

EXPLANATORY STATEMENT

FAMILY LAW (SUPERANNUATION) (METHODS AND FACTORS FOR VALUING PARTICULAR SUPERANNUATION INTERESTS) AMENDMENT APPROVAL 2005 (No. 3)

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 Principal Regulations), approves in writing, for the purposes of the family law and superannuation reforms, methods for valuing interests that members of the Queensland Legislative Assembly have in the Queensland Parliamentary Contributory Superannuation Fund (the Fund).

The family law and superannuation reforms, contained in Part VIIIB of the *Family Law Act 1975*, enable future superannuation benefits payable to a party to a marriage to be split, on marriage breakdown or divorce, in property settlements under that Act.

The instrument is part of a package of measures, including amendments made to:

- the *Parliamentary Contributory Superannuation Act 1970* (Qld) (the Queensland Act), in 2003, to provide a wider range of options to satisfy entitlements under splitting orders or agreements under Part VIIIB of the Family Law Act in respect of interests in the Fund; and
- the Principal Regulations by the *Family Law (Superannuation) Amendment Regulations 2005* (No. 1) in April 2005 to narrow the class of interests in the Fund that are prescribed as percentage-only interests.

Save for one exception, relating to members who have previously divorced and split their interest in the Fund when it was a percentage-only interest, only interests held by Queensland Legislative Assembly members with less than 8 years service fall within the narrower class of interests in the Fund prescribed as percentage-only interests.

Before a member of the Assembly has served for 8 years, the member is entitled on ceasing service only to a lump sum of a multiple of his or her member contributions. On defeat at an election after serving 8 years, the member generally becomes entitled to a lifetime commutable pension.

Interests that are prescribed as percentage-only can only be split, under Part VIIIB of the Family Law Act, by reference to a percentage of future payments to be made to the member spouse. They are also valued in property settlement proceedings under that Act by expert opinion evidence, rather than in accordance with valuation methods set out in the Principal Regulations.

The valuation methods approved in this instrument relate to interests that Queensland Legislative Assembly members, with 8 years or more service, have in the Fund.

The methods will not apply to any interest of such a member that was subject to a splitting order or agreement while it was a percentage-only interest, where that order

or agreement has not since been terminated, set aside or paid out under the amendments made to the Queensland Act in 2003.

Three methods are approved for valuing interests that such Queensland Legislative Assembly members have in the Fund.

The first method is for interests that members of the Queensland Legislative Assembly have in the Fund where they have 8 years or more continuous service since being first elected to the Assembly. The method values such interests by reference to:

- the rate of accrual of additional pension from 8 to 20 years service;
- any additional salary that a member may have received as a Minister or office holder in the Assembly; and
- any additional amount that the member has rolled into the Fund.

The second method is for interests that members of the Queensland Legislative Assembly have in the Fund where they have 8 years or more service that was broken by defeat at an election and have not previously split their interest in the Fund with a former spouse.

This second method is the same as the first method, except that it deducts the value of the multiple of member contributions received or paid to another fund following that election defeat.

The third method is for interests that members of the Queensland Legislative Assembly have in the Fund where they have 8 years or more service that was broken by defeat at an election and have previously split their interest in the Fund with a former spouse.

The third method is the same as the second method, except that it also provides for a reduction in the value of the interest to reflect the earlier split or splits of the interest.

The instrument incorporates by reference the *Parliamentary Contributory Superannuation Act 1970* (Qld), the Queensland Act under which contributory superannuation benefits are provided to members of the Queensland Legislative Assembly. That Act may be viewed at the following website:

<http://www.legislation.qld.gov.au/LEGISLTN/CURRENT/P/ParliContSupA70.pdf>

A copy of the Act may also be purchased from Goprint, through its bookshop, which is located at 371 Vulture Street, Woolloongabba, Queensland (telephone: 07 3246 3399).

Consultation on the content of the instrument was undertaken under section 17 of the *Legislative Instruments Act 2003* with the Australian Government Actuary, the Queensland State Actuary and the Queensland Government Superannuation Office, by way of exchange of correspondence and discussions.