



Training notes

Membership of the CSS

Updated December 2007

<http://www.css.gov.au>

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Introduction

These training notes have been updated to current rules as at 30 June 2006. When reviewing or updating member records prior to 1 July 2006 you should link to the archived training notes as different rules could apply to the members records at that time. With the introduction of choice of fund on 1 July 2006 some of the rules changed with regards to membership of the CSS. These notes cover those changes.

These notes are not a substitute for the Superannuation Act 1976 or associated Regulations.

As provisions change you will be advised by way of Employer News. If you wish to continue to use these notes please ensure that you update them for any change.

Membership of the Scheme from 1 July 2007

Compulsory for:

Permanent on-going employees (both full and part-time) of the **Commonwealth or an Approved Authority** who join in **any** of the following circumstances:

1. With an existing preserved benefit in the CSS
2. Where on a CSS invalidity pension immediately prior to the appointment
3. As a "**re-employed former contributor with preserved rights**", that is, a member who on an earlier exit from the CSS had a transfer value paid to an **Eligible Superannuation Scheme** and on rejoining intends paying into the CSS a transfer value which includes the amount previously paid out from the CSS.

Those who re-enter the CSS in circumstances outlined in (1) and (3) will be able to elect to transfer to the PSS within three months of rejoining.

Those rejoining after having been retired invalidity will only be able to elect to transfer to the PSS if they retired from the CSS prior to 31 August 1996.

NOTE: If the former member referred to in (1) above has claimed their preserved benefit and are currently on a CSS pension, they do not have a preserved benefit. Therefore on re-employment that employee would be offered choice of fund.

IMPORTANT NOTE: If your prospective employee is aged 55 or over and has satisfied (1) or (2) above they should be referred to ComSuper prior to appointment to be made aware of the repercussions on their benefits on rejoining the CSS.

Optional for:

Full-time temporary non-ongoing employees and **statutory office holders** who rejoin in the same circumstances as those outlined above for permanent officers.

(NOTE: There is no time limit on the length of the contract.)

Membership of the CSS is not available to temporary employees who are not full-time employees. These employees must be offered choice of fund. Employers should refer to the **eligibility determiner** for default options. These will be different depending on whether the employer is an APS Employer or Non-APS Employer.

Full-time temporary employees rejoining following invalidity retirement could be required by the delegate to rejoin the CSS, but those who had a preserved benefit or are re-employed former contributors with preserved rights, would only rejoin the CSS if they made a successful election to do so under Section 11 or 13 of the Superannuation Act 1976.

If a full time temporary non-ongoing employee covered by either (1) (2) or (3) above wishes to join a superannuation scheme, it must be the CSS - they are precluded from PSS membership unless they rejoin in a temporary non-ongoing part-time position or the PSSap in a casual capacity.

If the former member referred to in (1) above has claimed their preserved benefit and are currently on a CSS pension, they cannot rejoin the CSS as they no longer have a preserved benefit. They would need to be offered choice of fund.

Please note that previous CSS members covered by circumstances listed in (1) to (3), may only rejoin if they join the Commonwealth or an Approved Authority.

While some agencies such as Australia Post still have CSS members, they are no longer an Approved Authority. Therefore persons rejoining these agencies are not able to rejoin the CSS.

If these people were in receipt of an invalidity pension, they continue to receive that pension but it will be reduced on the basis of their earnings with the new employer.

IMPORTANT NOTE: If your temporary employee is aged 55 or over and has a preserved benefit in the CSS they should be referred to ComSuper prior to electing to become a member, to be made aware of the repercussions on their benefits on rejoining the CSS.

Advising ComSuper

Members who are recommenced in the CSS due to the above circumstances must be recommenced on a new AGS number with their salary for super being their new commencement salary. You treat them the same as any other new employee.

After commencing them on your payroll system, you must advise ComSuper by fax or email that the former member has been recommenced in the CSS. You should provide us with the new AGS number and the member's current postal address.

ComSuper will write to the member and will advise the member that a comparative statement will be provided on request to enable them to make a decision in regard to transferring to the PSS. ComSuper will also advise you and the member if the member is required to undertake a CSS medical. This is discussed in more detail in the CSS Medical module.

Tax File Numbers and Superannuation Surcharge for members prior to 1 July 2005

- > Under the Supervision Industry Supervision Legislation (section 299G) there was a requirement for all members to be approached within 30 days of commencing membership to provide their tax file number to their superannuation fund.
- > It was not compulsory for members to provide their tax file number but if it was not provided a default surcharge assessment at the rate of 15% of surchargeable contributions may have been applied regardless of the level of their income.
- > The Superannuation Contributions Surcharge is a tax on surchargeable superannuation contributions and **is intended to apply to high income earners**. For superannuation surcharge purposes high income earners are persons who have an adjusted taxable income that is above the superannuation surcharge lower threshold amount.
- > A default surcharge assessment may also have occurred where the ATO is unable to match the TFN supplied to ComSuper with the member's income tax record.
- > You should refer CSS members to the CSS website <http://www.css.gov.au/css/members/surcharge> for information in regard to the Super Surcharge.

The superannuation surcharge tax liability has been abolished with effect from 1 July 2005.

Tax File Numbers from 1 July 2007

With the introduction of the government's plan to simplify and streamline superannuation, from 1 July 2007, if a member of the PSSap, PSS or CSS does not provide their Tax File Number (TFN) to their superannuation fund, then that fund cannot accept any member contributions until such time as the TFN is provided. Also, any employer contributions paid will be subject to taxation at the member's top marginal tax rate.

Please note that the legislation does not make it mandatory for a member to provide their TFN but there are significant implications if a valid TFN is not provided.

Further information on the changes and the Tax Laws Amendment (Simplified Superannuation) Act 2007 can be obtained from the Department of Treasury website www.treasury.gov.au

Simplified Superannuation is now referred to as Better Super

Multiple Memberships

[Section 6A]

If a CSS member takes up employment that is not considered eligible employment for the CSS, either while still employed or while on LWOP, the person may elect to join the PSS or the PSSap in respect of that employment. For example:

- > If a CSS member on LWOP for private purposes accepts employment with an eligible employer as a casual they may elect to join the PSSap; or if the employment is temporary part-time, the employee would default to the PSS in respect of this employment, but cannot contribute to the CSS. You will need to set up a new membership under a new AGS number in the scheme the member was eligible to join.

However:

- > if a CSS member is on LWOP to take up employment, either permanent or as a temporary full-time employee, with an organisation which participates in the CSS, the LWOP is considered to have ceased and the existing membership continues. Contributions will be based on the salary with the previous employer and will be reassessed under normal rules on the next birthday.

Date of Effect of Membership

The effective date for membership of the CSS is as follows:

- > **For permanent ongoing employees**, the later of the date of appointment or the date of commencement
- > **For temporary non-ongoing employees**, the date the delegate accepts the election of a temporary employee to join

You may receive queries from persons whose membership commenced before 1 July 1976 who believe that their date of joining is wrong because it does not coincide with their date of appointment or commencing employment.

The date of effect varied for permanent employees in this scheme depending on when they commenced membership:

- > **Before 10 December 1965** - the date of confirmation of appointment
- > **From 10 December 1965 to 3 November 1971** - the latter of date of issue of the appointment certificate, or commencement of duty
- > **4 November 1971 to 30 June 1976** - for members employed under the Public Service Act, it was the date the delegate formally accepted the person to either the Superannuation Scheme or the Provident Account, *that is, the date the PSB9A was signed. If the person commenced duty after the PSB9A was signed, the date of commencement is the effective date.*

For members not employed under the Public Service Act, it was the date of formal acceptance by ComSuper (then known as the Superannuation Board).

Cessation of Membership

[Section 3, Section 3(3)]

- > Membership of the CSS will cease when one of the following occurs:
- > A member ceases employment and is not again "immediately" employed by the Commonwealth or an Approved Authority
- > A member dies

A member ceases to be employed in either a permanent capacity or a full-time temporary capacity.

On introduction of the scheme, the word "immediately" was taken to mean the next working day. However, subsequent decisions of the Administrative Appeals Tribunal (AAT) and the Federal Court have resulted in a more liberal meaning being given to this word.

Membership is now considered *not to have ceased* in cases where a member intended to take up further eligible employment at the time of ceasing employment. It is considered that such intention exists if the member was offered the new employment prior to the date of cessation. This includes changing status from permanent to temporary full time.

When claiming a benefit, members are required to indicate if they intend to re-engage in employment with the Commonwealth or an Approved Authority. If a benefit is paid out and it subsequently becomes clear that the membership had not in fact ceased, the benefit will be recovered.

If membership ceases, and continuous service does not apply, the AGS number applicable to that employment may not be used again, even if the member elects to preserve the benefit.

Transition to Retirement

Some agencies have been looking closely at retaining valuable employees who are opting to leave the CSS just prior to turning 55 (the 54/11 option). Whilst ComSuper does not promote or advise agencies on whether they should undertake these options with their staff, we do provide factual information on the administrative processes involved with this option.

There are different options for transition to retirement; there is a link on the CSS member site to the **transition to retirement fact sheet**. There is also a quick guide for Employers located on the Employer website under Knowledge Centre.

Transition to Retirement arrangements were introduced in 2005. Under these arrangements superannuation funds allow their members who have reached their preservation age to start receiving their superannuation benefit whilst remaining employed by the same employer, provided that the benefit is paid as a pension.

While the CSS rules have not been changed since Transition to Retirement was introduced, there are currently two circumstances where members can cease their CSS contributory membership and become entitled to a benefit whilst remaining with the same employer. These are:

> Joining another employer sponsored superannuation scheme

CSS members are able to cease their CSS membership if their employer allows them to join another employer sponsored superannuation scheme and the employer contributes more than 9% Superannuation Guarantee to that scheme. This option only applies if the employer participates in superannuation arrangements other than Commonwealth superannuation arrangements. These circumstances do not apply to Australian Public Service (APS) employees.

> Changing to temporary part-time or casual employment

CSS members are able to cease their CSS contributory membership if their employer allows them to change their employment conditions so that they are no longer eligible to contribute to the CSS, that is, become a temporary part-time or casual employee.

Following cessation of their CSS membership, members are able to apply for their pension benefit when they reach the age 55 while continuing to work with the same employer. To the lump sum part of the benefit will need to be rolled over to an approved fund. This part of the benefit can only be claimed once the person has ceased that employment.

To claim the benefit the member will need to complete the application form **Deferred Benefit – Continuing with the same employer CD-A3**, which is located under CSS Forms. Employers are requested to attach a letter with these forms validating the type of transition to retirement being exercised as APS agencies and some NON APS agencies have different rules.

Agencies Responsibilities In Regard Benefit Applications

It is the employer's responsibility to provide, follow up and obtain benefit application forms from their former CSS employees so that a benefit may be processed. This applies to all former CSS employees regardless of when they commenced or ceased employment unless continuous service applies.

To ensure that the member receives the latest version of the benefit application forms the employer must print current forms from the CSS or PSS website.

You should also be aware that ComSuper provides employers on a quarterly basis, with account management forms in respect of current contributors, former contributors who have become preserved benefit members or pensioners and other exits for the previous quarter. When applicable, attached to this invoice is a schedule detailing members who have a cease date on their record but are still at contributor status. Your agency can utilize this list to identify former employees who have not submitted benefit application forms.

Failure to submit the application on time, limits the options available to members.

CSS members who resign generally preserve their benefits in the CSS. These members have a period from one month prior to ceasing until 21 days after ceasing to elect to preserve their benefit. If an election is made outside this period it must be treated as a late election and approved by the delegate at ComSuper. Approval may not always be given.

Unclaimed Benefits

Members of the CSS who do not claim their benefits will have their benefit treated as unclaimed and may be paid to an eligible rollover fund (ERF).

The employer should follow up benefit application forms not returned to them. If not returned and you have written to the member at least once after providing the benefit application form, you should then send the departmental Report, salary history, last known address, copy of the member's signature and in retrenchment and invalidity retirement cases the employers Retirement Certificate, with a covering letter explaining your attempts to follow up with the member.

A copy of the member's signature is required to verify at a later date that it is the former member who is claiming the benefit. They may have to be referred to the ERF where there refund was paid.

The last known address is required so that ComSuper may write to the member advising of the action that will be taken in regard to their benefit if they do not respond to ComSuper's correspondence.

Membership From Age 70 to Age 75

From 1 July 2002

From 1 July 2002 changes to *the Superannuation Industry Supervision (SIS) Regulations 1994* permit payment of personal contributions to a superannuation fund by members aged between 70 and 75 years if they meet the 'work test' i.e., they are working at least 40 hours over 30 consecutive days in a financial year.

Employers are not able to make contributions in respect of members over 70 except for mandated contributions under an industrial award.

The *Superannuation (CSS) (Productivity Contributions) Regulations 2002* have been introduced to complement the changes in the SIS Regulations. The effect of this regulation is that, except for mandated contributions covered under an industrial award, productivity contributions are not payable for CSS members beyond age 70. At this point they cease to be mandated employer contributions and thus cannot be accepted due to restrictions imposed by SIS.

The overall effect of the regulations is that from 1 July 2002:

- > CSS members between the age of 70 and 75 must contribute to the fund provided they are working 40 hours over 30 consecutive days in a financial year. (Note: they must be permanent part-time to be CSS members);
- > Contributory service does not accrue. However contributions are required by the member and birthday reviews continue to be reported by the employer.
- > Employers **must not** pay productivity contributions on the member's behalf;

- > Employers continue to pay Employer Superannuation Contributions (PAYG) as Employer Superannuation Contributions are payable in respect of members for the entire period of their membership;
- > If the member is not working 40 hours over 30 consecutive days in a financial year, which includes any other employment, they must submit a benefit application form.

Membership from Age 75 and over

Members aged 75 and over cannot contribute to the CSS but must remain members of the CSS if they have satisfied to work test, if they are working less than 40 hours over 30 consecutive days in a financial year membership ceases and they must submit a benefit application form.