



# **Superannuation (Family Law — Parliamentary Contributory Superannuation Act 1948) Amendment Orders 2005 (No. 1)<sup>1</sup>**

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I, NICHOLAS HUGH MINCHIN, Minister for Finance and Administration, make these Orders under section 22CK of the *Parliamentary Contributory Superannuation Act 1948*.

Dated 8 June 2005

NICK MINCHIN  
Minister for Finance and Administration

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**1 Name of Orders**

These Orders are the *Superannuation (Family Law — Parliamentary Contributory Superannuation Act 1948) Amendment Orders 2005 (No. 1)*.

**2 Commencement**

These Orders commence on the day after they are registered.

**3 Amendment of *Superannuation (Family Law — Parliamentary Contributory Superannuation Act 1948) Orders 2004***

Schedule 1 amends the *Superannuation (Family Law — Parliamentary Contributory Superannuation Act 1948) Orders 2004*.

**Schedule 1 Amendments**

(section 3)

**[1] Subsection 1.03 (1), after definition of *actuary***

*insert*

*family law commencement day* means 18 May 2004.

*Note* Part 1 of these Orders commenced on 18 May 2004.

**[2] Section 2.01**

*substitute*

**2.01 Scheme value — member spouse with no surcharge debt**

- (1) This section applies if the most recent member information statement provided to a member spouse before the operative

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time did not show a debit in the member spouse's surcharge debt account.

- (2) For the definition of *scheme value* in section 22CA of the Act:
- (a) if the operative time was before the family law commencement day, the scheme value in relation to the member spouse is the family law value; and
  - (b) if the operative time is on or after the family law commencement day:
    - (i) the scheme value in relation to the member spouse is determined using the methods and factors set out in Schedule 1 as in force at the operative time; or
    - (ii) if it is not possible to determine the scheme value using those methods and factors, the scheme value in relation to the member spouse is to be determined by an actuary appointed by the Secretary for this section.

#### **2.01A Scheme value — member spouse with surcharge debt**

- (1) This section applies if the most recent member information statement provided to a member spouse before the operative time (the *statement*) showed a debit in the member spouse's surcharge debt account.
- (2) For the definition of *scheme value* in section 22CA of the Act, and subject to subsections (3) to (6):
- (a) if the operative time was before the family law commencement day, the scheme value in relation to the member spouse is the family law value; and
  - (b) if the operative time is on or after the family law commencement day:
    - (i) the scheme value in relation to the member spouse is determined using the methods and factors set out in Schedule 1 as in force at the operative time; or

- (ii) if it is not possible to determine the scheme value using those methods and factors, the scheme value in relation to the member spouse is to be determined by an actuary appointed by the Secretary for this section.
- (3) If:
  - (a) it is necessary to work out the scheme value for the purpose of the definition of *transfer amount* in section 22CA of the Act; and
  - (b) the operative time is on or after the day on which this subsection commences;  
the scheme value is the value identified under subsection (2), reduced by the amount of the member spouse's surcharge debt shown in the statement.
- (4) If:
  - (a) it is necessary to work out the scheme value for the purpose of the definition of *transfer factor* in section 22CA of the Act; and
  - (b) the operative time is on or after the day on which this subsection commences;  
the scheme value is the value identified under subsection (2).
- (5) If the operative time was before the family law commencement day, the transfer factor in relation to the member spouse is to be recalculated by:
  - (a) identifying the scheme value that had previously been used to calculate the transfer factor; and
  - (b) adding to that scheme value the amount of the member spouse's surcharge debt shown in the statement; and
  - (c) using the result of paragraph (b) to recalculate the transfer factor.

- (6) If the operative time was on or after the family law commencement day, and before the day on which this subsection commences, the transfer factor in relation to the member spouse is to be recalculated by:
- (a) identifying the scheme value that had previously been used to calculate the transfer amount as part of calculating the transfer factor; and
  - (b) subtracting from that scheme value the amount of the member spouse's surcharge debt shown in the statement; and
  - (c) recalculating the transfer amount using the reduced scheme value calculated under paragraph (b); and
  - (d) using the result of paragraph (c), and the unreduced scheme value identified under subsection (2), to recalculate the transfer factor.

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**Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See [www.frli.gov.au](http://www.frli.gov.au).