

EXPLANATORY STATEMENT

FAMILY LAW (SUPERANNUATION) (PROVISION OF INFORMATION – VICTORIAN PENSION SCHEMES) AMENDMENT DETERMINATION 2009 (No. 1)

ISSUED BY THE AUTHORITY OF THE ATTORNEY-GENERAL

In this instrument, the Attorney-General amends the *Family Law (Superannuation) (Provision of Information – Victorian Pensions Schemes) Determination 2008* (the Determination) to reflect amendments made by the *Courts Legislation Amendment (Associate Judges) 2008* (Vic.) (the Associate Judges Act) to reform the offices of Master of the Supreme Court of Victoria and master of the County Court of Victoria by their replacement by new offices of Associate Judge of the Supreme Court of Victoria and associate judge of the County Court of Victoria.

In the Determination, the Attorney-General provided for the matters about which a superannuation scheme trustee must provide information in response to an application under section 90MZB of the *Family Law Act 1975* in respect of an interest that will pay pension entitlements to a Supreme Court Master or County Court master. Most of the information that is required to be provided in response to an application under section 90MZB of the *Family Law Act 1975* will be relevant to the gross value of those entitlements, one element in the determination of an amount which is taken to be their value in property settlement proceedings under that Act. Methods were approved, in April 2008, for determining the gross value of the pension entitlements of a Supreme Court Master or County Court master, under Part 7 of Schedule 3 to the *Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Approval 2003*.

The pension entitlements, on resignation or retirement, of a person appointed to the new office of an Associate Judge of the Supreme Court or an associate judge of the County Court are identical to the pension entitlements held by Supreme Court Masters and County Court masters.

Amendments have been made, by the *Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Amendment Approval 2009 (No. 1)*, to reflect the amendments made by the Associate Judges Act, so that the methods approved in April 2008 in relation to the pension entitlements of a Supreme Court Master or County Court master now apply to the pension entitlements of Associate Judges of the Supreme Court of Victoria and associate judges of the County Court of Victoria.

The instrument amends the Information Determination so that the relevant superannuation scheme trustee must now provide information, in response to an application under section 90MZB of the *Family Law Act 1975* about the pension entitlements of an Associate Judge of the Supreme Court of Victoria or an associate judges of the County Court of Victoria, that is relevant to the methods that now apply to these judicial officers.

The instrument incorporates by reference the *Family Law (Superannuation) (Methods and Factors for Valuing Particular Superannuation Interests) Approval 2003*, under which methods are approved for valuing, for the purpose of property settlement proceedings under the *Family Law Act 1975*, particular superannuation interests. The Approval can be viewed at the following website:

<http://www.comlaw.gov.au/comlaw/legislation/legislativeinstrumentcompilation1.nsf/current/bytitle/961B05B3F3E8A6C7CA25740B001FADB7?OpenDocument&mostrecent=1>

A copy of the Approval may be purchased from CanPrint Communications Pty Ltd, PO Box 7456, Canberra MC ACT 2610 (telephone: 1300 656 863).

Consultation on the content of the instrument was undertaken under section 17 of the *Legislative Instruments Act 2003* with the Victorian Department of Justice, by way of exchange of correspondence and discussions.