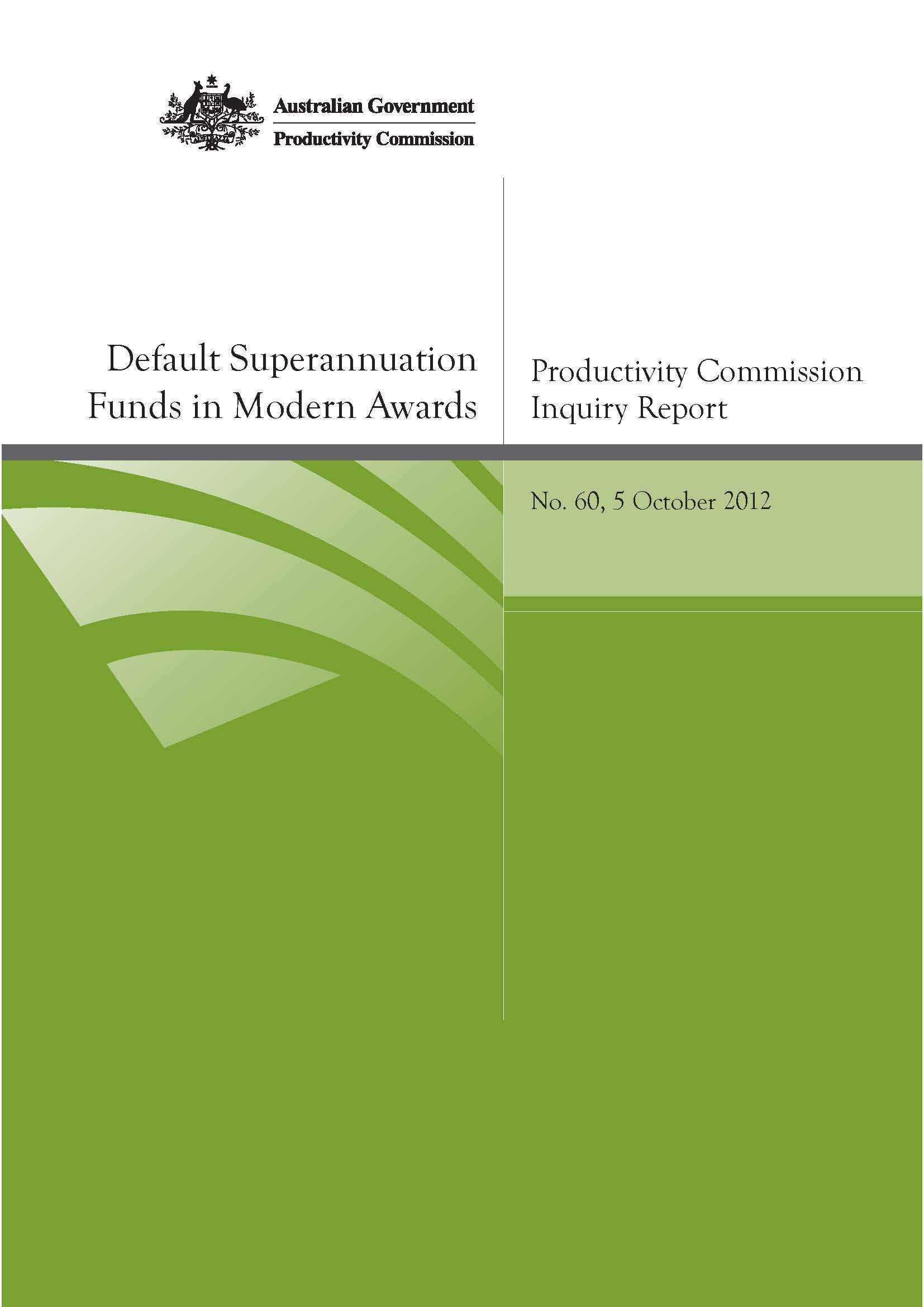
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***The Productivity Commission***

The Productivity Commission is the Australian Government’s independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians. Its role, expressed most simply, is to help governments make better policies, in the long term interest of the Australian community.

The Commission’s independence is underpinned by an Act of Parliament. Its processes and outputs are open to public scrutiny and are driven by concern for the wellbeing of the community as a whole.

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The Hon David Bradbury MP  
Assistant Treasurer

Parliament House

CANBERRA ACT 2600

Dear Assistant Treasurer

In accordance with Section 11 of the *Productivity Commission Act 1998*, we have pleasure in submitting to you the Commission’s final report into Default Superannuation Funds in Modern Awards.

Yours sincerely

Mike Woods Angela MacRae Paul Costello

Presiding Commissioner Commissioner Associate Commissioner

# Terms of reference

**process for the selection and ongoing review of superannuation funds to be included in modern awards as default funds**

I, Mark Arbib, Assistant Treasurer, pursuant to Parts 2 and 3 of the *Productivity Commission Act 1998* hereby request that the Productivity Commission undertake an inquiry into the process for the selection and ongoing review of superannuation funds to be included in modern awards as default funds.

The Commission will commence its inquiry on receipt of the terms of reference and report to Government within eight months of commencement.

**Background**

In May 2009, the Government commissioned a comprehensive and independent review into the governance, efficiency, structure and operation of Australia’s superannuation system (the Cooper Review).  The Cooper Review provided its final report to Government on 30 June 2010 and made 177 recommendations.

A key finding of the Cooper Review was that many consumers do not have the interest, information or expertise required to make informed choices about their superannuation.  These consumers rely heavily on the default superannuation system to act on their behalf.

Superannuation originated in the industrial relations system and awards determined the funds which applied for each industry. Modern awards now list ‘default superannuation funds’ which apply if an individual fails to exercise their right to choose their own fund. Enterprise agreements can also set the default superannuation fund or funds for a particular workplace. Enterprise agreements must be approved by a majority of employees and must be approved by Fair Work Australia who can only do so if satisfied employees are ‘better off overall’ than under the relevant modern award.

The Government believes that default funds should continue to be included in modern awards, but there should also be a transparent set of criteria that such funds can be assessed against. This is in line with the Cooper Review, which recommended that the processes by which default funds are nominated for inclusion in modern awards be reviewed in 2012 to assess whether they are sufficiently open and competitive.

This review delivers on the Government’s election commitment to ask the Commission to design a process for the selection and ongoing assessment of superannuation funds for nomination as default funds in modern awards. It seeks to develop transparent and objective criteria against which funds wishing to be eligible for default fund status in modern awards can be assessed, on an ongoing basis, to ensure that the best interests of members are met if their superannuation contributions are allocated to a default fund under the modern award.

**Scope of inquiry**

The Commission is to design criteria for the selection and ongoing assessment of superannuation funds eligible for nomination as default funds in modern awards by  Fair Work Australia

The criteria designed by the Commission should be transparent and objective. In considering criteria for determining whether a superannuation fund is appropriate to be nominated as a default fund in a modern award  the Commission could have regard to the following:

* The appropriateness of the investment strategy of the default investment option of the fund in terms of risk and expected return
* The medium to long term net-of-costs investment performance of the default investment option
* The level of fees incurred by members
* The scale of the fund and the level of services provided to fund members
* The suitability and cost of insurance provided by the fund
* The governance of the fund
* The fees incurred and other impacts on members if they cease employment with an employer.

While the Commission is to focus on factors that optimise outcomes for members, it should also consider the administrative and compliance impact of its recommendations on employers and their representatives, unions, superannuation funds and decisions of Fair Work Australia.

In undertaking its inquiry, the Commission should have regard to the following matters:

* the interaction with the design and implementation of MySuper, including that only funds offering a MySuper product will be eligible to be included in modern awards
* modern awards will continue to be made and varied by Fair Work Australia
* modern awards will be subject to a comprehensive public review by Fair Work Australia in 2014, following an interim review in 2012.

**Process**

The Commission is to undertake an appropriate public consultation process including holding hearings, inviting public submissions and releasing a draft report to the public.

The Government will consider the Commission’s recommendations, and the Government’s response will be announced as soon as possible after the receipt of the Commission’s report.

Mark Arbib  
Assistant Treasurer

[Received 6 February 2012]

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# Abbreviations

ACAC Australian Conciliation and Arbitration Commission

ACCI Australian Chamber of Commerce and Industry

ACTU Australian Council of Trade Unions

AFP *Administradoras de Fondos de Pensiones* (Chile)

Ai Group Australian Industry Group

AIRC Australian Industrial Relations Commission

AIST Australian Institute of Superannuation Trustees

AMWU Australian Manufacturing Workers’ Union

ANAO Australian National Audit Office

APRA the Australian Prudential Regulation Authority

ASFA Association of Superannuation Funds of Australia

ASIC the Australian Securities and Investments Commission

ATO Australian Taxation Office

Cooper Review Review into the Governance, Efficiency, Structure and Operation of Australia’s Superannuation System

Corporations Act *Corporations Act 2001* (Cwlth)

COSBOA the Council of Small Business Organisations of Australia

CSSA Corporate Super Specialist Alliance

DEEWR Department of Education, Employment and Workplace Relations

EPSSS exempt public sector superannuation scheme

ERF eligible rollover fund

Fair Work Act *Fair Work Act 2009* (Cwlth)

FOFA Future of Financial Advice

FPA Financial Planning Association of Australia

FSC Financial Services Council

FWA Fair Work Australia

IFF Industry Funds Forum

ISN Industry Super Network

Master Plumbers Master Plumbers and Mechanical Services Association of Australia

MER management expense ratio

MPF Mandatory Provident Fund

NUW National Union of Workers

PST pooled superannuation trust

RSE Registrable Superannuation Entity

SCT Superannuation Complaints Tribunal

SDA Shop Distributive and Allied Employees Association

SIS Act *Superannuation Industry (Supervision) Act 1993* (Cwlth)

SMSF self managed superannuation fund

SPA Swedish Pensions Agency

TPD total and permanent disability

UTS University of Technology Sydney