CEO or a member of the staff of ComSuper in the performance of the CEO's functions in relation to this Act.

### ***Superannuation Act 2005***

#### **222 Section 4**

Before "In this Act", insert "(1)".

Note: For other amendments of this Act, see Part 2 of this Schedule.

#### **223 Section 4**

Insert:

***Australian government superannuation scheme member*** means a person who is:

- (a) a member of the PSS; or
- (b) an eligible employee (within the meaning of the *Superannuation Act 1976*);

so long as the Minister has made a declaration that such a person is an Australian government superannuation scheme member.

Note: See also subsections (2) and (3).

#### **224 Section 4**

Insert:

***CSC*** (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

#### **225 Section 4**

Insert:

***former Australian government superannuation scheme member*** means:

- (a) a person who is a former member of the PSS in respect of whom a preserved benefit under PSS has not yet been paid; or
- (b) a person in respect of whom deferred benefits are applicable under the *Superannuation Act 1976*;

so long as the Minister has made a declaration that such a person is a former Australian government superannuation scheme member.

Note: See also subsections (2) and (3).

**226 Section 4 (at the end of the definition of *PSSAP Fund*)**

Add:

Note: From 1 July 2011, the fund is vested in CSC.

**227 Section 4 (definition of *trustee*)**

Repeal the definition.

**228 At the end of section 4**

Add:

- (2) A declaration under:
  - (a) the definition of *Australian government superannuation scheme member*; or
  - (b) the definition of *former Australian government superannuation scheme member*;is a legislative instrument.
- (3) Despite anything in section 44 of the *Legislative Instruments Act 2003*, section 42 of that Act applies to a declaration under:
  - (a) the definition of *Australian government superannuation scheme member*; or
  - (b) the definition of *former Australian government superannuation scheme member*.

**229 Subsection 13(1)**

Repeal the subsection, substitute:

- (1) A person is eligible to become a member of PSSAP if:
  - (a) subject to subsections (2) and (3), the person is:
    - (i) a public sector employee; or
    - (ii) specified in a written declaration made by the Minister under this subparagraph; or
  - (b) subject to subsection (3), the person is an Australian government superannuation scheme member; or

- (c) subject to subsection (3), the person is a former Australian government superannuation scheme member.

Note: Subparagraph (1)(a)(ii)—for specification by class, see subsection 13(3) of the *Legislative Instruments Act 2003*.

### **230 Subsection 17(1)**

Repeal the subsection, substitute:

- (1) This section applies to a person who is:
- (a) an ordinary employer-sponsored member of PSSAP in respect of particular employment or the holding of a particular office; or
  - (b) an Australian government superannuation scheme member who has chosen to be a member of PSSAP.

### **231 Subsection 19(1)**

Repeal the subsection, substitute:

- (1) This section applies to a person who is:
- (a) an ordinary employer-sponsored member of PSSAP in respect of particular employment or the holding of a particular office; or
  - (b) an Australian government superannuation scheme member who has chosen to be a member of PSSAP.

### **232 Division 1 of Part 5 (heading)**

Repeal the heading, substitute:

## **Division 1—CSC**

### **233 Section 20**

Repeal the section, substitute:

## **20 Functions and powers**

- (1) The functions and powers of CSC in relation to PSSAP and the PSSAP Fund are those set out in the Trust Deed.
- (2) CSC is also responsible for the general administration of this Act.

Note: For other functions of CSC, see section 8 of the *Governance of Australian Government Superannuation Schemes Act 2011*.

**234 Sections 21, 22, 23, 24, 25, 26, 27 and 28**

Repeal the sections.

**235 Subsection 29(1)**

Repeal the subsection, substitute:

- (1) Anything done, or omitted to be done, in good faith by a person who is a member of a Reconsideration Advisory Committee established under the Trust Deed in the performance of his or her functions under the Trust Deed does not subject him or her personally to any action, liability, claim or demand.

Note: The heading to section 29 is altered by omitting “of trustees etc.”.

**236 At the end of subsection 29(2)**

Add:

Note: See section 35 of the *Governance of Australian Government Superannuation Schemes Act 2011*.

**237 Subsections 29(3) and (4)**

Repeal the subsections.

**238 Division 2 of Part 5**

Repeal the Division.

**239 Paragraphs 33(b) and (c)**

Repeal the paragraphs, substitute:

- (aa) a director (within the meaning of the *Governance of Australian Government Superannuation Schemes Act 2011*);  
or  
(b) the CEO of ComSuper; or  
(c) a member of the staff of ComSuper in the performance of the CEO’s functions in relation to this Act; or

***Superannuation (Productivity Benefit) Act 1988***

**240 Subsection 3(1) (definition of *Board*)**

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Repeal the definition.

**241 Subsection 3(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**242 Section 4EA**

Omit “the Board”, substitute “CSC”.

Note: The heading to section 4EA is altered by omitting “**Board**” and substituting “CSC”.

***Veterans’ Entitlements Act 1986***

**243 Subsection 5Q(1)**

Insert:

*CSC* (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**244 Subsections 164(8), (9) and (10)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

**245 Subsections 188(9), (10) and (11)**

Omit “the Board (within the meaning of that Act)”, substitute “CSC”.

## **Part 2—Amendments to change references to the Authority and the Board**

### **246 Bulk amendments—references to the Authority**

The *Defence Force Retirement and Death Benefits Act 1973* other than the following provisions:

- (a) Part II of that Act;
- (b) sections 96 and 97 of that Act;
- (c) Part XI of that Act;
- (d) subsection 132(1) of that Act;

is amended as follows:

- (e) by omitting “The Authority” (wherever occurring) and substituting “CSC”;
- (f) by omitting “the Authority” (wherever occurring) and substituting “CSC”;
- (g) by omitting “the Authority’s” and substituting “CSC’s”.

Note: The headings to sections of the *Defence Force Retirement and Death Benefits Act 1973* are altered as follows:

- (a) by omitting “**Authority**” (wherever occurring) and substituting “CSC”;
- (b) by omitting “**authority**” and substituting “CSC”.

### **247 Bulk amendments—references to the Board**

- (1) The *Military Superannuation and Benefits Act 1991* other than the following provisions:

- (a) the definitions of *Chairperson*, *Fund* and *trustee* in subsection 3(1) of that Act;
- (b) section 4 of that Act;
- (c) Parts 6 and 7 of that Act;
- (d) section 51A of that Act;

is amended as follows:

- (e) by omitting “The Board” (wherever occurring) and substituting “CSC”;
- (f) by omitting “the Board” (wherever occurring) and substituting “CSC”.

**Schedule 1** Consequential amendments

**Part 2** Amendments to change references to the Authority and the Board

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Note: The headings to sections of the *Military Superannuation and Benefits Act 1991* are altered by omitting “**Board**” (wherever occurring) and substituting “**CSC**”.

- (2) The *Superannuation Act 1976* other than the following provisions:
- (a) paragraph (b) of the definition of *benefit* in subsection 3(1) of that Act;
  - (b) paragraph (a) of the definition of *LWOP employee* in subsection 3C(2) of that Act;
  - (c) sections 27Q and 27R of that Act;
  - (d) subsection 42(5A) of that Act;
  - (e) section 44 of that Act;
  - (f) subparagraph 130D(3)(a)(ii) of that Act;
  - (g) sections 161, 162, 163B and 164 of that Act;
  - (h) subsection 167(3) of that Act;

is amended as follows:

- (i) by omitting “**Board**” (wherever occurring) and substituting “**CSC**”;
- (j) by omitting “**The Board**” (wherever occurring) and substituting “**CSC**”;
- (k) by omitting “The Board” (wherever occurring) and substituting “CSC”;
- (l) by omitting “the Board” (wherever occurring) and substituting “CSC”;
- (m) by omitting “the Board’s” (wherever occurring) and substituting “CSC’s”.

Note 1: The headings to sections of the *Superannuation Act 1976* are altered by omitting “**Board**” (wherever occurring) and substituting “**CSC**”.

Note 2: The heading to subsection 51(2BC) of the *Superannuation Act 1976* is altered by omitting “*Board*” and substituting “*CSC*”.

- (3) The *Superannuation Act 1990* other than the following provisions:
- (a) section 4 of that Act;
  - (b) subsection 5(1AA) of that Act;
  - (c) sections 21, 23, 26, 27, 27A, 28, 28A and 29 of that Act;
- is amended as follows:
- (d) by omitting “The Board” (wherever occurring) and substituting “CSC”;

(e) by omitting “the Board” (wherever occurring) and substituting “CSC”;

(f) by omitting “the Board’s” and substituting “CSC’s”.

Note: The headings to sections of the *Superannuation Act 1990* are altered by omitting “**Board**” (wherever occurring) and substituting “CSC”.

(4) The *Superannuation Act 2005* other than the following provisions:

(a) the definition of *PSSAP Fund* in section 4 of that Act;

(b) subsection 10(1) of that Act;

(c) sections 20, 22, 23, 24, 26, 28 and 30 of that Act;

is amended as follows:

(d) by omitting “The Board” (wherever occurring) and substituting “CSC”;

(e) by omitting “the Board” (wherever occurring) and substituting “CSC”;

(f) by omitting “the Board’s” and substituting “CSC’s”.

Note: The headings to sections of the *Superannuation Act 2005* are altered by omitting “**Board**” (wherever occurring) and substituting “CSC”.

## Schedule 2—Transitional provisions

### Part 1—Preliminary

#### 1 Definitions

In this Schedule:

**1922 scheme** has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**acquisition of property** has the same meaning as in paragraph 51(xxxi) of the Constitution.

**amend** includes repeal and remake.

**ARIA** (short for Australian Reward Investment Alliance) means the board established under section 20 of the *Superannuation Act 1990*, as in force immediately before commencement.

**asset** means:

- (a) any legal or equitable estate or interest in real or personal property, whether actual, contingent or prospective; and
- (b) any right, power, privilege or immunity, whether actual, contingent or prospective.

**assets official**, in relation to an asset other than land, means the person or authority who, under a law of the Commonwealth, a State or a Territory, under a trust instrument or otherwise, has responsibility for keeping a register in relation to assets of the kind concerned.

**Authority** means the Defence Force Retirement and Death Benefits Authority established by section 8 of the *Defence Force Retirement and Death Benefits Act 1973*, as in force immediately before commencement.

**CEO** has the same meaning as in the *ComSuper Act 2011*.

**Chair** has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**commencement** means the time when this Schedule commences.

**Commissioner for Superannuation** has the same meaning as Commissioner has in the *Superannuation Act 1976*, as in force immediately before commencement.

**ComSuper** has the same meaning as in the *ComSuper Act 2011*.

**CSC** (short for Commonwealth Superannuation Corporation) has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

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

**CSS Board** means the CSS Board established under section 27A of the *Superannuation Act 1976*, as in force immediately before 1 July 2006.

**decision** has the same meaning as in the *Administrative Appeals Tribunal Act 1975*.

**Defence Department** means the Department administered by the Minister administering the *Defence Act 1903*.

**DFSPB** has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**doing** a thing includes making an instrument.

**Finance Department** means the Department administered by the Minister administering the *Financial Management and Accountability Act 1997*.

**Finance Secretary** means the Secretary of the Finance Department.

**governing deed** has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

**instrument:**

- (a) includes:
  - (i) a contract, deed, undertaking or agreement; and
  - (ii) a notice, authority, order or instruction; and
  - (iii) an instrument made under an Act or regulations; and
  - (iv) regulations; but
- (b) does not include an Act.

**just terms** has the same meaning as in paragraph 51(xxxi) of the Constitution.

**land** means any legal or equitable estate or interest in real property, whether actual, contingent or prospective.

**land registration official**, in relation to land, means the Registrar of Titles or other proper officer of the State or Territory in which the land is situated.

**liability** means any liability, duty or obligation, whether actual, contingent or prospective.

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

**MSB Board** means the Military Superannuation and Benefits Board of Trustees No. 1 established by section 18 of the *Military Superannuation and Benefits Act 1991*, as in force immediately before commencement.

**MSB Fund** (short for Military Superannuation and Benefits Scheme Fund) has the same meaning as Fund has in the *Military Superannuation and Benefits Act 1991*, as in force immediately before commencement.

**PNG** has the same meaning as in the *Governance of Australian Government Superannuation Schemes Act 2011*.

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

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

**PSS Board** means the PSS Board established under section 20 of the *Superannuation Act 1990*, as in force immediately before 1 July 2006.

**Special Account** has the same meaning as in the *Financial Management and Accountability Act 1997*.

**superannuation law** means:

- (a) the *Defence Force Retirement and Death Benefits Act 1973*, as in force immediately before commencement; or
- (b) the *Defence Forces Retirement Benefits Act 1948*, as in force immediately before commencement; or
- (c) the *Military Superannuation and Benefits Act 1991*, as in force immediately before commencement; or
- (d) the *Papua New Guinea (Staffing Assistance) Act 1973*, as in force immediately before commencement; or
- (e) the *Superannuation Act 1922*, as in force immediately before commencement; or
- (f) the *Superannuation Act 1976*, as in force immediately before commencement; or
- (g) the *Superannuation Act 1990*, as in force immediately before commencement; or
- (h) the *Superannuation Act 2005*, as in force immediately before commencement.

*trustee* has the same meaning as in the *Superannuation Act 1990*, as in force immediately before commencement.

## Part 2—Assets, liabilities and legal proceedings

### 2 Vesting of assets

#### *Assets of the MSB Board*

- (1) Subitem (2) applies to the assets of the MSB Board (whether the assets are in Australia or elsewhere) immediately before commencement.
- (2) At commencement, the assets to which this subitem applies cease to be assets of the MSB Board and become assets of CSC without any conveyance, transfer or assignment. CSC becomes the successor in law in relation to these assets.

#### *Assets of the Authority*

- (3) Subitem (4) applies to the assets of the Authority (whether the assets are in Australia or elsewhere) immediately before commencement.
- (4) At commencement, the assets to which this subitem applies cease to be assets of the Authority and become assets of CSC without any conveyance, transfer or assignment. CSC becomes the successor in law in relation to these assets.

### 3 Vesting of liabilities

#### *Liabilities of the MSB Board*

- (1) Subitem (2) applies to the liabilities of the MSB Board (whether the liabilities arose in Australia or elsewhere) immediately before commencement.
- (2) At commencement, the liabilities to which this subitem applies cease to be liabilities of the MSB Board and become liabilities of CSC without any conveyance, transfer or assignment. CSC becomes the successor in law in relation to these liabilities.

#### *Liabilities of the Authority*

- (3) Subitem (4) applies to the liabilities of the Authority (whether the liabilities arose in Australia or elsewhere) immediately before commencement.

- (4) At commencement, the liabilities to which this subitem applies cease to be liabilities of the Authority and become liabilities of CSC without any conveyance, transfer or assignment. CSC becomes the successor in law in relation to these liabilities.

#### **4 Certificates relating to vesting of land**

- (1) This item applies if:
- (a) any land vests in CSC under this Part; and
  - (b) there is lodged with a land registration official a certificate that:
    - (i) is signed by the Chair; and
    - (ii) identifies the land, whether by reference to a map or otherwise; and
    - (iii) states that the land has become vested in CSC under this Part.

Note: Certificates under paragraph (1)(b) are presumed to be authentic: see item 25.

- (2) The land registration official may:
- (a) register the matter in a way that is the same as, or similar to, the way in which dealings in land of that kind are registered; and
  - (b) deal with, and give effect to, the certificate.

#### **5 Certificates relating to vesting of assets other than land**

- (1) This item applies if:
- (a) any asset other than land vests in CSC under this Part; and
  - (b) there is lodged with an assets official a certificate that:
    - (i) is signed by the Chair; and
    - (ii) identifies the asset; and
    - (iii) states that the asset has become vested in CSC under this Part.

Note: Certificates under paragraph (1)(b) are presumed to be authentic: see item 25.

- (2) The assets official may:
- (a) deal with, and give effect to, the certificate as if it were a proper and appropriate instrument for transactions in relation to assets of that kind; and

- (b) make such entries in the register as are necessary having regard to the effect of this Schedule.

## **6 Substitution of CSC or the CEO of ComSuper as a party to pending proceedings**

### *Proceedings relating to the MSB Board*

- (1) If any proceedings to which the MSB Board was a party were pending in any court or tribunal immediately before commencement, CSC is substituted for the MSB Board, from commencement, as a party to the proceedings.

### *Proceedings relating to the Authority*

- (2) If any proceedings to which the Authority was a party were pending in any court or tribunal immediately before commencement, CSC is substituted for the Authority, from commencement, as a party to the proceedings.

### *Proceedings relating to the Commissioner for Superannuation*

- (3) If any proceedings relating to the 1922 scheme, the PNG or the DFSPB to which the Commissioner for Superannuation was a party were pending in any court or tribunal immediately before commencement, CSC is substituted for the Commissioner for Superannuation, from commencement, as a party to the proceedings.
- (4) If any proceedings to which the Commissioner for Superannuation was a party were pending in any court or tribunal immediately before commencement (other than proceedings mentioned in subitem (3)), the CEO of ComSuper is substituted for the Commissioner for Superannuation, from commencement, as a party to the proceedings.
- (5) The Minister may, by writing, determine that:
- (a) subitem (3) applies as if the reference in that subitem to CSC were a reference to the CEO of ComSuper; and
  - (b) subitem (4) applies as if the reference in that subitem to the CEO of ComSuper were a reference to CSC.
- A determination under this subitem has effect accordingly.
- (6) A determination made under subitem (5) is not a legislative instrument.

## **Part 3—References to, and things done by or in relation to, certain persons**

### **Division 1—Provisions relating to the MSB Board**

#### **7 References in Acts and instruments to the MSB Board**

- (1) If:
- (a) an Act or instrument is in force immediately before commencement; and
  - (b) the Act or instrument contains a reference to the MSB Board; the Act or instrument has effect from commencement as if the reference to the MSB Board were a reference to CSC.

Note: During the first year after this item commences, instruments can retrospectively amend references to the MSB Board: see item 20.

- (2) The Minister may, by writing, determine that subitem (1):
- (a) does not apply in relation to a specified reference; or
  - (b) applies, in relation to a specified reference, as if the reference in that subitem to CSC were a reference to ComSuper; or
  - (c) applies, in relation to a specified reference, as if the reference in that subitem to CSC were a reference to the CEO of ComSuper.

A determination under this subitem has effect accordingly.

- (3) The regulations may provide that an instrument containing a reference specified in a determination under paragraph (2)(a) has effect from commencement as if the reference were a reference to a person or body other than CSC, ComSuper or the CEO of ComSuper.
- (4) A determination made under subitem (2) is not a legislative instrument.

#### **8 Operation of laws**

- (1) If, before commencement, a thing was done by, or in relation to, the MSB Board, then, for the purposes of the operation of any law of the Commonwealth after commencement, the thing is taken to have been done by, or in relation to, CSC.

**Schedule 2** Transitional provisions

**Part 3** References to, and things done by or in relation to, certain persons

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- (2) For the purposes of subitem (1), a thing done before commencement under a provision that is amended by this Act has effect from that time as if it were done under that provision as amended. However, this is not taken to change the time at which the thing was actually done.
- (3) The Minister may, by writing, determine that subitem (1):
- (a) does not apply in relation to a specified thing done by, or in relation to, the MSB Board; or
  - (b) applies as if the reference in that subitem to CSC were a reference to ComSuper; or
  - (c) applies as if the reference in that subitem to CSC were a reference to the CEO of ComSuper.
- A determination under this subitem has effect accordingly.
- (4) The regulations may provide for a thing specified in a determination under paragraph (3)(a) to be taken to have been done by, or in relation to, a person or body other than CSC, ComSuper or the CEO of ComSuper.
- (5) A determination made under subitem (3) is not a legislative instrument.

**Division 2—Provisions relating to the Authority**

**9 References in Acts and instruments to the Authority**

- (1) If:
- (a) an Act or instrument is in force immediately before commencement; and
  - (b) the Act or instrument contains a reference to the Authority;
- the Act or instrument has effect from commencement as if the reference to the Authority were a reference to CSC.

Note: During the first year after this item commences, instruments can retrospectively amend references to the Authority: see item 20.

- (2) The Minister may, by writing, determine that subitem (1):
- (a) does not apply in relation to a specified reference; or
  - (b) applies, in relation to a specified reference, as if the reference in that subitem to CSC were a reference to ComSuper; or
  - (c) applies, in relation to a specified reference, as if the reference in that subitem to CSC were a reference to the CEO of ComSuper.
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A determination under this subitem has effect accordingly.

- (3) The regulations may provide that an instrument containing a reference specified in a determination under paragraph (2)(a) has effect from commencement as if the reference were a reference to a person or body other than CSC, ComSuper or the CEO of ComSuper.
- (4) A determination made under subitem (2) is not a legislative instrument.

## **10 Operation of laws**

- (1) If, before commencement, a thing was done by, or in relation to, the Authority, then, for the purposes of the operation of any law of the Commonwealth after commencement, the thing is taken to have been done by, or in relation to, CSC.
- (2) For the purposes of subitem (1), a thing done before commencement under a provision that is amended by this Act has effect from that time as if it were done under that provision as amended. However, this is not taken to change the time at which the thing was actually done.
- (3) The Minister may, by writing, determine that subitem (1):
  - (a) does not apply in relation to a specified thing done by, or in relation to, the Authority; or
  - (b) applies as if the reference in that subitem to CSC were a reference to ComSuper; or
  - (c) applies as if the reference in that subitem to CSC were a reference to the CEO of ComSuper.

A determination under this subitem has effect accordingly.

- (4) The regulations may provide for a thing specified in a determination under paragraph (3)(a) to be taken to have been done by, or in relation to, a person or body other than CSC, ComSuper or the CEO of ComSuper.
- (5) A determination made under subitem (3) is not a legislative instrument.

## **Division 3—Provisions relating to the Commissioner for Superannuation**

### **11 References in Acts and instruments to the Commissioner for Superannuation**

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**Schedule 2** Transitional provisions

**Part 3** References to, and things done by or in relation to, certain persons

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(1) If:

- (a) an Act (other than the *Governor-General Act 1974* or the *Superannuation Act 1922*) or regulations are in force immediately before commencement; and
- (b) the Act or regulations contain a reference to the Commissioner for Superannuation;

the Act or regulations have effect from commencement as if the reference to the Commissioner for Superannuation were a reference to CSC.

Note: During the first year after this item commences, instruments can retrospectively amend references to the Commissioner for Superannuation: see item 20.

(2) If:

- (a) an instrument (other than a regulation or instrument of delegation) is in force immediately before commencement; and
- (b) the instrument contains a reference to the Commissioner for Superannuation;

the instrument has effect from commencement as if the reference to the Commissioner for Superannuation were a reference to the CEO of ComSuper.

Note: During the first year after this item commences, instruments can retrospectively amend references to the Commissioner for Superannuation: see item 20.

(3) Despite subitem (2), the *Defence Force (Superannuation) (Productivity Benefit) Determination 1988*, as in force immediately before commencement, has effect from commencement as if the reference to the Commissioner for Superannuation were a reference to CSC.

(4) The Minister may, by writing, determine that subitem (1):

- (a) does not apply in relation to a specified reference; or
- (b) applies, in relation to a specified reference, as if the reference in that subitem to CSC were a reference to ComSuper; or
- (c) applies, in relation to a specified reference, as if the reference in that subitem to CSC were a reference to the CEO of ComSuper.

A determination under this subitem has effect accordingly.

(5) The Minister may, by writing, determine that subitem (2):

- (a) does not apply in relation to a specified reference; or
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- (b) applies, in relation to a specified reference, as if the reference in that subitem to the CEO of ComSuper were a reference to ComSuper; or
- (c) applies, in relation to a specified reference, as if the reference in that subitem to the CEO of ComSuper were a reference to CSC.

A determination under this subitem has effect accordingly.

- (6) The regulations may provide that an Act or instrument containing a reference specified in a determination under paragraph (4)(a) or (5)(a) has effect from commencement as if the reference were a reference to a person or body other than CSC, ComSuper or the CEO of ComSuper.
- (7) A determination made under subitem (4) or (5) is not a legislative instrument.

## **12 Operation of laws**

- (1) If, before commencement, a thing was done by, or in relation to, the Commissioner for Superannuation in relation to the 1922 scheme, the PNG or the DFSPB, then, for the purposes of the operation of any law of the Commonwealth after commencement, the thing is taken to have been done by, or in relation to, CSC.
- (2) If, before commencement, a thing was done by, or in relation to, the Commissioner for Superannuation in relation to the *Governor-General Act 1974*, then, for the purposes of the operation of any law of the Commonwealth after commencement, the thing is taken to have been done by, or in relation to, the Finance Secretary.
- (3) If, before commencement, a thing was done by, or in relation to, the Commissioner for Superannuation (other than in relation to the 1922 scheme, the PNG, the DFSPB or the *Governor-General Act 1974*), then, for the purposes of the operation of any law of the Commonwealth after commencement, the thing is taken to have been done by, or in relation to, the CEO of ComSuper.
- (4) For the purposes of subitems (1) to (3), a thing done before commencement under a provision that is amended by this Act has effect from that time as if it were done under that provision as amended. However, this is not taken to change the time at which the thing was actually done.

**Schedule 2** Transitional provisions

**Part 3** References to, and things done by or in relation to, certain persons

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- (5) The Minister may, by writing, determine that subitem (1):
- (a) does not apply in relation to a specified thing done by, or in relation to, the Commissioner for Superannuation; or
  - (b) applies as if the reference in that subitem to CSC were a reference to ComSuper; or
  - (c) applies as if the reference in that subitem to CSC were a reference to the CEO of ComSuper.

A determination under this subitem has effect accordingly.

- (6) The Minister may, by writing, determine that subitem (2):
- (a) does not apply in relation to a specified thing done by, or in relation to, the Commissioner for Superannuation; or
  - (b) applies as if the reference in that subitem to the Finance Secretary were a reference to ComSuper; or
  - (c) applies as if the reference in that subitem to the Finance Secretary were a reference to the CEO of ComSuper; or
  - (d) applies as if the reference in that subitem to the Finance Secretary were a reference to CSC.

A determination under this subitem has effect accordingly.

- (7) The Minister may, by writing, determine that subitem (3):
- (a) does not apply in relation to a specified thing done by, or in relation to, the Commissioner for Superannuation; or
  - (b) applies as if the reference in that subitem to the CEO of ComSuper were a reference to ComSuper; or
  - (c) applies as if the reference in that subitem to the CEO of ComSuper were a reference to CSC.

A determination under this subitem has effect accordingly.

- (8) The regulations may provide for a thing specified in a determination under paragraph (5)(a), (6)(a) or (7)(a) to be taken to have been done by, or in relation to, a person or body other than CSC, ComSuper, the CEO of ComSuper or the Finance Secretary.

- (9) A determination made under subitem (5), (6) or (7) is not a legislative instrument.

## **Part 4—Office holders**

### **13 Trustees of ARIA**

A person who is a trustee immediately before commencement ceases, immediately after commencement, to hold office as a trustee by force of this item.

### **14 Commissioner for Superannuation**

- (1) The person who is the Commissioner for Superannuation immediately before commencement ceases, immediately after commencement, to hold office as the Commissioner for Superannuation by force of this item.
- (2) The person who is the Commissioner for Superannuation immediately before commencement is taken to have been duly appointed as the Chief Executive Officer by the Minister under section 9 of the *ComSuper Act 2011*:
  - (a) for the balance of the person's term of appointment that remained immediately before commencement; and
  - (b) on the terms and conditions provided for by that Act.

## Part 5—Review of decisions

### 15 Rights of review of certain decisions

- (1) Despite the amendment of section 99 of the *Defence Force Retirement and Death Benefits Act 1973* by Schedule 1 to this Act, an application may be made to CSC under that section for review of a decision by the Authority, or a delegate of the Authority, made before commencement under:
- (a) that Act; or
  - (b) the *Defence Forces Retirement Benefits Act 1948*; or
  - (c) any other Act that relates to retirement benefits for members of the Defence Force and modifies or affects the provisions of the *Defence Forces Retirement Benefits Act 1948*;
- and for this purpose, a reference to the Authority in that section is to be read as a reference to CSC.
- (2) Despite the amendment of section 99 of the *Defence Force Retirement and Death Benefits Act 1973* by Schedule 1 to this Act, an application may be made to the Administrative Appeals Tribunal under that section for review of a decision by the Authority, or a delegate of the Authority, made before commencement under:
- (a) that Act; or
  - (b) the *Defence Forces Retirement Benefits Act 1948*; or
  - (c) any other Act that relates to retirement benefits for members of the Defence Force and modifies or affects the provisions of the *Defence Forces Retirement Benefits Act 1948*;
- if, at commencement, the period for making an application for review has not ended.
- (3) Despite the amendment of section 4B of the *Governor-General Act 1974* by Schedule 1 to this Act, an application may be made to the Administrative Appeals Tribunal under that section for review of a decision by the Commissioner for Superannuation made before commencement under that Act if, at commencement, the period for making an application for review has not ended.
- (4) Despite the amendment of section 54 of the *Papua New Guinea (Staffing Assistance) Act 1973* by Schedule 1 to this Act, an application
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may be made to CSC under that section for review of a decision by the Commissioner for Superannuation, or a delegate of the Commissioner, made before commencement under that Act, and for this purpose, a reference to the Commissioner in that section is to be read as a reference to CSC.

- (5) Despite the amendment of section 54 of the *Papua New Guinea (Staffing Assistance) Act 1973* by Schedule 1 to this Act, an application may be made to the Administrative Appeals Tribunal under that section for review of a decision by the Commissioner of Superannuation, or a delegate of the Commissioner, made before commencement under that Act if, at commencement, the period for making an application for review has not ended.
- (6) Despite the repeal of section 154 of the *Superannuation Act 1976* by Schedule 1 to this Act, an application may be made to CSC under that section for review of a decision by the Commissioner for Superannuation, or a delegate of the Commissioner, made before commencement under:
- (a) that Act; or
  - (b) the *Superannuation Act 1922*; or
  - (c) regulations made under either of those Acts;
- and for this purpose, a reference to the Commissioner in that section is to be read as a reference to CSC.
- (7) Despite the repeal of section 154 of the *Superannuation Act 1976* by Schedule 1 to this Act, an application may be made to the Administrative Appeals Tribunal under that section for review of a decision by the Commissioner of Superannuation, or a delegate of the Commissioner, made before commencement under:
- (a) that Act; or
  - (b) the *Superannuation Act 1922*; or
  - (c) regulations made under either of those Acts;
- if, at commencement, the period for making an application for review has not ended.

## Part 6—Reporting

### 16 Financial statements and other reporting requirements for the MSB Board

#### *Reporting requirements*

- (1) If:
- (a) immediately before commencement, a law required the MSB Board to provide a report (whether financial statements or otherwise) for a period; and
  - (b) the period ends after commencement;

CSC must provide the report, as required, for so much of the period as occurs before commencement.

- (2) If:
- (a) under subitem (1), CSC is required to provide a report for a part of a period; and
  - (b) CSC is also required to provide a similar report for the remainder of the period;

CSC may meet the requirements in a single report for the period.

#### *Outstanding reporting requirements*

- (3) If:
- (a) a law required the MSB Board to provide a report (whether financial statements or otherwise) for a period that ended before commencement; and
  - (b) the report has not been provided by commencement;

CSC must provide the report as required.

### 17 Financial statements and other reporting requirements for the Authority

#### *Reporting requirements*

- (1) If:
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- (a) immediately before commencement, a law required the Authority to provide a report (whether financial statements or otherwise) for a period; and
- (b) the period ends after commencement;

CSC must provide the report, as required, for so much of the period as occurs before commencement.

- (2) If:
  - (a) under subitem (1), CSC is required to provide a report for a part of a period; and
  - (b) CSC is also required to provide a similar report for the remainder of the period;

CSC may meet the requirements in a single report for the period.

*Outstanding reporting requirements*

- (3) If:
  - (a) a law required the Authority to provide a report (whether financial statements or otherwise) for a period that ended before commencement; and
  - (b) the report has not been provided by commencement;

CSC must provide the report as required.

**18 Financial statements and other reporting requirements for the Commissioner for Superannuation**

*Reporting requirements*

- (1) If:
  - (a) immediately before commencement, a law required the Commissioner for Superannuation to provide a report (whether financial statements or otherwise) for a period; and
  - (b) the report relates to the 1922 scheme or the PNG; and
  - (c) the period ends after commencement;

CSC must provide the report, as required, for so much of the period as occurs before commencement.

- (2) If:
  - (a) under subitem (1), CSC is required to provide a report for a part of a period; and

- (b) CSC is also required to provide a similar report for the remainder of the period;

CSC may meet the requirements in a single report for the period.

- (3) If:

- (a) immediately before commencement, a law required the Commissioner for Superannuation to provide a report (whether financial statements or otherwise) for a period; and
- (b) the report is not covered by subitem (1); and
- (c) the period ends after commencement;

the CEO of ComSuper must provide the report, as required, for so much of the period as occurs before commencement.

- (4) If:

- (a) under subitem (3), the CEO of ComSuper is required to provide a report for a part of a period; and
- (b) the CEO of ComSuper is also required to provide a similar report for the remainder of the period;

the CEO of ComSuper may meet the requirements in a single report for the period.

*Outstanding reporting requirements*

- (5) If:

- (a) a law required the Commissioner for Superannuation to provide a report (whether financial statements or otherwise) for a period that ended before commencement; and
- (b) the report relates to the 1922 scheme or the PNG; and
- (c) the report has not been provided by commencement;

CSC must provide the report as required.

- (6) If:

- (a) a law required the Commissioner for Superannuation to provide a report (whether financial statements or otherwise) for a period that ended before commencement; and
- (b) the report is not covered by subitem (5); and
- (c) the report has not been provided by commencement;

the CEO of ComSuper must provide the report as required.

- (7) The Minister may, by writing, determine that subitems (1), (2) and (5) apply as if references to CSC were references to the CEO of ComSuper. A determination under this subitem has effect accordingly.
- (8) The Minister may, by writing, determine that subitems (3), (4) and (6) apply as if references to the CEO of ComSuper were references to CSC. A determination under this subitem has effect accordingly.
- (9) A determination made under subitem (7) or (8) is not a legislative instrument.

## Part 7—Miscellaneous

### 19 CGT roll-over—transfer of MSB 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 CSC of its powers under section 18 of the *Military Superannuation and Benefits Act 1991* in relation to the MSB Fund to operate a pooled superannuation trust, known as the ARIA Investments Trust, that is used for investing the assets of the MSB Fund.

#### *Roll-over*

- (2) There is a roll-over if:
- (a) after 30 June 2011 and on or before 1 July 2012 (or such later date as is prescribed by the regulations), one or more CGT events happen because CSC ceases to hold CGT assets of the MSB Fund; and
  - (b) because of the cessation, CGT assets (the *identical assets*) that, together, are identical to all the CGT assets of the MSB Fund just before the happening of the CGT events start to be held:
    - (i) by the trustee (the *transferee trustee*) of the ARIA Investments Trust (whether or not all the identical assets were assets of the MSB Fund just before the CGT events); and
    - (ii) after 30 June 2011 and on or before 1 July 2012 (or such later date as is prescribed by the regulations); and
  - (c) the cessation is part of a scheme under which CGT assets of the MSB Fund are replaced with units in the ARIA Investments Trust.

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

- (3) A capital gain or capital loss CSC 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 CSC 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 CSC 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.

## **20 Amending instruments may be retrospective**

- (1) If:
  - (a) an instrument is made within the period of 12 months beginning on the day on which this item commences; and
  - (b) a provision of the instrument amends a reference to the MSB Board, the Authority or the Commissioner for Superannuation in any other instrument;the provision may be expressed to take effect from the day that this item commences, or a later day in the period referred to in paragraph (a), that occurs before the instrument is made.
- (2) This item has effect despite subsection 12(2) of the *Legislative Instruments Act 2003*.

## **21 Constitutional safety net—acquisition of property**

- (1) If the operation of this Schedule would result in an acquisition of property from a person otherwise than on just terms, the Commonwealth is liable to pay a reasonable amount of compensation to the person.
- (2) If the Commonwealth and the person do not agree on the amount of the compensation, the person may institute proceedings in a court of competent jurisdiction for the recovery from the Commonwealth of such reasonable amount of compensation as the court determines.

## 22 Saving of existing delegations

*Delegations by ARIA, the Authority, the MSB Board and the Commissioner for Superannuation etc.*

- (1) Despite the amendments and repeals made by Schedule 1 to this Act:
- (a) any delegation to the Commissioner for Superannuation under a superannuation law that was in force immediately before commencement continues in force on and after commencement as if it were a delegation made by CSC to the CEO of ComSuper under section 36 of the *Governance of Australian Government Superannuation Schemes Act 2011*; and
  - (b) any delegation to a member of the staff assisting the Commissioner for Superannuation under a superannuation law that was in force immediately before commencement continues in force on and after commencement as if it were a delegation made by CSC to a member of the staff of ComSuper under section 36 of the *Governance of Australian Government Superannuation Schemes Act 2011*; and
  - (c) any delegation by the Commissioner for Superannuation under a superannuation law that was in force immediately before commencement continues in force on and after commencement as if it were a delegation made by the CEO of ComSuper under section 25 of the *ComSuper Act 2011*; and
  - (d) any other delegation under a superannuation law that was in force immediately before commencement continues in force on and after commencement as if it were a delegation made by CSC under section 36 of the *Governance of Australian Government Superannuation Schemes Act 2011*; and
  - (e) any sub-delegation to the Commissioner for Superannuation that was in force immediately before commencement continues in force on and after commencement as if it were a sub-delegation to the CEO of ComSuper under section 36 of the *Governance of Australian Government Superannuation Schemes Act 2011*; and
  - (f) any sub-delegation to a member of the staff assisting the Commissioner for Superannuation in the performance of his or her functions under a superannuation law that was in force immediately before commencement continues in force on and
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after commencement as if it were a sub-delegation to a member of the staff of ComSuper under section 36 of the *Governance of Australian Government Superannuation Schemes Act 2011*; and

- (g) any sub-delegation by the Commissioner for Superannuation that was in force immediately before commencement continues in force on and after commencement as if it were a sub-delegation by the CEO of ComSuper under section 36 of the *Governance of Australian Government Superannuation Schemes Act 2011*; and
  - (h) any sub-delegation by a member of the staff assisting the Commissioner for Superannuation in the performance of his or her functions under a superannuation law that was in force immediately before commencement continues in force on and after commencement as if it were a sub-delegation by a member of the staff of ComSuper under section 36 of the *Governance of Australian Government Superannuation Schemes Act 2011*; and
  - (i) any other sub-delegation under a superannuation law that was in force immediately before commencement continues in force on and after commencement as if it were a sub-delegation made under section 36 of the *Governance of Australian Government Superannuation Schemes Act 2011*.
- (2) Subitem (1) does not apply to a delegation made by a Minister or under a governing deed.

*Delegations made by a Minister*

- (3) Despite the amendment of section 51 of the *Military Superannuation and Benefits Act 1991* by Schedule 1 to this Act:
- (a) any delegation by the Minister to the MSB Board that was in force under that section immediately before commencement continues in force on and after commencement as if it were a delegation made by the Minister to CSC under that section as amended by Schedule 1 to this Act; and
  - (b) any delegation by the Minister to the Commissioner for Superannuation that was in force under that section immediately before commencement continues in force on and after commencement as if it were a delegation made by the

Minister to the CEO of ComSuper under that section as amended by Schedule 1 to this Act; and

- (c) any delegation by the Minister to a member of the staff assisting the Commissioner for Superannuation in the performance of his or her functions under the *Military Superannuation and Benefits Act 1991* that was in force under that section immediately before commencement continues in force on and after commencement as if it were a delegation made by the Minister to a member of the staff of ComSuper under that section as amended by Schedule 1 to this Act; and
- (d) any delegation to an APS employee in the Defence Department or an officer of the Defence Force that was in force under that section immediately before commencement continues in force on and after commencement as if it were a delegation made by the Minister to an APS employee in the Defence Department or officer, as the case may be, under that section as amended by Schedule 1 to this Act.

(4) Despite the amendment of:

- (a) section 165 of the *Superannuation Act 1976* by Schedule 1 to this Act; and
- (b) section 47 of the *Superannuation Act 1990* by Schedule 1 to this Act; and
- (c) section 33 of the *Superannuation Act 2005* by Schedule 1 to this Act;

the following paragraphs have effect:

- (d) any delegation by the Minister to ARIA that was in force under any of those sections immediately before commencement continues in force on and after commencement as if it were a delegation made by the Minister to CSC under the relevant section as amended by Schedule 1 to this Act;
- (e) any delegation by the Minister to the Commissioner for Superannuation that was in force under any of those sections immediately before commencement continues in force on and after commencement as if it were a delegation made by the Minister to the CEO of ComSuper under the relevant section as amended by Schedule 1 to this Act;

- (f) any delegation by the Minister to a member of the staff assisting the Commissioner for Superannuation in the performance of his or her functions under any of the Acts mentioned in paragraphs (a), (b) and (c) that was in force under any of those sections immediately before commencement continues in force on and after commencement as if it were a delegation made by the Minister to a member of the staff of ComSuper under the relevant section as amended by Schedule 1 to this Act;
- (g) any delegation by the Minister to an APS employee in the Finance Department that was in force under any of those sections immediately before commencement continues in force on and after commencement as if it were a delegation made by the Minister to an APS employee in the Finance Department under the relevant section as amended by Schedule 1 to this Act.

*Delegations made under a governing deed*

- (5) For the purposes of a governing deed:
    - (a) any delegation by the Minister to the Board that was in force immediately before commencement continues in force on and after commencement as if it were a delegation made by the Minister to CSC under the relevant governing deed; and
    - (b) any delegation by the Minister to the Commissioner for Superannuation that was in force immediately before commencement continues in force on and after commencement as if it were a delegation made by the Minister to the CEO of ComSuper under the relevant governing deed; and
    - (c) any other delegation to the Commissioner for Superannuation that was in force immediately before commencement continues in force on and after commencement as if it were a delegation made by CSC to the CEO of ComSuper under the relevant governing deed; and
    - (d) any delegation by the Minister to a member of the staff assisting the Commissioner for Superannuation that was in force immediately before commencement continues in force on and after commencement as if it were a delegation made by the Minister to a member of the staff of ComSuper under the relevant governing deed; and
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- (e) any delegation to a member of the staff assisting the Commissioner for Superannuation in the performance of his or her functions under a superannuation law that was in force immediately before commencement continues in force on and after commencement as if it were a delegation made by CSC to a member of the staff of ComSuper under the relevant governing deed; and
- (f) any other delegation that was in force immediately before commencement continues in force on and after commencement as if it were a delegation made by CSC under the relevant governing deed; and
- (g) any sub-delegation to the Commissioner for Superannuation that was in force immediately before commencement continues in force on and after commencement as if it were a sub-delegation to the CEO of ComSuper under the relevant governing deed; and
- (h) any sub-delegation to a member of the staff assisting the Commissioner for Superannuation that was in force immediately before commencement continues in force on and after commencement as if it were a sub-delegation to a member of the staff of ComSuper under the relevant governing deed; and
- (i) any sub-delegation by the Commissioner for Superannuation that was in force immediately before commencement continues in force on and after commencement as if it were a sub-delegation by the CEO of ComSuper under the relevant governing deed; and
- (j) any sub-delegation by a member of the staff assisting the Commissioner for Superannuation that was in force immediately before commencement continues in force on and after commencement as if it were a sub-delegation by a member of the staff of ComSuper under the relevant governing deed; and
- (k) any other sub-delegation that was in force immediately before commencement continues in force on and after commencement as if it were a sub-delegation made under the relevant governing deed.

## **23 Saving of existing declarations**

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Despite the repeal and substitution of subsection 13(1) of the *Superannuation Act 2005* by Schedule 1 to this Act, any declaration that was in force immediately before commencement continues in force on and after commencement as if it were a declaration made under subparagraph 13(1)(a)(ii) of the *Superannuation Act 2005* as in force after commencement.

## **24 Transfer of custody of records**

- (1) Subitem (2) applies to any records or documents that, immediately before commencement, were in the custody of the Commissioner for Superannuation.
- (2) The records and documents are to be transferred into the custody of the CEO of ComSuper at or after commencement.

## **25 Certificates taken to be authentic**

A document that appears to be a certificate made or issued under a particular provision of this Schedule:

- (a) is taken to be such a certificate; and
- (b) is taken to have been properly given;

unless the contrary is established.

## **26 Special Accounts**

### *Australian Reward Investment Alliance Special Account*

- (1) There is payable to CSC, at commencement, an amount equal to the credit balance of the Australian Reward Investment Alliance Special Account immediately before commencement, and the Consolidated Revenue Fund is appropriated accordingly.

### *Commonwealth Superannuation Administration Special Account*

- (2) An amount equal to:
  - (a) the credit balance of the Commonwealth Superannuation Administration Special Account immediately before commencement;
  - (b) less the amount mentioned in subitem (3);is, after commencement, to be credited to the ComSuper Special Account.

- (3) There is payable to CSC, at commencement, an amount equal to the amount held in Commonwealth Superannuation Administration Special Account on behalf of the MSB Board immediately before commencement, and the Consolidated Revenue Fund is appropriated accordingly.

## **27 Validation of audit fees paid**

- (1) This item applies if, before commencement, the financial statements of an Australian government superannuation scheme were audited by the Auditor-General.
- (2) ARIA is taken always to have been liable to pay audit fees for an audit of the financial statements of the CSS, PSS or PSSAP for a financial year beginning on or after 1 July 2006 and ending before 1 July 2011.
- (3) The CSS Board is taken always to have been liable to pay audit fees for an audit of the financial statements of the CSS for a financial year beginning on or after 1 July 1997 and ending before 1 July 2006.
- (4) The PSS Board is taken always to have been liable to pay audit fees for an audit of the financial statements of the PSS for a financial year beginning on or after 1 July 1997 and ending before 1 July 2006.
- (5) The MSB Board is taken always to have been liable to pay audit fees for an audit of the financial statements of the MSB for a financial year beginning on or after 1 July 1997 and ending before 1 July 2011.
- (6) If any payment claims or payment claims for instalments were issued by the Auditor-General in respect of an audit to which this item applies, the Auditor-General is taken always to have had the power to issue the payment claims.

## **28 Regulations**

- (1) The Governor-General may make regulations prescribing matters:
- (a) required or permitted by this Schedule to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Schedule.
- (2) In particular, regulations may be made prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to the amendments or repeals made by this Act.

Note: During the first year after this item commences, regulations can retrospectively amend references to the MSB Board, the Authority or the Commissioner for Superannuation: see item 20.

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*[Minister's second reading speech made in—  
House of Representatives on 24 March 2011  
Senate on 16 June 2011]*

(57/11)

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