

EXPLANATORY STATEMENT

Subject: *Fair Work Amendment Act 2012*

Proclamation

Section 2 of the *Fair Work Amendment Act 2012* (the Act) provides for the commencement of the provisions of the Act.

Item 1 of the table in subsection 2(1) provides for sections 1 to 3 (and anything not elsewhere covered by the table) to commence on the day the Act receives the Royal Assent. Item 11 provides for Schedule 11 (Application, transitional and savings provisions) to also commence on this day. The Act recently received the Royal Assent.

Item 4 of the table in subsection 2(1) of the Act provides for Schedules 3 to 8 to the Act to commence on a day to be fixed by Proclamation. Schedules 3 to 8 contain amendments to the *Fair Work Act 2009* (FW Act) in relation modern awards, enterprise agreements, general protections and unfair dismissal, industrial action, and the Fair Work Commission.

Items 5, 9 and 10 of the table provide for Parts 1, 2 and 4 of Schedule 9 (Changing the name of Fair Work Australia) and Schedule 10 (Other amendments) to commence at the same time as Schedules 3 to 8.

The *Fair Work Amendment Proclamation 2012* (the Proclamation) fixes 1 January 2013 as the day on which Schedules 3 to 8 to the Act will commence. This has the effect of also commencing Parts 1, 2 and 4 of Schedule 9 and Schedule 10 at the same time. Parts 1, 2 and 4 of Schedule 9 make consequential amendments to the FW Act and other Commonwealth legislation to reflect the change of the name of Fair Work Australia and transitional arrangements.

Subsection 2(1) of the Act provides for:

- Schedule 1 (regarding default superannuation) to commence on the later of 1 January 2014 or the commencement of item 1 of Schedule 4 to the *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012*; and
- Schedule 2 (regarding the Expert Panel for the Default Superannuation List) to commence on the later of 1 July 2013 or commencement of item 1 of Schedule 4 to the *Superannuation Legislation Amendment (Further MySuper and Transparency Measures) Act 2012*.

The Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.