<u>EXPLANATORY STATEMENT</u>

<u>Select Legislative Instrument 2012 No. 1</u>

<u>Issued by the authority of the Minister for Financial Services and Superannuation</u>

Subject – *Superannuation Industry (Supervision) Act 1993*
Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 1)

Retirement Savings Accounts Act 1997
Retirement Savings Accounts Amendment Regulation 2012 (No. 1)

Subsection 353(1) of the *Superannuation Industry (Supervision) Act 1993* (SIS Act) provides, in part, that the Governor-General may make regulations prescribing matters required or permitted by the SIS Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the SIS Act.

Subsection 200(1) of the *Retirement Savings Accounts Act 1997* (RSA Act) provides, in part, that the Governor-General may make regulations prescribing matters required or permitted by the RSA Act to be prescribed, or necessary or convenient to be prescribed, for carrying out or giving effect to the RSA Act.

The *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations) require that a minimum payment be made from a superannuation account-based pension at least annually. Minimum payments are determined by age and the value of the account balance at 1 July of each year. The minimum annual payment rule is designed so that retirees draw down on their superannuation capital over their retirement. This rule recognises that superannuation is a retirement savings vehicle with substantial tax concessions.

The purpose of the Regulations is to give effect to the Government's announced measure to reduce the minimum payment amounts for account-based pensions by 25 per cent for the 2012-13 financial year. This follows the pension drawdown relief provided in the previous four financial years.

The reduction in the minimum payment amounts for 2012-13 applies to account-based annuities and pensions, allocated annuities and pensions, and market linked annuities and pensions.

This measure is designed to assist pension account balances to recover from capital losses associated with the global financial crisis.

The SIS Regulations, inter alia, contain the payment rules for annuities and pensions, including those products in relation to which there is an account balance attributable to the recipient. The *Retirement Savings Accounts Regulations 1997* (RSA Regulations) contain parallel payment rules for pensions payable from Retirement Savings Accounts.

The Regulations reduce the minimum annual payment amounts for account-based, allocated and market linked annuities and pensions, and for pensions payable from Retirement Savings Accounts, by 25 per cent for the 2012-13 financial year.

Details of the amendments to the SIS Regulations are set out in <u>Attachment A</u> and details of the amendments to the RSA Regulations are set out in <u>Attachment B</u>. Statements of compatibility with human rights for the amendments to the SIS Regulations and RSA Regulations are also provided.

The SIS Act and the RSA Act specify no conditions that need to be met before the power to make the Regulations may be exercised.

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

The Regulations commence on the day after they are registered on the Federal Register of Legislative Instruments.

Given the minor nature of the amendments, and the fact that similar amendments were made in each of the past four financial years, no public consultation was undertaken.

Authority: Subsection 353(1) of the *Superannuation Industry (Supervision) Act 1993.*

Subsection 200(1) of the *Retirement Savings Accounts Act 1997.*

ATTACHMENT A

Details of *Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 1)*

Regulation 1 specifies the name of the Regulation as the *Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 1)*.

Regulation 2 provides that the Regulation commences on the day after registration.

Regulation 3 provides that Schedule 1 amends the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations).

Schedule 1 Amendments

Items 1 and 2

Schedules 1A and 1AAB to the SIS Regulations set out the method for calculating the minimum and maximum payment limits for allocated pensions (and for the equivalent annuity product). Clause 2 in each of these Schedules sets out the method for calculating the minimum payment limits.

Clause 3B in each of Schedules 1A and 1AAB provides that, for the financial year commencing on 1 July 2011, the minimum payment limit is 75 per cent of the amount worked out using the formula in clause 2. Items 1 and 2 amend clause 3B in each of these Schedules so that it also applies to the financial year commencing on 1 July 2012.

Item 3

Schedule 6 to the SIS Regulations contains the payment rules for market linked income streams. Clause 1 of Schedule 6 sets out the formula for determining the annual payment amount for a market linked income stream.

Clause 11 of Schedule 6 provides that, for the financial year commencing on 1 July 2011, an amount is taken to have been determined in accordance with clause 1 if it is not less than 67.5 per cent of the amount determined in accordance with clause 1 (that is, 75 per cent of the lower payment limit specified under clause 8), and not greater than 110 per cent of the amount determined in accordance with clause 1. Item 3 amends clause 11 so that it also applies to the financial year commencing on 1 July 2012.

Item 4

Schedule 7 to the SIS Regulations contains the rules for calculating the minimum payment amount for a superannuation income stream. The method for calculating the minimum payment amount for an account-based pension (and for the equivalent annuity product) is set out in clause 1 of Schedule 7.

Clause 4B of Schedule 7 provides that, for the financial year commencing on 1 July 2011, the minimum payment amount for an account-based pension (and the equivalent annuity product) is 75 per cent of the amount worked out under the formula in clause 1. Item 4 amends clause 4B so that it also applies to the financial year commencing on 1 July 2012.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Superannuation Industry (Supervision) Amendment Regulation 2012 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the Legislative Instrument is to give effect to the Government's announced measure to reduce the minimum payment amounts for account-based pensions by 25 per cent for the 2012-13 financial year. This follows the pension drawdown relief provided in the previous four financial years.

This measure is designed to assist pension account balances to recover from capital losses associated with the global financial crisis.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

ATTACHMENT B

Details of *Retirement Savings Accounts Amendment Regulation 2012 (No. 1)*

Regulation 1 specifies the name of the Regulations as the *Retirement Savings Accounts Amendment Regulation 2012 (No. 1)*.

Regulation 2 provides that the Regulation commences on the day after registration.

Regulation 3 provides that Schedule 1 amends the *Retirement Savings Accounts Regulations 1997* (RSA Regulations).

Schedule 1 Amendments

Items 1 and 2

Schedules 1 and 1A to the RSA Regulations set out the method for calculating the minimum and maximum payment limits for allocated pensions paid from retirement savings accounts. Clause 2 in each of these Schedules sets out the method for calculating the minimum payment limits.

Clause 3B in each of Schedules 1 and 1A provides that, for the financial year commencing on 1 July 2011, the minimum payment limit is 75 per cent of the amount worked out using the formula in clause 2. Items 1 and 2 amend clause 3B in each of these Schedules so that it also applies to the financial year commencing on 1 July 2012.

Item 3

Schedule 4 to the RSA Regulations contains the rules for calculating the annual payment amounts for market linked pensions. The formula for determining the annual payment amount is set out in clause 1 of Schedule 4.

Clause 11 of Schedule 4 provides that, for the financial year commencing on 1 July 2011, an amount is taken to have been determined in accordance with clause 1 if it is not less than 67.5 per cent of the amount determined in accordance with clause 1 (that is, 75 per cent of the lower payment limit specified under clause 8), and not greater than 110 per cent of the amount determined in accordance with clause 1. Item 3 amends clause 11 so that it also applies to the financial year commencing on 1 July 2012.

Item 4

Schedule 5 to the RSA Regulations contains the rules for calculating the minimum payment amount for an account-based pension. The method for calculating the minimum payment amount is set out in clause 1 of Schedule 5.

Clause 3B of Schedule 5 provides that, for the financial year commencing on 1 July 2011, the minimum payment amount for an account-based pension is 75 per cent of the amount worked out under the formula in clause 1. Item 4 amends clause 3B so that it also applies to the financial year commencing on 1 July 2012.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Retirement Savings Accounts Amendment Regulation 2012 (No. 1)

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of the Legislative Instrument is to give effect to the Government's announced measure to reduce the minimum payment amounts for account-based pensions by 25 per cent for the 2012-13 financial year. This follows the pension drawdown relief provided in the previous four financial years.

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Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

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