



# Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Amendment Approval 2008 (No. 2)<sup>1</sup>

## *Family Law (Superannuation) Regulations 2001*

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I, ROBERT McCLELLAND, Attorney-General, make this Approval under regulation 38 of the *Family Law (Superannuation) Regulations 2001*.

Dated 25 February 2008

ROBERT McCLELLAND  
Attorney-General

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### **1 Name of Approval**

This Approval is the *Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Amendment Approval 2008 (No. 2)*.

### **2 Commencement**

This Approval commences on the day after it is registered.

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

Schedule 1 amends the *Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Approval 2003*.

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## Schedule 1 Amendments

(section 3)

### [1] Schedule 4, Part 1, clause 1

*substitute*

#### 1 Definitions

In this Part:

*Deed* means the *Superannuation (State Public Sector) Deed 1990* (Qld).

*Family Law Act* means the *Family Law Act 1975*.

*roll-in amount*, for a superannuation interest, means the total amount of moneys received by the trustees, for the interest, under subsection 387 (1) of the Deed.

*Scheme* means the superannuation scheme established by the Deed.

*Table 2* means Table 2 in clause 2.

#### 1A Meaning of expressions used in this Part and Chapter 9 of the Deed

An expression used in this Part and in Chapter 9 of the Deed has the same meaning in this Part as it has in Chapter 9 of the Deed.

*Note* The following terms are defined in section 333 of the Deed:

- Assembly
- basic salary
- entitled former spouse
- member
- salary.

### [2] Schedule 4, Part 1, clause 2

*omit*

the following table

*insert*

Table 1

### [3] Schedule 4, Part 1, before table

*insert*

#### Table 1 Methods and factors

**[4] Schedule 4, Part 1, clause 2, table, after item 3***insert*

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An interest that a person who is a member of the Assembly has in the Scheme by belonging to the parliament 70 category under Chapter 9 of the Deed if the person:

- (a) has received salary as a member for at least 96 months; and
- (b) has continuously been a member since the person was first elected

$$BS \times ABM \times ABMR \times F_{y+m} + ATV$$

where:

**BS** is the basic salary of a member at the relevant date.

**ABM (accrued benefit multiple)** for a person is:

$$\left( 0.5 + 0.025 \times \frac{M}{12} \right) \times \frac{TOS}{TBS}$$

where:

**M** is:

- (a) if the person has received salary as a member for at least 96 complete months but less than 97 complete months at the relevant date — zero; or
- (b) in any other case — the lesser of:
  - (i) the number of complete months for which the person has received salary as a member, at the relevant date, that occurred after the person has received salary as a member for 96 complete months; and
  - (ii) 144.

**TOS** is the total amount of salary that the person has received as a member up to the relevant date.

**TBS** is the total amount of basic salary that the person has received as a member up to the relevant date.

**ABMR** is:

- (a) if 1 or more amounts have been paid under section 364 of the Deed for the entitlement of an entitled former spouse of the person — the ratio between:
  - (i) the amount of pension that would have been payable at the relevant date to the person, taking into account the reduction that would have been made under section 366 of the Deed for the amount or amounts paid under section 364 of the Deed, if the person had ceased to be a member and had become eligible to be paid a pension at that date; and
  - (ii) the amount of pension that would have been payable at the relevant date to the person if the person had ceased to be a member and had become eligible to be paid a pension at that date and no reduction was made to the pension; or
- (b) in any other case — 1.

**$F_{y+m}$**  is:

$$\frac{F_y \times (12 - m) + F_{y+1} \times m}{12}$$

where:

**$F_y$**  is the valuation factor mentioned in Table 2 that applies at the person's age in completed years for the person's gender and period in completed years for which the person has received salary as a member.

**$m$**  is the number of complete months of the person's age that are not included in the person's completed years of age.

**$F_{y+1}$**  is the valuation factor mentioned in Table 2 that would apply for the person's gender and the period of time in completed years for which the person has received salary as a member if the person's age were 1 year more than it is at the relevant date.

**ATV** is the roll-in amount for the interest last recorded before the relevant date in the member information statement issued for the interest.

- 5 An interest that a person who is a member of the Assembly has in the Scheme by belonging to the parliament 70 category under Chapter 9 of the Deed if the person:

- (a) has received salary as a member for at least 96 months; and
- (b) has ceased to be a member on 1 occasion only, because of which the person was entitled to be paid an amount under subsection 340 (4) of the Deed; and
- (c) no amount has been paid under section 364 of the Deed for the entitlement of an entitled former spouse of the person

$$BS \times (ABM \times F_{y+m} - PLSA) + ATV$$

where:

**BS** is the basic salary of a member at the relevant date.

**ABM (accrued benefit multiple)** for a person is:

$$\left( 0.5 + 0.025 \times \frac{M}{12} \right) \times \frac{TOS}{TBS}$$

where:

**M** is:

- (a) if the person has received salary as a member for an aggregate period of at least 96 complete months but less than 97 complete months at the relevant date — zero; or
- (b) in any other case — the lesser of:
  - (i) the number of complete months for which the person has received salary as a member, at the relevant date, that occurred after the person has received salary as a member for 96 complete months; and
  - (ii) 144.

**TOS** has the meaning given by item 4.

**TBS** has the meaning given by item 4.

**F<sub>y+m</sub>** has the meaning given by item 4.

**PLSA (previously paid lump sum adjustment)** for a person's entitlement under subsection 340 (4) of the Deed is:

$$\frac{B}{PBS}$$

where:

**B** is the amount the person would have been entitled to under subsection 340 (4) of the Deed if, at the time the person ceased to be a member, a superannuation agreement, flag lifting agreement or splitting order under the Family Law Act had not been made in relation to the interest.

**PBS** is the basic salary of a member at the time the person ceased to be a member.

**ATV** has the meaning given by item 4.

- 6 An interest that a person who is a member of the Assembly has in the Scheme by belonging to the parliament 70 category under Chapter 9 of the Deed if the person:

- (a) has received salary as a member for at least 96 months; and
- (b) has ceased to be a member on 1 occasion only, because of which the person was entitled to be paid an amount under subsection 340 (4) of the Deed; and
- (c) one or more amounts have been paid under section 364 of the Deed for the entitlement of an entitled former spouse of the person

$$BS \times (ABMA \times F_{y+m} - r \times PLSA) + ATV$$

where:

**BS** is the basic salary of a member at the relevant date.

**ABMA** is the person's accrued benefit multiple, as adjusted for payments made under section 364 of the Deed at the relevant date, worked out in accordance with Method 1, 2 or 3.

#### *Method 1*

This method applies if 1 amount only (the **amount**) has been paid under section 364 of the Deed for the entitlement of an entitled former spouse:

$$ABM - p \times ABM_1$$

where:

**ABM** has the meaning given by item 5.

**p** is:

$$\frac{NMSB}{PFLV}$$

where:

**NMSB** is the amount.

**PFLV** is the value of the interest immediately before the amount was paid, worked out in accordance with item 5.

**ABM<sub>1</sub>** (*accrued benefit multiple*) for a person when the amount was paid is:

$$\left( 0.5 + 0.025 \times \frac{M}{12} \right) \times \frac{TOS}{TBS}$$

where:

**M** is:

- (a) if the person has received salary as a member for an aggregate period of at least 96 months but less than 97 months before the amount was paid — zero; or

- 
- (b) in any other case — the lesser of:
    - (i) the number of complete months in excess of 96 for which the person has received salary as a member before the amount was paid; and
    - (ii) 144.

**TOS** is the total amount of salary that the person has received as a member before the amount was paid.

**TBS** is the total amount of basic salary that the person has received as a member before the amount was paid.

#### *Method 2*

This method applies if 2 amounts only have been paid under section 364 of the Deed for the entitlement of an entitled former spouse:

$$ABM - p_2 \times (ABM_2 - p_1 \times ABM_1)$$

where:

**ABM** has the meaning given by item 5.

***p*<sub>2</sub>** is the factor calculated in accordance with the method for the factor ***p*** in Method 1 of this item, modified so that:

- (a) for **NMSB** the amount paid is to be calculated by reference to the second amount paid under section 364 of the Deed; and
- (b) for **PFLV** the value of the interest is the value at the time immediately before the second payment under section 364 of the Deed was made, calculated in accordance with Method 1 of this item.

**$ABM_2$**  (*accrued benefit multiple*) for a person when the second amount was paid is:

$$\left( 0.5 + 0.025 \times \frac{M}{12} \right) \times \frac{TOS}{TBS}$$

where:

**$M$**  is:

- (a) if the person has received salary as a member for an aggregate period of at least 96 months but less than 97 months before the second amount was paid — zero; or
- (b) in any other case — the lesser of:
  - (i) the number of complete months in excess of 96 for which the person has received salary as a member before the second amount was paid; and
  - (ii) 144.

**$TOS$**  is the total amount of salary that the person has received as a member before the second amount was paid.

**$TBS$**  is the total amount of basic salary that the person has received as a member before the second amount was paid.

**$p_I$**  is the factor calculated in accordance with the method for the factor  **$p$**  in Method 1 of this item.

**$ABM_I$**  has the meaning given in Method 1 of this item.

### *Method 3*

This method applies if 3 amounts only have been paid under section 364 of the Deed for the entitlement of an entitled former spouse:

$$ABM = p_3 \times (ABM_3 - p_2 \times (ABM_2 - p_1 \times ABM_1))$$

where:

**$ABM$**  has the meaning given by item 5.



$p_3$  is the factor calculated in accordance with the method for the factor  $p$  in Method 1 of this item, modified so that:

- (a) for **NMSB**, the amount paid is to be calculated by reference to the third amount paid under section 364 of the Deed; and
- (b) for **PFLV**, the value of the interest is the value at the time immediately before the third payment under section 364 of the Deed was made, calculated in accordance with Method 2 of this item.

**ABM<sub>3</sub>** (*accrued benefit multiple*) for a person when the third amount was paid is:

$$\left( 0.5 + 0.025 \times \frac{M}{12} \right) \times \frac{TOS}{TBS}$$

where:

**M** is:

- (a) if the person has received salary as a member for an aggregate period of at least 96 months but less than 97 months before the third amount was paid — zero; or
- (b) in any other case — the lesser of:
  - (i) the number of complete months in excess of 96 for which the person has received salary as a member before the third amount was paid; and
  - (ii) 144.

**TOS** is the total amount of salary that the person has received as a member before the third amount was paid.

**TBS** is the total amount of basic salary that the person has received as a member before the third amount was paid.

$p_2$  has the meaning given in Method 2 of this item.

**ABM<sub>2</sub>** has the meaning given in Method 2 of this item.

$p_1$  has the meaning given in Method 2 of this item.

**ABM<sub>1</sub>** has the meaning given in Method 1 of this item.

$F_{y+m}$  has the meaning given by item 4.

$r$  is the reduction factor for the amount or amounts paid under section 364 of the Deed, as follows:

- (a) if 1 amount only has been paid:

$$1 - p_1$$

where:

$p_1$  has the meaning given in Method 2 of this item;

- (b) if 2 amounts only have been paid:

$$(1 - p_1) \times (1 - p_2)$$

where:

$p_1$  and  $p_2$  have the meaning given in Method 2 of this item;

- (c) if 3 amounts only have been paid:

$$(1 - p_1) \times (1 - p_2) \times (1 - p_3)$$

where:

$p_1$  and  $p_2$  have the meaning given in Method 2 of this item.

$p_3$  has the meaning given in Method 3 of this item.

*PLSA* has the meaning given by item 5.

*ATV* has the meaning given by item 4.

**[5] Schedule 4, Part 1, after clause 2**

*insert*

**Table 2 Valuation factors**

Person's age last birthday	Aggregate period person received salary as member of Assembly (complete years)					
	Males			Females		
	8	9	10 or more	8	9	10 or more
28	19.820	19.759		20.196	20.137	
29	19.665	19.796	20.056	20.046	20.178	20.443
30	19.475	19.717	19.928	19.862	20.106	20.318
31	19.279	19.522	19.765	19.673	19.917	20.161
32	19.077	19.320	19.564	19.479	19.723	19.967
33	18.868	19.112	19.356	19.278	19.523	19.767
34	18.651	18.896	19.141	19.073	19.318	19.563

Person's age last birthday	Aggregate period person received salary as member of Assembly (complete years)					
	Males			Females		
	8	9	10 or more	8	9	10 or more
35	18.428	18.674	18.920	18.861	19.106	19.352
36	18.194	18.441	18.689	18.640	18.886	19.132
37	17.950	18.199	18.449	18.412	18.660	18.907
38	17.698	17.949	18.199	18.178	18.426	18.673
39	17.435	17.685	17.936	17.934	18.182	18.429
40	17.160	17.410	17.661	17.684	17.930	18.177
41	16.880	17.130	17.380	17.430	17.675	17.920
42	16.596	16.845	17.094	17.173	17.416	17.660
43	16.301	16.550	16.799	16.912	17.154	17.396
44	16.002	16.250	16.498	16.647	16.888	17.128
45	15.698	15.945	16.193	16.381	16.619	16.858
46	15.379	15.626	15.874	16.111	16.347	16.583
47	15.054	15.301	15.549	15.838	16.072	16.306
48	14.729	14.974	15.219	15.566	15.796	16.027
49	14.391	14.630	14.869	15.291	15.519	15.746
50	14.053	14.284	14.514	15.017	15.241	15.465
51	13.735	13.955	14.176	14.747	14.967	15.186
52	13.425	13.634	13.843	14.477	14.692	14.907
53	13.127	13.327	13.526	14.209	14.420	14.630
54	12.859	13.052	13.245	13.951	14.158	14.364
55	12.606	12.794	12.982	13.695	13.898	14.101
56	12.356	12.539	12.722	13.442	13.641	13.839
57	12.117	12.294	12.471	13.198	13.391	13.585
58	11.881	12.052	12.222	12.956	13.144	13.331
59	11.655	11.818	11.982	12.721	12.903	13.084
60	11.449	11.604	11.759	12.509	12.682	12.855
61	11.252	11.398	11.544	12.304	12.468	12.632
62	11.074	11.209	11.344	12.118	12.271	12.424
63	10.936	11.058	11.179	11.978	12.117	12.255
64	10.819	10.925	11.032	11.860	11.982	12.105
65	10.760	10.847	10.934	11.808	11.909	12.010
66	10.803	10.864	10.925	11.877	11.947	12.018

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Person's age last birthday	Aggregate period person received salary as member of Assembly (complete years)					
	Males			Females		
	8	9	10 or more	8	9	10 or more
67	10.899	10.930	10.961	12.006	12.042	12.078
68	11.059	11.067	11.074	12.211	12.220	12.229
69	11.336	11.336	11.336	12.555	12.555	12.555
70	11.505	11.505	11.505	12.764	12.764	12.764

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**[6] Schedule 4, Part 2***omit***Note**

1. All legislative instruments and compilations are registered on the Federal Register of Legislative Instruments kept under the *Legislative Instruments Act 2003*. See <http://www.frli.gov.au>.