

1990

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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Presented and read a first time, 9 May 1990

*(Minister for Finance)*

## A BILL

FOR

### **An Act to establish supervisory mechanisms for the provision of superannuation benefits to certain persons, and for related purposes**

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

#### **Short title**

- 5 1. This Act may be cited as the *Superannuation Benefits (Supervisory Mechanisms) Act 1990*.

#### **Commencement**

2. This Act commences on 1 July 1990.

#### **Interpretation**

- 10 3. (1) In this Act:  
“**applicable law**” means a relevant law that is declared by the Minister, by notice published in the *Gazette*, to be an applicable law for the purposes of this Act;

**“eligible body”** means a relevant body that is declared by the Minister, by notice published in the *Gazette*, to be an eligible body for the purposes of this Act;

**“excluded Territory authority or body”** means:

- (a) the Australian Capital Territory or the Northern Territory; or 5
- (b) an authority or body established or incorporated for a public purpose by a law of the Australian Capital Territory or the Northern Territory; or
- (c) a company or other body corporate in which the Australian Capital Territory or the Northern Territory has a controlling interest; or 10
- (d) an authority or body that is financed wholly or substantially, either directly or indirectly, by money provided by the Australian Capital Territory or the Northern Territory; or
- (e) a company or other body corporate in which a body politic, or other body or authority, referred to in paragraph (a), (b), (c) or (d) of this definition has, or 2 or more such bodies or authorities together have, a controlling interest; 15

**“overseas employee”** means a person employed or engaged outside Australia and the Territories, to perform duties outside Australia and the Territories, whether that person is employed or engaged under section 82AF of the *Public Service Act 1922* or otherwise; 20

**“relevant body”** means:

- (a) a company or other body corporate that is incorporated under an Act or a law of a State or Territory and in which the Commonwealth has a controlling interest; or 25
- (b) an authority or body (whether a body corporate or not) that is financed wholly or substantially, either directly or indirectly, by money provided by the Commonwealth but that is not established by a law of the Commonwealth and is not an excluded Territory authority or body; or 30
- (c) a company or other body corporate that is a relevant subsidiary; being a company, body or authority that is:
- (d) an approved authority for the purposes of the *Superannuation Act 1976*; or 35
- (e) an approved authority for the purposes of the *Superannuation Act 1990*; or
- (f) declared by the Minister, by notice published in the *Gazette*, to be a relevant body for the purposes of this Act;

**“relevant law”** means a law of the Commonwealth (other than the *Northern Territory (Self-Government) Act 1978* and the *Australian Capital Territory (Self-Government) Act 1988*); 40

**“relevant subsidiary”** means a company or other body corporate incorporated under an Act or a law of a State or Territory, being a company or other body corporate in which: 45

(a) an authority or body that:

(i) is of a kind described in subparagraph (b) (i), (ii), (iii) or (iv) of the definition of "approved authority" in section 3 of the *Superannuation Act 1990*; and

(ii) is not an excluded Territory authority or body; has a controlling interest; or

(b) the Commonwealth and one or more than one authority or body that is, or are each, of a kind described in paragraph (a) of this definition together have a controlling interest; or

(c) 2 or more authorities or bodies that are each of a kind described in paragraph (a) of this definition together have a controlling interest;

**"superannuation arrangement"** means any arrangement, however established, whether formal or informal and whether dependent on the establishment of a trust or not, that provides for, or that constitutes the provision of, superannuation benefits:

(a) to a person on or because of the person's ceasing to hold an office or appointment or to be employed; or

(b) to other persons on or because of the person's death;

and, without limiting the generality of the foregoing, includes any scheme or arrangement that was a superannuation scheme for the purposes of Part XA of the *Superannuation Act 1976*;

**"superannuation benefits"** includes, but is not limited to, benefits similar to the benefits provided under the *Superannuation Act 1976* or the *Superannuation Act 1990*.

(2) Nothing in this Act is to be taken to imply that the Minister may not declare companies, bodies or authorities that have or will have appropriate characteristics to be relevant bodies, or to be eligible bodies, for the purposes of this Act despite the fact that the companies, bodies or authorities or some of them are not in existence at the time the declaration is made.

(3) For the purposes of this Act:

(a) a reference to a person who is employed under a relevant law or under an applicable law includes a reference to a person holding an office or appointment under that law; and

(b) a reference to a person who is employed by a relevant body or by an eligible body includes a reference to a person holding an office or appointment in that body.

(4) Where a person is a director of a company or other body corporate incorporated, whether before or after the commencement of this Act, under a law of the Commonwealth, a State or Territory, being a company or other body that is a relevant body, the person is, for the purposes of this Act, taken to be employed by the company or other body.

(5) The Minister may, by notice published in the *Gazette*, declare that the person holding or occupying a particular office or position is to be taken, for the purposes of this Act, to be the employer of specified persons and, upon the publication of such a notice, the person is to be so taken.

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**Application**

4. This Act applies within and outside Australia.

**Restrictions upon provision of superannuation**

5. (1) Where a person other than an overseas employee is employed under a relevant law, superannuation benefits for or in relation to the person must not be provided under that law or any other relevant law or under terms and conditions of employment determined under any such law unless:

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- (a) their provision is permitted under section 6; or
- (b) a relevant law expressly provides for their provision; or
- (c) a relevant law allows their provision and the Minister has, by signed instrument, approved their provision.

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(2) Where a person other than an overseas employee is employed by a relevant body, that body must not provide, or arrange for the provision of, superannuation benefits for or in relation to the person unless:

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- (a) their provision is permitted under subsection (1); or
- (b) their provision is permitted under section 6; or
- (c) the body has power to provide them and the Minister has, by signed instrument, approved their provision.

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(3) Where superannuation benefits may be provided to a person to whom subsection (1) or (2) applies without contravention of that subsection, those benefits may be provided under:

- (a) a superannuation arrangement that will provide benefits only for, or in relation to, such persons; or
- (b) an existing or proposed superannuation arrangement that will also provide superannuation benefits for, or in relation to, persons other than such persons.

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(4) Where the provision of superannuation benefits for or in relation to persons who are, or who include persons who are, employed under a relevant law or by a relevant body has been approved by the Minister under paragraph (1) (c) or (2) (c):

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- (a) a superannuation arrangement that purports to provide those benefits has no force or effect, or no force or effect in its purported application in respect of persons so employed, unless it is approved by the Minister by signed instrument; and
- (b) an amendment of a superannuation arrangement that provides

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those benefits solely for or in relation to persons so employed has no force or effect, or no force or effect in its purported application in respect of those persons, unless it is approved by the Minister by signed instrument.

5 (5) Where guidelines for the provision of superannuation benefits for or in relation to persons who are, or who include persons who are, employed under an applicable law or by an eligible body have been determined by the Minister under subsection 6 (3):

10 (a) a superannuation arrangement that purports to provide those benefits has no force or effect, or no force or effect in its purported application in respect of persons so employed, to the extent that it is inconsistent with those guidelines; and

15 (b) an amendment of a superannuation arrangement that provides those benefits has no force or effect, or no force or effect in its purported application in respect of persons so employed, to the extent that it is inconsistent with those guidelines.

20 (6) Where a superannuation arrangement, not being a superannuation arrangement referred to in subsection (4) or (5), purports to provide, in contravention of subsection (1) or (2), superannuation benefits for or in relation to persons who are, or who include persons who are, employed under a relevant law or by a relevant body, that arrangement has no force or effect, or no force or effect in its purported application in respect of persons so employed.

25 (7) Subsection (1) or (11) is not to be taken to prevent the provision of superannuation benefits under a superannuation arrangement that had been established or put into effect before, and was in operation on, 24 April 1978.

30 (8) Subsection (2) or (11) is not to be taken to prevent the provision of superannuation benefits by, or arranged for by, a relevant body under a superannuation arrangement:

(a) that had been established or put into effect, before, and was in operation when, the body became a relevant body; or

(b) that is established or put into effect before, and is in operation when, the body becomes a relevant body.

35 (9) Subsection (8) does not apply to a superannuation arrangement:

(a) that had been established or put into effect on or after 24 April 1978 and before 14 December 1988, in contravention of section 167A of the *Superannuation Act 1976*; or

40 (b) that had been established or put into effect on or after 14 December 1988 and before the commencement of this section, in contravention of Part XA of the *Superannuation Act 1976*; or

(c) that is established or put into effect after the commencement of this section, in contravention of this Act.

(10) An amendment of a superannuation arrangement referred to in subsection (7) or (8), being an arrangement that provides superannuation benefits solely for or in relation to persons who are referred to in subsection (1) or (2), has no force or effect unless it is approved by the Minister by signed instrument.

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(11) Without limiting the effect of subsection (4), (5), (6) or (10), superannuation benefits for or in relation to a person must not be provided under a superannuation arrangement, or under an amendment of a superannuation arrangement, that has no force or effect because of that subsection.

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(12) Where the Minister has approved, under subsection 6 (5), an aspect of the provision of superannuation benefits that would, upon its implementation, be inconsistent with the guidelines determined by the Minister in relation to the provision of those benefits, the superannuation arrangement, or the amendment of a superannuation arrangement, by which that aspect is to be implemented is not, by reason only of the inclusion of that aspect, to be taken to be inconsistent with those guidelines for the purposes of subsection (5).

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#### **Provision of superannuation in accordance with Ministerial guidelines**

6. (1) Where a person is employed under an applicable law, superannuation benefits for or in relation to the person may be provided under that applicable law or any other relevant law or under terms and conditions of employment determined under any such law, if that applicable law or that other relevant law allows the provision of those benefits and they are provided:

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(a) where the Minister has approved, under subsection (5), any aspect of their provision that is inconsistent with guidelines for their provision determined by the Minister under subsection (3)—in accordance with the Minister's approval and with the guidelines in respect of all other aspects of their provision; or

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(b) unless paragraph (a) applies—in accordance with guidelines for their provision determined by the Minister under subsection (3).

(2) Where a person is employed by an eligible body, that body may provide, or arrange for the provision of, superannuation benefits for or in relation to the person if that body has power to provide those benefits and they are provided:

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(a) where the Minister has approved, under subsection (5), any aspect of their provision by the body or under an arrangement made by the body, being an aspect that is inconsistent with guidelines for their provision determined by the Minister under subsection (3)—in accordance with the Ministerial approval and with the guidelines in respect of all other aspects of their provision; or

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(b) unless paragraph (a) applies—in accordance with guidelines for their provision determined by the Minister under subsection (3).

5 (3) The Minister may determine, in writing, guidelines for the provision of superannuation benefits for or in relation to persons:

(a) who are employed under a particular applicable law that is, or who are respectively employed under particular applicable laws that are, specified in the determination; or

10 (b) who are employed by a particular eligible body that is, or who are respectively employed by particular eligible bodies that are, specified in the determination;

and, where the Minister so determines, the Minister must, as soon as practicable after that, serve, either personally or by post, a copy of the guidelines on the employer or each employer of persons so employed.

15 (4) Nothing in this section is to be taken to imply that a determination under subsection (3) may not relate in part to persons employed under an applicable law and in part to persons employed by an eligible body.

(5) Where any aspect of the provision of superannuation benefits:

20 (a) under an applicable law or under terms and conditions of employment determined under an applicable law; or

(b) by an eligible body;

25 would, if it were implemented, be inconsistent with the guidelines determined by the Minister under this section in relation to their provision, the Minister may, upon being requested in writing to do so, by signed instrument, approve that aspect.

(6) The Minister must not:

(a) under subsection (3), determine guidelines for the provision of superannuation benefits; or

30 (b) under subsection (5), approve any aspect of the provision of superannuation benefits that is inconsistent with guidelines determined by the Minister;

35 if the Minister's determination of those guidelines or approval of that aspect would be inconsistent with any regulations made under the *Occupational Superannuation Standards Act 1987*.

(7) The Minister may, at any time before a copy of the guidelines is served on the employer of persons in accordance with the requirements of subsection (3), communicate a copy of the guidelines to the employer by any electronic means whatsoever.

40 (8) Guidelines determined by the Minister under subsection (3):

(a) come into force:

(i) where a copy of the guidelines is communicated to an employer of persons under subsection (7)—on the day

on which they are so communicated or, if the guidelines are expressed to come into force on a later day, on that later day; or

- (ii) where a copy of the guidelines is not so communicated to an employer of the persons—on the day on which a copy of the guidelines is served on the employer or, if the guidelines are expressed to come into force on a later day, on that later day; and

- (b) are disallowable instruments within the meaning of section 46A of the *Acts Interpretation Act 1901*.

(9) Guidelines determined under subsection (3) for the provision of superannuation benefits for or in relation to persons may relate to any matter connected with their provision or with the administration of a superannuation arrangement for their provision, and, in particular, may provide that only specified persons are to be permitted to contribute to, and to be provided with benefits under, that arrangement.

#### **Effect of contravention of section 5**

7. (1) Any act done in relation to the provision of superannuation benefits that contravenes section 5 is void to the extent that it contravenes that section.

(2) Any act done in relation to the provision of superannuation benefits under, or purportedly under, a superannuation arrangement approved by the Minister under section 5, that contravenes the terms and conditions of the arrangement as so approved is void to the extent that it contravenes those terms and conditions.

(3) Where, because of the operation of subsection (1) or (2), the payment of money by a person or body to another person or body is void, then, unless the Minister has declared in writing that this subsection does not apply:

- (a) the money so paid is recoverable as a debt due to the person or body who paid it; and
- (b) if the person or body who paid the money is the employer and the Minister has directed that person or body, by notice in writing, to take action to recover it—the person or body must take action to recover it accordingly.

(4) Where, because of the operation of subsection 5 (4), (5), (6) or (10), a superannuation arrangement, or an amendment of a superannuation arrangement, is of no force or effect, the Minister may, after having regard to the consequences to persons receiving, or likely to receive, benefits under the arrangement, by determination in writing:

- (a) declare the arrangement or amendment, and all or any actions associated with its establishment, making or operation, to have the same force and effect as if it had made provision for, or



constituted the provision of, superannuation benefits in accordance with the requirements of this Act; or

5 (b) declare the arrangement or amendment, and all or any actions associated with its establishment, making or operation, to have the force and effect referred to in paragraph (a) if the employer concerned, within a period specified in the determination, takes, to the satisfaction of the Minister, such action in relation to the arrangement or amendment as is specified in the determination, being action that, in the opinion of the Minister:

10 (i) will most effectively modify the operation of the arrangement or amendment so that its effect will be substantially similar to the effect it would have had if it had made provision for, or constituted the provision of, superannuation benefits in accordance with the requirements of this Act; or

15 (ii) if it cannot be so modified—will most effectively restrict the operation of the arrangement or amendment.

20 (5) Where, because of the operation of subsection 5 (4), (5) or (6), a superannuation arrangement, or an amendment of a superannuation arrangement, is of no force or effect in its application in respect of particular persons, the Minister may, after having regard to the consequences to persons receiving, or likely to receive, benefits under the arrangement, by determination in writing:

25 (a) declare the arrangement or amendment, in its application to those persons, and all or any actions associated with its application in respect of those persons, to have the same force and effect as if it had made provision for, or constituted the provision of, superannuation benefits in respect of those persons in accordance with the requirements of this Act; or

30 (b) declare the arrangement or amendment, in its application in respect of those persons, and all or any actions associated with its application in respect of those persons, to have the force and effect referred to in paragraph (a) if the employer concerned, within a period specified in the determination, takes, to the satisfaction of the Minister, such action in relation to the arrangement or amendment as is specified in the determination, being action that, in the opinion of the Minister:

35 (i) will most effectively modify the operation of the arrangement or amendment so that the effect of its application in respect of those persons will be substantially similar to the effect its application would have had if it had made provision for, or constituted the provision of, superannuation benefits in respect of those persons in accordance with the requirements of this Act; or

40 (ii) if it cannot be so modified—will most effectively restrict the operation of the arrangement or amendment in its application to those persons.

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(6) Where the Minister makes a determination under subsection (4) or (5), he or she:

- (a) must cause a copy of the determination to be given to the employer concerned; and
- (b) must cause a copy of the determination to be laid before each House of the Parliament within 5 sitting days of that House after its making. 5

(7) Either House of the Parliament, within 5 sitting days of that House after a copy of a determination has been laid before that House may, under a motion upon notice, pass a resolution disallowing the determination. 10

(8) Where:

- (a) a notice referred to in subsection (7) is given with respect to a determination; and
- (b) at the expiration of the period during which a resolution disallowing the determination could have been passed: 15
  - (i) the notice has not been withdrawn and the relevant motion has not been called on; or
  - (ii) the relevant motion has been called on, moved and seconded and has not been withdrawn or otherwise disposed of; 20

the determination is to be taken to have been disallowed.

(9) If:

- (a) neither House of the Parliament passes a resolution in accordance with subsection (7) disallowing a determination; and 25
- (b) the determination is not to be taken to have been disallowed under subsection (8);

the determination takes effect on whichever of the following days is the later:

- (c) the day immediately following the last day on which a resolution disallowing the determination could have been passed; 30
- (d) where the determination is conditional upon the employer's taking, to the satisfaction of the Minister, specified action within a specified period and the Minister is satisfied that that action is so taken—the day on which the Minister, by notice in writing given to the employer, declares himself or herself to be so satisfied. 35

(10) If, before the expiration of 5 sitting days of a House of the Parliament after a copy of a determination has been laid before that House: 40

- (a) the House of Representatives is dissolved or expires, or the Parliament is prorogued; and

(b) at the time of the dissolution, expiry or prorogation, as the case may be:

- 5 (i) a notice of motion disallowing the determination has not been withdrawn and the motion has not been called on; or
- (ii) a motion disallowing the determination has been called on, moved and seconded and has not been withdrawn or otherwise disposed of;

10 the copy of the determination must, for the purposes of this section, be taken to have been laid before that first-mentioned House on the first sitting day of that first-mentioned House after the dissolution, expiry or prorogation, as the case may be.

15 (11) A reference in this section to the provision of superannuation benefits includes a reference to any act done in relation to the establishment or administration of a superannuation arrangement for their provision, including the receipt of contributions under the arrangement.

#### **Delegation by Minister**

20 8. The Minister may, by signed instrument, delegate to an officer of the Department all or any of the Minister's powers or functions in relation to the provision of superannuation benefits:

- 25 (a) under this Act or under any other relevant law (other than the *Superannuation Act 1922*, the *Superannuation Act 1976*, the *Superannuation Act 1990* or the *Superannuation (Productivity Benefit) Act 1988*); or
- 30 (b) under any trust deed or rules established in relation to superannuation arrangements to which this Act or any other relevant law (other than the *Superannuation Act 1922*, the *Superannuation Act 1976*, the *Superannuation Act 1990* or the *Superannuation (Productivity Benefit) Act 1988*) applies.

#### **Consequential amendments and transitional provisions**

9. (1) The *Superannuation Act 1976* is amended as set out in the Schedule.

35 (2) Where, immediately before the repeal of Part XA of the *Superannuation Act 1976* there was in force:

- (a) a declaration by the Minister, by notice published in the *Gazette* under subsection 153AA (1) of that Act:
- 40 (i) that a particular law is an applicable law; or
- (ii) that a particular company, body or authority is a relevant body; or
- (iii) that a particular company, body or authority is an eligible body;

for the purposes of that Part—that declaration continues in

force, after the repeal, as if it were a declaration to the same effect under subsection 3 (1) of this Act; and

- (b) a declaration by the Minister, by notice published in the *Gazette* under subsection 153AA (4) of that Act, that a person holding or occupying a particular office is to be taken to be the employer of specified persons for the purposes of that Part—that declaration continues in force, after the repeal, as if it were a declaration to the same effect under subsection 3 (5) of this Act; and 5
- (c) an approval by the Minister, under subsection 153AB (1) of that Act, of the provision of superannuation benefits within the meaning of that Part—that approval continues in force, after the repeal, as if it were an approval, under subsection 5 (1) of this Act, of the provision of those benefits as superannuation benefits within the meaning of this Act; and 10 15
- (d) an approval by the Minister, under subsection 153AB (2) of that Act, of the provision of superannuation benefits within the meaning of that Part—that approval continues in force, after the repeal, as if it were an approval, under subsection 5 (2) of this Act, of the provision of those benefits as superannuation benefits within the meaning of this Act; and 20
- (e) an approval by the Minister, under subsection 153AB (4) of that Act, of a superannuation scheme within the meaning of that Part or of an amendment to such a superannuation scheme—that approval continues in force, after the repeal, as if it were an approval, under subsection 5 (4) of this Act, of that scheme as a superannuation arrangement within the meaning of this Act or of that amendment as an amendment to such a superannuation arrangement; and 25 30
- (f) an approval by the Minister, under subsection 153AB (9) of that Act, of an amendment of a superannuation scheme within the meaning of that Part—that approval continues in force, after the repeal, as if it were an approval, under subsection 5 (10) of this Act, of that amendment as an amendment of a superannuation arrangement within the meaning of this Act. 35

(3) Where:

- (a) a determination of guidelines is made by the Minister under subsection 153AC (3) of the *Superannuation Act 1976*; and
- (b) the determination is in force immediately before the repeal of Part XA of that Act; 40

the determination continues in force, after the repeal:

- (c) as if this Act had been in force at the time when the determination was made; and
- (d) as if the determination had been made under and in accordance

with the requirements of subsection 6 (3) of this Act at that time; and

5 (e) if the determination has been laid before each House of the Parliament—as if the determination had been laid before each House of the Parliament in accordance with the requirements of section 6 of this Act on the day when it was so laid; and

(f) for the purposes of paragraph (d) as if a reference in the determination:

10 (i) to an applicable law or an eligible body for the purposes of Part XA of the Act were a reference to an applicable law or an eligible body for the purposes of this Act; and

(ii) to a superannuation scheme were a reference to a superannuation arrangement; and

15 (iii) to subsection 153AC (3) of the Act in a definition of “relevant day” were a reference to subsection 153AC (3) of the *Superannuation Act 1976*; and

(iv) to subsection 58 (3) of the Act in a definition of “retrenchment benefit” were a reference to subsection 58 (3) of the *Superannuation Act 1976*; and

20 (v) to subsection 153AA (1) of the Act in the definitions of “superannuation benefit” and “superannuation scheme” were a reference to section 3 of this Act.

(4) Where:

25 (a) an aspect of the provision of superannuation benefits within the meaning of Part XA of the *Superannuation Act 1976* would, if implemented, have been inconsistent with guidelines for their provision determined under that Part; and

(b) the Minister nonetheless, under subsection 153AC (4) of that Act, approved that aspect; and

30 (c) that approval is in force immediately before the repeal of that Part;

35 the approval continues in force, after the repeal, as if it were an approval given by the Minister, under subsection 6 (5) of this Act, of that aspect despite its inconsistency with those guidelines as continued in force in accordance with subsection (3).

40 (5) Where an act is void because of the operation of subsection 153AD (1) or (2) of the *Superannuation Act 1976*, this Act has effect, after the repeal of Part XA of that Act, as if the act were void because of the operation of subsection 7 (1) or (2) of this Act, as the case requires.

(6) Where a superannuation scheme within the meaning of Part XA of the *Superannuation Act 1976*, or an amendment of such a scheme, is of no force or effect because of the operation of subsection 153AB (4), (5), (6) or (9) of that Act, this Act has effect, after the repeal of Part

XA of that Act, as if the superannuation scheme or the amendment of the superannuation scheme were a superannuation arrangement within the meaning of this Act, or an amendment of such an arrangement, that had no force or effect because of the operation of subsection 5 (4), (5), (6) or (10) of this Act, as the case requires.

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(7) Where:

(a) the Minister has declared, under subsection 153AD (3) of the *Superannuation Act 1976*, that that subsection does not apply; and

(b) the declaration is in force immediately before the repeal of Part XA of that Act;

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the declaration continues in force, after the repeal, as if it were a declaration under subsection 7 (3) of this Act to the effect that that subsection does not apply.

(8) Where:

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(a) the Minister had directed under paragraph 153AD (3) (b) of the *Superannuation Act 1976* that the person who made a payment recover the money paid; and

(b) the direction is in force immediately before the repeal of Part XA of that Act but proceedings have not been instituted to recover the money;

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the direction continues in force, after the repeal, as if it were a direction duly given under paragraph 7 (3) (b) of this Act.

(9) Where any proceedings had been instituted under subsection 153AD (3) of the *Superannuation Act 1976* before the repeal of Part XA of that Act, but those proceedings had not been completed before that repeal, those proceedings may be continued, after the repeal, as if Part XA of that Act had not been repealed.

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(10) Where:

(a) the Minister makes a determination under subsection 153AD (4) or (5) of the *Superannuation Act 1976* in relation to a superannuation scheme within the meaning of that Act or an amendment of such a scheme; and

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(b) that determination is in force immediately before the repeal of Part XA of that Act;

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that determination continues in force, after the repeal:

(c) as if this Act had been in force at the time the determination was made; and

(d) as if the determination had been made, in relation to that scheme or amendment, under and in accordance with the requirements of subsection 7 (4) or (5) of this Act.

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(11) Where:

(a) a determination has been made under subsection 153AD (4) or (5) of the *Superannuation Act 1976*; and

5 (b) the determination has not been laid before each House of the Parliament before the repeal of Part XA of that Act or has been so laid but has not come into effect, or been disallowed, before that repeal;

that determination is to be treated, after that repeal:

(c) as if this Act had been in force on the day when the determination was made; and

10 (d) as if the determination had been made under and in accordance with the requirements of subsection 7 (4) or (5) of this Act; and

15 (e) if the determination has been laid before each House of the Parliament—as if the determination had been laid before each House of the Parliament under and in accordance with the requirements of section 7 of this Act on the day when it was so laid.

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**SCHEDULE**

Section 9

**CONSEQUENTIAL AMENDMENTS OF THE SUPERANNUATION  
ACT 1976**

**Subsection 17 (2):**

Omit "Parts III and XA", substitute "Part III".

**Part XA:**

Repeal the Part.

