FAMILY LAW (SUPERANNUATION) AMENDMENT (2026 MEASURES NO. 1) REGULATIONS 2026

EXPLANATORY STATEMENT

Issued by authority of the Attorney-General

Under subsection 125(1) of the *Family Law Act 1975*

PURPOSE AND OPERATION OF THE INSTRUMENT

The *Family Law Act 1975* (the Act) provides the legislative framework for the division of superannuation interests between married and de facto couples upon separation. The *Family Law (Superannuation) Regulations 2025* (the Principal Regulations), which commenced on 1 April 2025, give effect to the distribution of superannuation interests under Parts VIIIB and VIIIC of the Family Law Act by prescribing the methods for valuing superannuation interests, the way in which payment splits are to be put into effect and the information that trustees must provide to parties. The Act and Principal Regulations provide for the Minister to approve, by legislative instrument, methods (actuarial formulas) and factors (tables of numbers based on economic and demographic assumptions) specific to individual superannuation plans, to allow for valuations which take into account the unique features and membership of the superannuation plan.

Changes to the Act, through the *Family Law Amendment Act 2024*, commenced on 11 December 2024, and empower the Minister (the Attorney-General) to issue a written direction to a trustee of a superannuation plan if there is an approved methodology for valuing a superannuation interest in that plan. The Act provides for the Minister to make regulations prescribing the circumstances in which a direction may be issued, the content that must be included in a direction and what the direction may require the trustee to do.

The Principal Regulations do not currently prescribe these matters, and the Minister is therefore unable to issue a written direction if needed. The Family Law (Superannuation) Amendment (2026 Measures No. 1) Regulations 2026 (the Amendment Regulations) amend the Principal Regulations to prescribe these matters. The amendments will allow the Minister to address the situation where a trustee has not engaged with the Attorney-General's Department (the Department), following a request to review their approved methods or factors. Approved methods and factors should be reviewed from time to time to ensure they are based on current economic and demographic assumptions relevant to the unique features and membership of the superannuation plan.

The amendments prescribe the requirements for issuing and responding to a direction to ensure that the approved methods or factors used for valuing superannuation interests are reviewed by trustees and updated as needed to ensure they produce reasonable valuations of superannuation interests for family law purposes.

The Amendment Regulations also introduce six minor and technical amendments to the Principal Regulations. These amendments have been identified following the remaking of the

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Principal Regulations in 2025 and consultation with the Australian Government Actuary (AGA). Their purpose is to enhance the clarity and effective operation of the Principal Regulations, ensuring the Principal Regulations support the valuation of superannuation interests in family law property matters.

Under subsection 33(3) of the *Acts Interpretation Act 1901*, where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend, or vary any such instrument.

CONSULTATION

The AGA was closely consulted throughout the development of the Amendment Regulations. The AGA's advice specifically informed the development of the matters prescribed for issuing and responding to ministerial directions. It is essential that the matters prescribed in the Principal Regulations ensure the Minister is sufficiently informed so as to be able to make a decision to issue a direction, and to be able to make a subsequent decision in relation to any valuation methods or factors following the review undertaken by the trustee. These decisions will be informed by the advice of the AGA whose role is to provide independent actuarial services for the Australian Government.

Superannuation industry stakeholders were not specifically consulted in the development of the Amendment Regulations but were consulted as part of the public consultation on the exposure draft of the Principal Regulations conducted prior to their remake. The Department clearly indicated in consultation materials that it is the position of the Government that approved methods and factors should be based on current actuarial assumptions to ensure superannuation interests are valued appropriately for family law purposes.

The Department specifically sought views on any barriers for superannuation trustees to updating their approved methods and factors, and the notice period they would need, should a requirement to review methods and factors be introduced into the legislation. Feedback to that consultation was broadly supportive of trustees being required to review their approved methods and factors from time to time, and specific barriers, outside of minor administrative issues, were not identified.

The passage of the *Family Law Amendment Bill 2024* in November 2024 was a clear signal by the Government of its intent to develop a framework in the Principal Regulations in support of ensuring the approved methods or factors be reviewed from time to time. The passage of the Bill followed a Parliamentary inquiry of the Bill through which stakeholders had a further opportunity to present any concerns about this intention. No concerns were raised.

The Department and AGA have been engaging with relevant superannuation trustees and their actuaries to support their voluntary review of their approved methods and factors. The Amendment Regulations, and the issuing of a direction by the Minister, are intended to be

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relied on in the event that trustees do not engage with the Department to undertake such reviews from time to time.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

This Disallowable Legislative Instrument is compatible with human rights. A Statement of Compatibility with Human Rights is set out in **Attachment A**.

The instrument is a legislative instrument for the purposes of the Legislation Act 2003. Details of the instrument are set out in **Attachment B**.

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ATTACHMENT A

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Family Law (Superannuation) Amendment (2026 Measures No. 1) Regulations 2026

1. This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Regulations

2. The Family Law (Superannuation) Amendment (2026 Measures No. 1) Regulations 2026 (the Amendment Regulations) amend the *Family Law (Superannuation) Regulations 2025* (the Principal Regulations) to introduce a framework for issuing and responding to ministerial directions, which supports the valuation of superannuation for family law purposes. The Amendment Regulations also make several minor and technical amendments. Broadly, these amendments aim to ensure the effective operation of the superannuation splitting regime under the *Family Law Act 1975* (Family Law Act).

3. The Amendment Regulations will commence at the start of the day after the instrument is registered.

Human rights implications

4. The Amendment Regulations engage the following rights:

    - Rights to privacy and reputation: *Article 17(1) of the International Covenant on Civil and Political Rights* (ICCPR).
    - Right to respect for the family during marriage and at its dissolution: *Articles 17(1) and 23 of the ICCPR*.
    - Right to an adequate standard of living, including food, water and housing: Article 11(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR).

Right to privacy and reputation: *Article 17(1) of the ICCPR*

5. Article 17(1) of the ICCPR protects individuals from arbitrary or unlawful interference with their privacy, family, home or correspondence. The right to protection against arbitrary and unlawful interference protects personal information.

6. A number of measures in the Amendment Regulations engage the prohibition on interference with privacy.

7. The Principal Regulations require superannuation trustees to provide an eligible person (an applicant who makes a valid application under sections 90XZB or 90YZR of the

Family Law Act) certain information about a member's superannuation interest. The member could be the applicant themselves, or the member's partner or former partner.

8. The information a trustee must provide is set out in Part 9 of the Principal Regulations and prescribes the range of information to be provided based on the type of superannuation interest. The Amendment Regulations modify Part 9 to require a trustee to identify when the member is receiving an invalidity pension. From this information, it could be inferred that the superannuation trustee has determined that the member has a physical or mental incapacity and is unable to perform their duties of employment. Information about the type or level of incapacity would not be provided.

9. If a member is receiving an invalidity pension, the value of the member's superannuation as calculated under the Principal Regulations will be affected, and so requiring trustees provide this information ensures that the superannuation interest is appropriately valued for family law purposes.

10. The obligation on a trustee to disclose such information about a member's superannuation interest is not arbitrary. Information can only be provided after the applicant signs a declaration confirming they require the information either to assist them to appropriately value superannuation for the purposes of negotiating a fair superannuation agreement, or to assist them in connection with making financial agreements or seeking orders under Part VIIB or VIIIC of the Family Law Act.

11. The sharing of this information facilitates the expeditious, just and equitable resolution of the property and financial aspects (including superannuation interests) of a relationship breakdown. To the extent the Principal Regulations limit the right to be free from interference with privacy, this is reasonable, necessary and proportionate to ensure that both parties have the information necessary to engage in a just and equitable property division process.

Right to respect for the family during marriage and at its dissolution: *Articles 17(1) and 23 of the ICCPR*

12. Article 23(4) of the ICCPR imposes an obligation on states to take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution of marriage, provisions shall be made for the necessary protection of any children.

13. The Principal Regulations promote this obligation by supporting the broader framework for separating couples to achieve a property settlement and provide certainty that all relevant property of a relationship (including superannuation) can be taken into consideration as part of a property settlement. The Principal Regulations facilitate the valuation, information sharing and splitting of benefits related to superannuation interests which enables just and equitable family law property division. The Amendment Regulations require trustees to provide information about potential reversionary benefits, guarantee periods, and details about when a lump sum may be payable, and whether a

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pension is being paid for invalidity as set out above, in relation to certain superannuation interests. The amendments also permit trustees to provide a gross value calculated in accordance with the Principal Regulations for innovative superannuation interests. These amendments further support the obligation under article 23(4) of the ICCPR by ensuring that the information necessary for the proper valuation of a superannuation interest is provided by the superannuation trustee.

Right to an adequate standard of living, including food, water and housing: Article 11(1) of the *International Covenant on Economic, Social and Cultural Rights* (ICESCR)

14. Article 11(1) of the ICESCR provides that all persons have the right to an adequate standard of living for themselves and their families, including adequate food, clothing and housing, and to the continuous improvement of their living conditions.

15. Ensuring that superannuation interests are accurately valued in family law property matters will support the just and equitable distribution of property following relationship breakdown, engaging Article 11(1) of the ICESCR by promoting the right to an adequate standard of living for separated married and de facto couples.

Conclusion

This Disallowable Legislative Instrument is compatible with human rights because it promotes the protection of human rights and to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate to achieve the legitimate aims of the Principal Regulations under the Family Law Act.

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ATTACHMENT B

Details of the *Family Law (Superannuation) Amendment (2026 Measures No. 1) Regulations 2026*

Section 1 – Name

1. Section 1 provides that the title of this instrument is the *Family Law (Superannuation) Amendment (2026 Measures No. 1) Regulations 2026* (the Amendment Regulations).

Section 2 – Commencement

2. Section 2 provides for the Amendment Regulations to commence on the day after the instrument is registered on the Federal Register of Legislation.

Section 3 – Authority

3. Section 3 states that the Amendment Regulations are made under the authority of the *Family Law Act 1975* (the Act).

Section 4 – Schedules

4. Section 4 provides that provisions specified in the Schedules are amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Amendment Regulations has effect according to its terms.

Schedule 1 – Amendments

Part 1 – Ministerial directions

Family Law (Superannuation) Regulations 2025

Item 1 – Section 4

5. This item inserts the following new definitions into section 4 of the Family Law (Superannuation) Regulations 2025 (the Principal Regulations):

> ***ABN*** (short for "Australian Business Number") has the same meaning as in the *A New Tax System (Australian Business Number) Act 1999*.
>
> ***approval instrument*** has the meaning given by subsection 97A(2).
>
> ***superannuation actuary*** has the same meaning as in the SIS Act.
>
> ***target method or factor*** has the meaning given by subsection 97A(1).
>
> ***target superannuation interest*** has the meaning given by subsection 97A(1).

The term "SIS Act" is defined in section 90XD of the *Family Law Act 1975* as meaning the *Superannuation Industry (Supervision) Act 1993*.

Item 2 – After Part 7

6. This item inserts new Part 7A, which sets out the framework for ministerial directions relating to approved methods or factors for valuing superannuation interests. Subsections 90XT(3A) and 90YY(4A) of the Act allow the Minister, in certain circumstances, to give a written direction to a trustee to do a thing prescribed by the Principal Regulations. The new Part 7A prescribes the things that the Minister may direct a trustee to do.

Part 7A—Ministerial directions relating to approved methods or factors

Section 97A – Scope of this Part

7. Subsection 1 of new section 97A provides that new Part 7A applies in relation to a trustee of an eligible superannuation plan if there is an approval instrument in force that approves a method or factor for, or in relation to, a superannuation interest in the plan.

8. Subsection 2 of new section 97A defines an approval instrument as an instrument made by the Minister under subsection 62(1), 70(1) or 79(1) of the Principal Regulations.

Section 97B – Circumstances in which a direction may be given

9. New section 97B prescribes the circumstances in which the Minister may give a direction to a trustee for the purposes of subsections 90XT(3A) and 90YY(4A) of the Act.

10. Subsection 2 of new section 97B provides that the Minister may give a direction at any time when satisfied that it would be appropriate for the relevant method or factor to be reviewed.

11. Subsection 3 of new section 97B requires the Minister to consult with the Australian Government Actuary (AGA) prior to the Minister deciding whether they are satisfied that it would be appropriate for a method or factor to be reviewed. The AGA is an independent self-funded body that provides consulting actuarial services and related policy advice to the Australian Government. Consulting with the AGA ensures that directions issued by the Minister are appropriately based upon independent expert actuarial advice.

Section 97C – What must be included in a direction

12. New section 97C specifies the information that must be included in a direction given by the Minister to a trustee. A direction must include the date it is given, the name and ABN (if any) of the trustee, the name of the eligible superannuation plan, information sufficient to identify the relevant method or factor, including the name of the approval instrument that approves the relevant method or factor, the period within which the trustee must complete the required action, and the Minister's signature and title.

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Section 97D – What a direction may require the trustee to do

13. New section 97D prescribes the actions a trustee may be directed to undertake through a direction.

14. Subsection (2) of new section 97D provides that a direction may require a trustee to arrange for a superannuation actuary to conduct a review of the target method or factor and provide to the Department recommendations, and the reason for those recommendations, in relation to the method or factor. A superannuation actuary specialises in the management of financial risk in superannuation settings, analysing past experience, assessing the current environment and modelling possible future outcomes. Actuaries' expertise across mathematics, finance, statistics, demography and economics makes them best placed to conduct a review of the relevant (approved) methods or factors for the specific superannuation plan, determine if those methods or factors remain fit for purpose based on current economic and demographic assumptions for the plan's membership and any unique features of the superannuation plan; and if not, to recommend changes to the approved methods or factors.

15. Subsection (3) of new section 97D provides that a direction may require a trustee to provide the Department with confirmation of the review's completion, its date, and details of the actuary who completed the review.

16. Subsection (4) of new section 97D provides that a direction may also require a trustee to provide the Department with specified information including a statement on the number of members of, and membership characteristics relevant to, the target superannuation interest, and if applicable, information concerning or copies of actuarial reports concerning the target superannuation plan. The direction may also require a copy of the eligible superannuation plan's governing rules to be provided.

17. Subsection (5) of new section 97D provides that a direction may also require a trustee to provide the Department with specified administrative information regarding the eligible superannuation plan, such as the name, address and contact information of the trustee.

18. The provision of these recommendations and information is intended to assist the Minister, in consultation with the AGA, in determining whether the approved methods or factors remain appropriate and any action to take in relation to those approved methods or factors.

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Part 2—Provision of information by trustees

Division 1—Reversionary beneficiaries

Family Law (Superannuation) Regulations 2025

Item 3, 4, 5 and 6 – Subparagraphs 105(c)(v) and 112(1)(c)(v), Paragraph 114(3)(d), Subparagraph 120(1)(c)(v), Paragraph 128(1)(d)

19. These items repeal and substitute new (sub)paragraphs for subparagraphs 105(c)(v) and 112(1)(c)(v), paragraph 114(3)(d), subparagraph 120(1)(c)(v), and paragraph 128(1)(d).

20. Each of these provisions sits within a larger list of specific information that a trustee must provide to an individual in response to an application made under sections 90XZB or 90YZR of the Act about a superannuation interest of a member, which is used for the purposes of determining the value of the superannuation interest for family law purposes. The substituted paragraphs clarify that trustees must state whether it is possible, under the governing rules of the plan in which the interest is held, for a non-member spouse (that is, any spouse of the member, other than the current spouse) to be a reversionary beneficiary in relation to a pension benefit. If so, trustees must further indicate what proportion of ongoing pension payments would be payable to such a beneficiary upon the member's death, as per the governing rules of the plan. Provision of this information enables the correct method to be determined and used when valuing the superannuation interest.

21. If, under the governing rules of the plan, it will never be possible for a reversionary pension to be paid to a surviving spouse after relationship breakdown (for example, if the rules do not provide for any reversionary pension payments, if the rules provide that a reversionary spouse beneficiary can only be nominated at the commencement of the member’s retirement, or if the member themself is receiving the current pension as a reversionary beneficiary), then this should be reflected in the information given by the trustee. This will ensure the value of the pension does not include the value of a future reversionary pension where there is no potential for such a pension to be payable in respect of the interest.

Division 2—Guarantee periods

Family Law (Superannuation) Regulations 2025

Items 7, 8, and 9 - After subparagraphs 105(c)(iv), 112(1)(c)(iv), At the end of paragraph 121(1)(c), After paragraph 128(1)(c)

22. These items amend sections 105, 112, 121 and 128, which specify the information trustees are required to provide in response to an application from an individual for information about a superannuation interest of a member under subsection 90XZB(3) or 90YZR(3) of the Act, which are used for the purposes of determining the value of the superannuation interest for family law purposes. These items insert a new provision into each section to require a trustee to provide a statement indicating whether a pension or

superannuation annuity has, or has had, a guarantee period. If a guarantee period exists and the guarantee period has not ended, the trustee must also provide details of the length or the remaining part of the guarantee period. This information is required for the purposes of determining the value of a superannuation interest in accordance with the Principal Regulations.

Division 3—Life pensions

Family Law (Superannuation) Regulations 2025

23. Items 10, 11 and 12 each insert a new paragraph or subparagraph requiring a trustee to provide certain information to an individual in response to an application made under sections 90XZB or 90YZR of the Act about a superannuation interest of a member and whether benefits are payable to the member due to invalidity. The provisions form part of a list of specific information that a trustee must provide to an individual, which are used for the purposes of determining the value of the superannuation interest for family law purposes.

24. The Principal Regulations prescribe different valuation factors to be used subject to whether a member is receiving ongoing payments due to invalidity, where no methods or factors are approved by the Minister for the interest. If the member is receiving ongoing pension payments, or payments from a superannuation annuity, and the payments are not due to the member's invalidity, the pension valuation factors in Schedule 5 will apply. If the member is receiving the payments solely due to their invalidity, then the pension valuation factors in Schedule 7 will apply.

25. The addition of these information requirements would ensure that the appropriate pension valuation factors are used when valuing the particular interest.

Items 10 and 11 – After subparagraphs 105(c)(ii) and 112(1)(c)(ii)

26. This item inserts new subparagraph 105(c)(iia) and subparagraph 112(1)(c)(iia). New subparagraph 105(c)(iia) requires a trustee to state, in circumstances where a member is receiving an ongoing lifetime pension from an accumulation interest in the payment phase, whether the amounts are payable due to invalidity. New subparagraph 112(1)(c)(iia) requires a trustee to state, in circumstances where a member is receiving an ongoing lifetime pension from a defined benefit interest in the payment phase, whether the amounts are payable due to invalidity. This information is required for the purpose of determining the value of a superannuation interest in accordance with the Principal Regulations.

Item 11 - After subparagraph 121(1)(c)(ii)

27. This item inserts new subparagraph 121(1)(c)(iia) which requires a trustee to state, in circumstances where a member is receiving ongoing benefits being made to a member from a lifetime superannuation annuity, whether the amounts are payable due to

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invalidity. This information is required for the purpose of determining the value of a superannuation interest in accordance with the Principal Regulations.

Item 12 – After paragraph 128(1)(b)

28. This item inserts new paragraph 128(1)(ba) which requires a trustee to state whether ongoing pension payments being made to a member from an innovative superannuation interest in the payment phase are payable due to invalidity. This information is required for the purpose of determining the value of a superannuation interest in accordance with the Principal Regulations.

29. Payments being made to a member are payable due to invalidity for the purposes of these provisions where the only basis for the payments is in accordance with the governing rules which provide that such payments are only payable if a member is considered an invalid. For example, a member may have entered the payment phase for an accumulation interest due to invalidity and before preservation age. Some years later, the member may use a lump sum from this accumulation interest to purchase an innovative superannuation interest that provides ongoing pension payments. In these circumstances, the trustee would not state that the member is receiving the ongoing pension payments in respect of the innovative superannuation interest due to invalidity.

Division 4—Gross value of superannuation interest

Family Law (Superannuation) Regulations 2025

Items 13 and 14 – Paragraphs 128(1)(g) and Paragraph 129(1)(h)

30. These items amend paragraphs 128(1)(g) and 129(1)(h) to allow a trustee to provide the gross value of an innovative superannuation interest, irrespective of whether the Minister has approved methods or factors for the superannuation plan. For an interest in the payment phase (section 128), the trustee may choose, upon the request of an applicant, to provide the gross value of the interest determined under Division 2 of Part 6 of the Principal Regulations. For an interest in the growth phase (section 129), the trustee may choose to provide, upon the request of an applicant, the gross value determined under Division 1 of Part 6 of the Principal Regulations. This simplifies the reference by directing to the overarching Part that provides for the relevant valuation methods.

Division 5—Minimum deferral periods

Family Law (Superannuation) Regulations 2025

Items 15 and 16 – Paragraph 112(1)(d), At the end of paragraph 112(1)(e)

31. These items amend paragraphs 112(1)(d) and 112(1)(e), which deal with information about defined benefit interests in the payment phase. In addition to providing the amount of any lump sum (either one already payable or a future lump sum), a trustee will now also be required to state the earliest date on which that lump sum may be paid. This

information is required for the purposes of determining the value of a superannuation interest in accordance with the Principal Regulations.

Part 3—Other technical amendments

Family Law (Superannuation) Regulations 2025

Item 17 – Subclause 35(1) of Schedule 3

32. This item amends subclause 35(1) of Schedule 3, which relates to the method for calculating the gross value of certain defined benefit interests. It replaces the word "interest" with "benefit" where it refers to the type of payment, ensuring accuracy in terminology.

Item 18 – Subclause 47(2) of Schedule 3 (formula)

33. This item repeals and substitutes the method (which is a formula) in subclause 47(2) of Schedule 3. This method is used for calculating the gross value of a defined benefit interest relating to former employment, where the member may choose a combination of lump sum and pension benefits. The amendment corrects a typographical error contained in the method. The updated method is: $((1 - Max_{p\%}) \times PV_{ls}) + (Max_{p\%} \times PV_{p})$.

Item 19 – Clause 16 of Schedule 5 (definition of $S_{x+t,\ y+m}$)

34. This item amends the definition of the expression $S_{x+t,\ y+m}$ to remove the reference to 'survival valuation factor' and replace it with a reference to 'interpolated survival factor'.

35. Interpolation is a mathematical process of estimating an unknown value that falls between two data points. In the Principal Regulations, factors are provided for whole ('complete') years and are not broken down by month. In order to determine the appropriate factor for a member's superannuation interest at a particular point in time, interpolation formulas enable a factor, which lies at a point between the existing complete year factors, to be calculated for complete years and complete months.

36. The amended reference to 'interpolated survival factor' is intended to differentiate the expression $S_{x+t,\ y+m}$ from the expressions $S_{x,\ y}$ and $S_{x+t,\ y}$ which are defined by reference to 'survival valuation factor' to avoid any confusion that may arise if both expressions were defined in the same way for the purposes of calculating the relevant factor when applying the method set out in clause 16 of Schedule 5.

Item 20 – Clause 18 of Schedule 5 (heading)

37. This item amends the heading of clause 18 of Schedule 5 replacing 'survival valuation factor' with 'interpolated survival factor', with the effect that the expression $S_{x+t,\ y+m}$ is defined as 'interpolated survival factor'. Clause 18 provides for the determination of a survival factor, interpolated to account for whole months in between whole years, for both the member spouse's age and the remaining guarantee period of the pension. The amendment to clause 18 aligns with the amendment to clause 16 under item 19.

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Item 21 – Subclause 18(1) of Schedule 5

38. Clause 18 of Schedule 5 sets out how to calculate the interpolated survival factor for the purposes of the method in clause 16, which provides how to calculate the present value of a pension payable after the end of the guarantee period. Item 21 inserts a condition for the application of clause 16 when interpolation is required across both dimensions – that is, when neither 't' nor 'm' (representing the number of completed months for the member's age and the remaining guarantee period respectively) is equal to zero. These circumstances can then be distinguished from circumstances where interpolation is not required across one or both dimensions, as set out in the new provisions inserted by item 24.

Item 22 – Subclause 18(1) of Schedule 5 (paragraph (c) of the definition of $S_{x, y}$)

39. This item amends the definition of $S_{x, y}$ to replace the term 'completed years' with the term 'complete years', to reflect that the definition is concerned with the amount of time remaining in a guarantee period.

Item 23 – Subclause 18(1) of Schedule 5 (definition of $S_{x+1, y}$)

40. This item replaces the definition of $S_{x+1, y}$ as the survival valuation factor mentioned in subclause (2) or (3) that applies to the member spouse. The replacement definition is further intended to clarify that the member spouse's age is a relevant consideration in determining the factor.

Item 24 – Subclause 18(1) of Schedule 5

41. This item inserts new definitions for $S_{x, y+1}$ and $S_{x+1, y+1}$, which are survival valuation factors used in specific interpolation calculations based on the member spouse's age and remaining guarantee period in complete years. These definitions align with the structure of existing survival factor definitions.

Item 25 – After subclause 18(1) of Schedule 5

42. This item inserts new subclauses (1A), (1B), and (1C) to provide specific calculations for $S_{x+t, y+m}$ under different scenarios where 't' and 'm' are either equal to zero or not equal to zero. These new subclauses are intended to ensure that the interpolation in the method will function as intended in all circumstances, including where there are zero complete months for either one or both dimensions.

43. The insertions made by items 24 and 25 are intended to make explicit how interpolation is intended to be undertaken under clause 18, rather than relying on the reader implicitly understanding how interpolation generally operates.

Item 26 – Subclauses 18(2) and (3) of Schedule 5 (table heading)

44. This item amends the headings of the tables in subclauses 18(2) and (3) to reflect that the contents of the tables refer to the number of complete years left in a guarantee period.

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Part 4—Application provisions

Family Law (Superannuation) Regulations 2025

45. This Part sets out the application provisions for Parts 1 and 2 of Schedule 1. Application provisions for Part 3 are not required as the amendments are technical in nature and are intended to clarify the existing operation of Schedules 3 and 5 of the Principal Regulations.

Items 27 and 28 – Part 10 (heading), At the end of Part 10

46. Part 10 of the Principal Regulations provide for transitional arrangements.

47. Item 27 expands the heading of Part 10 to indicate that the Part also includes application provisions.

48. Item 28 inserts new Division 2, which contain the application provisions for the Amendment Regulations.

Section 147 – Definitions for this Division

49. New section 147 provides the following definition for the purposes of new Division 2 of Part 10:

> **amending instrument** means the *Family Law (Superannuation) Amendment (2026 Measures No. 1) Regulations 2026*.

Section 148 – Ministerial directions

50. New section 148 specifies that the amendments contained in Part 1 of Schedule 1 of the Amendment Regulations (Ministerial directions relation to approved methods or factors) apply to a trustee of an eligible superannuation plan with an approval instrument in force that approves a method or factor, regardless of whether the approval instrument was made, or commenced, before, on or after the commencement of Part 1.

Section 149 – Provision of information by trustees

51. New section 149 specifies that the amendments made by Part 2 of Schedule 1 of the Amendment Regulations (Provision of information by trustees) apply in relation to an application under section 90XZB or 90YZR of the Act that is made on or after the commencement of Part 2.

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