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Superannuation (Family Law — Superannuation Act 1922) Orders 2004

Statutory Rules 2004 No. *∟*¹

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I, NICHOLAS HUGH MINCHIN, Minister for Finance and
Administration, make these Orders under subsection 93DE (1) of
the *Superannuation Act 1922*.

Dated *∟* 2004

9 May

∟

NICK MINCHIN

Minister for Finance and Administration

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1 Name of Orders

These Orders are the *Superannuation (Family Law — Superannuation Act 1922) Orders 2004*.

2 Commencement

These Orders commence as follows:

- (a) on the date of their notification in the *Gazette* — sections 1, 2 and 3;
- (b) on the commencement of Schedule 1 to the *Superannuation Legislation Amendment (Family Law and Other Matters) Act 2004* — sections 4, 5 and 6.

3 Definitions

- (1) In these Orders:

Act means the *Superannuation Act 1922*.

FLS Regulations means the *Family Law (Superannuation) Regulations 2001*.

- (2) An expression that is used in these Orders, and defined in section 93DA of the Act, has the meaning given by that section.

Note Section 93DA of the Act defines expressions including *non-member spouse*, *operative time* and *transfer amount*. Some expressions are defined in section 93DA to have the same meaning as in the *Family Law Act 1975*.

4 Annual rate of associate pension for non-member spouse

For subsection 93DB (2) of the Act, the annual rate of associate pension payable to a non-member spouse to whom that subsection relates is calculated as follows:

Step 1 Identify the transfer amount in relation to the non-member spouse.

Note Subsection 93DB (2) of the Act requires the rate of associate pension to be calculated by reference to the transfer amount.

Step 2 Identify a factor for the non-member spouse that is equal to the value P_{y+m} specified in subclause 2 (2) of Schedule 4 to the FLS Regulations.

Note The associate pension payable to a non-member spouse does not include a reversionary component.

Step 3 Divide the transfer amount by the factor worked out in step 2.

The result is the annual rate of the associate pension.

5 Commutation of small associate pension — minimum amount

- (1) For subsection 93DC (1) of the Act, the amount is \$1 300.
- (2) The amount is to be indexed in the same way, and at the same time, as a standard pension is indexed under Part XI of the Act.

6 Reduction of standard pension

For subsection 93DD (1) of the Act, the amount to which an annual rate of standard pension payable in respect of an original interest is to be reduced is calculated as follows:

Step 1 Identify the annual rate of standard pension that was payable in relation to the member spouse immediately before the operative time.

Step 2 If that annual rate of standard pension takes account of the existence of 1 or more eligible children, deduct the part of the annual rate that takes account of the existence of the eligible children.

Step 3A If the standard pension payable in relation to the member spouse is a spouse pension or an associate pension, identify a factor for the member spouse that is equal to the value

$$P_{y+m}$$

specified in subclause 2 (2) of Schedule 4 to the FLS Regulations, calculated immediately before the operative time.

Step 3B If step 3A does not apply, identify a factor for the member spouse that is equal to the value

$$(P_{y+m} + (r \times R_{y+m}))$$

specified in subclause 2 (2) of Schedule 4 to the FLS Regulations, calculated immediately before the operative time.

Step 4 Multiply the annual rate of standard pension (or the rate worked out under step 2, if applicable) by the factor worked out in step 3A or 3B.

Step 5 Identify the transfer amount in relation to the non-member spouse and subtract it from the amount worked out in step 4.

Step 6 Divide the amount worked out in step 5 by the factor worked out in step 3A or 3B.

Step 7 If step 2 applies, increase the rate worked out in step 6 by the part of the rate that was deducted under step 2.

The result is the annual rate of the standard pension payable after the operative time in respect of the original interest.

Note

1. Notified in the *Commonwealth of Australia Gazette* on 2004. 11 May