

EXPLANATORY STATEMENT

Select Legislative Instrument 2006 No. 54

Issued by the authority of the Minister for Finance and Administration

Superannuation Act 1976

Superannuation (CSS) Salary Amendment Regulations 2006 (No. 1)

The *Superannuation Act 1976* (the Act) makes provision for the Commonwealth Superannuation Scheme (CSS), which is an occupational superannuation scheme for Australian Government employees and for certain other persons.

Subsection 168(1) of the Act provides, in part, that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters which by the Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 5 of the Act provides that the regulations may prescribe that the annual rate of salary on a particular day is an amount equal to such an amount as is worked out under the regulations. Regulations for the purposes of section 5 are contained in the *Superannuation (CSS) Salary Regulations 1978* (the Principal Regulations). The rate of contribution payable under the Act by a member of the CSS is based on the member's annual rate of salary and the rate of pension payable generally is based on that salary.

Part 2E of the Principal Regulations provides for an annual rate of salary for the purposes of the Act for a CSS member who is covered by a certified agreement or an Australian workplace agreement made under the *Workplace Relations Act 1996* and certain other agreements.

The purpose of the Regulations is to make consequential amendments to the Principal Regulations resulting from the passage of the *Workplace Relations Amendment (Work Choices) Act 2005* (the Work Choices Act), which amends the *Workplace Relations Act 1996*. Specifically, the Regulations amend the definitions used in Part 2EA of the Principal Regulations so that the Principal Regulations operate appropriately in the context of the amended *Workplace Relations Act 1996*.

The Work Choices Act introduces the terms “workplace agreement”, “pre-reform certified agreement” and “pre-reform AWA”, which are relevant in the interpretation of Part 2EA of the Principal Regulations. The Regulations amend the Principal Regulations to reflect this new terminology.

Details of the Regulations are set out in the [Attachment](#).

Subsection 168(13) of the Act provides that regulations may not be made under the Act unless the CSS Board has consented to those regulations. However paragraph 168(13)(b) of the Act prescribes a number of exemptions where the CSS Board's consent is not required.

Subparagraph 168(13)(b)(i) exempts a regulation that relates to a payment that will be required or permitted to be made under the Act by an employer-sponsor within the meaning of the *Superannuation Industry (Supervision) Act 1993* (the SIS Act). The Commonwealth pays all benefits under the Act and is an employer-sponsor within the meaning of the SIS Act. As the Regulations relate to the payment of benefits under the Act, the CSS Board's consent to their making is not required.

The Act specifies no other conditions that need to be satisfied before the power to make the Regulations may be exercised.

No consultation is required as the instrument is machinery in nature and does not substantially alter existing arrangements.

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

The Regulations will commence when Schedule 5 to the Work Choices Act commences to coincide with the commencement of the appropriate provisions in that Act.

ATTACHMENT**Details of the *Superannuation (CSS) Salary Amendment Regulations 2006 (No. 1)*****Regulation 1 – Name of Regulations**

This regulation provides that the title of the Regulations is the *Superannuation (CSS) Salary Amendment Regulations 2006 (No. 1)*.

Regulation 2 – Commencement

This regulation provides that the Regulations commence when Schedule 5 to the *Workplace Relations Amendment (Work Choices) Act 2005* (the Work Choices Act) commences, to coincide with the commencement of the relevant provisions of the Work Choices Act.

Regulation 3 – Amendment of *Superannuation (CSS) Salary Regulations 1978*

This regulation provides that the *Superannuation (CSS) Salary Regulations 1978* (the Principal Regulations) are amended as set out in the Schedule 1.

Schedule 1 – Amendment**Item [1] – Regulation 8QC – Interpretation**

Regulation 8QC sets out definitions for the purpose of Part 2EA of the Principal Regulations.

Item [1] substitutes a new regulation 8QC that incorporates changes to the following definitions:

- the definition of “agreement” is amended to reflect the changed terminology for agreements as explained below;
- the definition of “AWA”(Australian Workplace Agreement) is replaced with a new definition of “pre-reform AWA”, which is a reference to an AWA made prior to the commencement of the relevant provisions of the Work Choices Act. This type of agreement continues to operate under transitional provisions provided for in the Work Choices Act;
- the definition of “certified agreement” is replaced with a new definition of “pre-reform certified agreement”, which is a reference to a certified agreement made prior to the commencement of the relevant provisions of the Work Choices Act. This type of agreement continues to operate under transitional provisions provided for in the Work Choices Act; and
- a new definition of “workplace agreement” is introduced to reflect agreements that can be made under the new agreement-making arrangements provided for by the Work Choices Act.

The definitions of “relevant agreement” and “remuneration determination” remain unchanged.