

## **EXPLANATORY STATEMENT**

Issued by the authority of the Attorney-General

*Family Law (Superannuation) Regulations 2001*

*Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Amendment Approval 2012 (No. 2)*

The Attorney-General, under regulations 38 and 43A of the *Family Law (Superannuation) Regulations 2001*, may approve in writing methods for determining the gross value of superannuation interests for the purposes of the provisions of the *Family Law Act 1975* that allow superannuation to be split on relationship breakdown. In this instrument, the Attorney-General amends the *Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Amendment Approval 2003* (the Approval).

Pursuant to arrangements made by the South Australian Government, members of the South Australian Local Government Superannuation Scheme are to be transferred to the Statewide Superannuation Trust. Once transferred, the Local Government Superannuation Scheme members are to have the same rights and entitlements that they had as members of the South Australian Local Government Superannuation Scheme.

Specifically, this instrument amends the Approval for Local Government Superannuation Scheme members so that the valuation methods and factors set out in the Approval will apply to the valuation of the superannuation interests of those persons once they become members of the Statewide Superannuation Trust.

Consultation on the content of the amendments occurred between the Commonwealth and the South Australian Local Government Superannuation Scheme by way of email and telephone exchange.

The instrument commences on 1 July 2012.

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

Details of the instrument are as follows:

### ***Section 1 — Name of approval***

Section 1 provides that the title of the instrument is the *Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Amendment Approval 2012 (No. 2)*.

### ***Section 2 — Commencement***

Section 2 provides that the instrument commences on 1 July 2012.

***Section 3 — Amendment of Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Approval 2003***

Section 3 provides that the *Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Approval 2003* is amended as set out in schedule 1.

***Schedule 1 — Amendments***

**Item [1] – Schedule 6, Part 2, subclause 1 (1)**

Item 1 substitutes the definitions in Schedule 6, Part 2, subclause 1(1) to include definitions of ‘SA Local Government Superannuation Scheme’, ‘Rules’ and a new definition of ‘trust deed’.

The new definition of ‘SA Local Government Superannuation Scheme’ means the scheme continued in existence by paragraph 2(1)(b) of Schedule 1 to the *Local Government (Superannuation Scheme) Amendment Act 2008* (SA). The *Local Government (Superannuation Scheme) (Merger) Amendment Act 2012* (SA) amends the transitional provisions in the *Local Government (Superannuation Scheme) Amendment Act 2008* (SA) (located in Schedule 1 of that Act) to enable the South Australian Local Government Superannuation Scheme to continue in existence as a result of a merger of the scheme (or a subsequent merger of the scheme) with another superannuation fund (in this case the Statewide Superannuation Trust).

The new definition of ‘Rules’ means the rules set out in Division 9 of the trust deed.

The new definition of ‘trust deed’ means the declaration of trust dated 1 May 1986, made by Statewide Superannuation Pty Ltd, as amended and in force on 1 July 2012. A copy of the trust deed is available to members on request.

**Item [2] - Schedule 6, Part 2, clause 2, table, item 1**

Item 2 omits the reference to sub-sub-subparagraph 61(a)(ii)(B)(4) of the Rules and inserts sub-sub-subparagraph 43(a)(ii)(B)(4) of Sub-division C of the Rules. This takes account of reference changes in the trust deed, as a result of the merger, in relation to the termination of service benefit.

**Item [3] - Schedule 6, Part 2, clause 2, table, item 2**

Item 3 omits the reference to “rule 73” and inserts a reference to “rule 58 of Sub-division C” in its place. This takes account of reference changes in the trust deed, as a result of the merger, in relation to the retention of benefits in the Local Government Superannuation Scheme.

**Item [4] - Schedule 6, Part 2, clause 2, table, item 2**

Item 4 omits each mention to sub-sub-subparagraph “61(a)(ii)(B)(4)” of the rules and inserts sub-sub-subparagraph “43(a)(ii)(B)(4) of Sub-division C” of the rules. This takes account of reference changes in the trust deed, as a result of the merger, in relation to the termination of service benefit.

## **Statement of Compatibility with Human Rights**

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

### ***Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Amendment Approval 2012 (No. 2)***

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**

Pursuant to arrangements made by the South Australian Government, the members of the South Australian Local Government Superannuation Scheme are to be transferred to the Statewide Superannuation Trust. This instrument ensures that, once transferred, the Local Government Superannuation Scheme members retain the same rights and entitlements that they had as members of the South Australian Local Government Superannuation Scheme.

#### **Human rights implications**

The instrument does not engage any of the applicable rights and freedoms as its affect is only administrative.

#### **Conclusion**

The instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon Nicola Roxon MP**

**Attorney-General**