

Defence Force Retirement and Death Benefits (Family Law Superannuation) Orders 2004 2004 No. 99

EXPLANATORY STATEMENT

DEFENCE FORCE RETIREMENT AND DEATH BENEFITS (FAMILY LAW SUPERANNUATION) ORDERS 2004

STATUTORY RULES 2004 NO. 99

ISSUED BY THE AUTHORITY OF THE MINISTER FOR EMPLOYMENT SERVICES, FOR THE
MINISTER FOR DEFENCE

Section 49F(1) of the *Defence Force Retirement and Death Benefits Act 1973* empowers the Minister to make orders prescribing matters required or permitted by this part to be prescribed. An Order is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*. An Order is taken to be a statutory rule for the purposes of the *Statutory Rules Publication Act 1903*.

The amendments made by these Orders introduce specific Family Law superannuation splitting provisions for Defence Force Retirement and Death Benefits Scheme members and pensioners, and their former spouses, in lieu of the present Family Law regime 'default option'.

Individual amendments

Part 1 Preliminary

Section 1.01 - Name of Orders

This section is formal.

Section 1.02 - Commencement

This section provides for the amendments to have effect from the commencement of

Schedule 1 to the *Superannuation Legislation Amendment (Family Law and Other Matters) Act 2004*.

Section 1.03 - Definitions

- (1) This section provides for the definition of "Act", "Family Law Act", "first quarter", "FLS Regulations", "half-year", "prescribed half-year" and "Statistician" to be inserted.
- (2) An "expression" used in these Orders has the same meaning as in section 80A of the Act.

Part 2 Orders for the calculation of certain amounts

Section 2.01 - Scheme value. This section inserts a definition for "scheme value" in relation to a member spouse.

Section 2.02 - Annual rate of associate pension. This section inserts the calculation method for determining the "annual rate of associate pension" payable to a non-member spouse.

Section 2.03 - Indexation of associate pension. This section provides for the twice-yearly indexation of an associate pension.

Section 2.04 - Commutation of small associate pension - amount. This section provides for the commutation of a small associate pension where the amount is less than \$1300 per annum.

Section 2.05 - Indexation of amount for small associate pension. This section provides for the increase of the threshold amount for commutation of a small associate pension.

Section 2.06 - Reduction of later standard pension. This section provides for reduction of a member spouse's standard pension which becomes payable at some point after the operative time following a benefit split under the Family Law provisions.

Section 2.07 - Reduction of later lump sum amount. This section provides for the reduction of a member spouse's lump sum refund of contributions which becomes payable at some point after the operative time following a benefit split under the Family Law provisions.

Section 2.08 - Reduction of standard pension and associated reversions. This section provides for reduction of a member spouse's standard (and reversionary) pension(s) in payment at the operative time following a benefit split under the Family Law provisions.