

## EXPLANATORY STATEMENT

### FAMILY LAW (SUPERANNUATION) (METHODS AND FACTORS FOR VALUING PARTICULAR SUPERANNUATION INTERESTS) AMENDMENT APPROVAL 2005 (No. 1)

#### ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

In this instrument the Attorney-General, under regulation 38 of the *Family Law (Superannuation) Regulations 2001* (the Regulations), approves in writing, for the purposes of the family law and superannuation reforms, a method for valuing a superannuation interest that an employee of Hanson Australia Pty Limited (Hanson Australia) has in the Sunsuper superannuation trust fund (the Sunsuper fund).

The family law and superannuation reforms enable future superannuation payments to separated or divorcing spouses to be split in property settlements under the *Family Law Act 1975*.

The approval is contained in a new Part 40 of the *Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Approval 2003* (the Principal Approval).

On 29 June 2004, Hanson Australia entered into a Deed with Sunsuper Pty Ltd, the trustee of the Sunsuper fund, under which superannuation benefits formerly provided to its employees by the Pioneer International Limited Staff Superannuation Plan (the Pioneer Plan) would, from 1 July 2004, be provided through the Sunsuper fund.

The method approved in the instrument values the interest that an employee of Hanson Australia has in the Sunsuper fund as the total of the employee's defined benefit, determined in accordance with the method for valuing defined benefit superannuation interests in Schedule 2 of the Regulations, and the accumulation benefit payable to the employee.

One part of the accumulation benefit payable to Hanson Australia employees who were members of the Pioneer Plan on 1 April 1996 is an additional amount representing a surplus which was distributed by the Pioneer Plan on that date to then existing members of that Plan.

The additional amount is only payable on retirement at or after age 55, or where a death, disability or retrenchment benefit is payable. It is not payable where an employee ceases employment before age 55.

The method under Schedule 3 of the Regulations, for valuing a partially vested accumulation interest, is not appropriate for valuing the accumulation benefit payable to Hanson Australia employees. The method assumes an even rate of accrual of benefits over a given vesting period. That part of the accumulation benefit that reflects the April 1996 surplus distributed by the Pioneer Plan vests only on retirement at or after age 55, or on retrenchment, death or total and permanent disability.

The method approved in the instrument values that part of the accumulation benefit reflecting the April 1996 surplus by a method that is a modification of the method in Schedule 3 of the Regulations. Instead of the factors that apply under the method in Schedule 3, the approved method uses factors reflecting the assumptions on exit from employment with Hanson Australia made in the most recent actuarial review of the Pioneer Plan.

The instrument incorporates two documents by reference.

The first document is the Trust Deed dated 1 October 1987, as amended and in force at the commencement of Part 40 of the Principal Approval, by which the Sunsuper fund was established.

The second document is the Deed dated 29 June 2004 between Sunsuper Pty Ltd and Hanson Australia setting out the terms on which superannuation benefits would be provided for the Hanson Australia employees formerly covered by the Pioneer Plan.

Copies of both documents may be obtained by contacting Sunsuper Pty Ltd, at Ground Level, Sunsuper Building, 30 Little Cribb Street, Milton, Queensland (telephone: 13 11 84).

Consultation about the content of the instrument was undertaken under section 17 of the *Legislative Instruments Act 2003* with the Australian Government Actuary, Hanson Australia Pty Limited and Sunsuper Pty Ltd, by way of the exchange of correspondence and discussions.