

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 62

Superannuation Guarantee (Administration) Act 1992

Superannuation Guarantee (Administration) Amendment Regulations 2006 (No. 1)

Section 80 of the *Superannuation Guarantee (Administration) Act 1992* (the SG Act) provides that the Governor-General may make regulations prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

The *Superannuation Legislation Amendment (Choice of Superannuation Funds) Act 2004* (the Choice of Funds Act) amended the SG Act to provide that most employees would now be able to choose the fund into which their employer makes compulsory superannuation contributions. However, subsection 32C(9) of the SG Act provides that a contribution provided under a Commonwealth, State or Territory law that has been prescribed under regulations is taken to satisfy the choice of fund requirements.

The effect of this is that certain public sector superannuation schemes are exempt from the choice of funds regime.

Regulation 9B of the *Superannuation Guarantee (Administration) Regulations 1993* prescribes these Commonwealth and State laws.

The Regulations prescribe an additional State law under which contributions are taken to satisfy the choice of fund requirements. These amendments were requested by the Tasmanian Government. No further consultation has been undertaken.

Details of the Regulations are set out in the Attachment.

The SG Act specifies no conditions that need to be met before the power to make the Regulations may be exercised.

The Regulations are a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

ATTACHMENT

Details of the proposed *Superannuation Guarantee (Administration) Amendment Regulations 2006 (No. 1)*

Regulation 1 — Name of Regulations

This regulation provides that the title of the regulations is the *Superannuation Guarantee (Administration) Amendment Regulations 2006 (No. 1)*.

Regulation 2 — Commencement

This regulation provides that the commencement date for the Regulations will be the day after they are registered.

Regulation 3 — Amendment of *Superannuation Guarantee (Administration) Regulations 1993*

This regulation provides that Schedule 1 amends the *Superannuation Guarantee (Administration) Regulations 1993* (the Principal Regulations).

Schedule 1

Subsection 32C(9) of the *Superannuation Guarantee (Administration) Act 1992* provides that contributions to a fund are made in compliance with the Act if the contributions are made under a law of the Commonwealth, of a State or of a Territory, as prescribed in the Regulations.

Regulation 9B of the Principal Regulations prescribes, for the purposes of subsection 32C(9), the laws mentioned in Schedule 2 to the Regulations, with effect from 1 July 2005. Schedule 2 lists the relevant laws.

The amendment included the *Retirement Benefits (State Fire Commission Superannuation Scheme) Act 2005* (the new Act) in the table of prescribed Tasmanian legislation (Schedule 2, Table 7). This will facilitate the transfer of the operation of the State Fire Commission Superannuation Scheme from the *State Fire Commission Superannuation Scheme Act 1994* to the new Act. The expected commencement date of the new Act is 31 March 2006.