

# PRODUCT DISCLOSURE STATEMENT

ISSUED TO MEMBER: SONYA NICOL

ISSUED BY THE TRUSTEE: J & S NICOL SUPERANNUATION FUND

The *Corporations Act 2001* provides that where a person is being provided with a financial product they must receive a Product Disclosure Statement, commonly referred to as a PDS, detailing all their rights and entitlements in relation to that financial product. Under the *Corporations Act 2001* becoming a member of a self-managed superannuation fund ('SMSF' or 'a Fund') is a financial product. Among other things, so is the ability of existing members of a Fund to commence a Pension from the Fund or for the trustee to pay a benefit to a deceased member's dependants.

For the purposes of this PDS the issuer is the trustee of the Fund. The PDS outlines Information to assist a member seeking to commence a pension in their SMSF and must be Read in conjunction with the trust deed of the Fund – where all rights and entitlements of Members, their dependants as well as duties and responsibilities of the trustees are to be found.

Where a member wishes to commence a pension, the trustee must set out the terms and Conditions of the pension in writing and notify these to the member. These terms and Conditions form part of the governing rules of the Fund.

## Pension Entitlements

A member is entitled to be paid an income stream – called a pension from the fund. The Member must first satisfy various requirements in order for the pension to be paid. Most importantly the member must satisfy a 'condition of release' in order to be paid the benefits. This might include attaining preservation age which is 55 for those born before 1 July 1960 and up to age 60 for those born after this date. Other condition of release include retirement or reaching age 65.

A new account-based pension replaces the allocated and market linked pension types with Effect from 1 July 2007. There is also a variation to this pension to satisfy the transition to Retirement rules for those members aged 55 or more seeking to commence a pension while still continuing to work. The rules governing these new 'simplified and streamlined' pensions were introduced under the *Simpler Super* reforms announced in the May 2006 Federal Budget.

An allocated pension may not commence after 19 September 2007. A market linked pension is only available in limited circumstances after this date. From 20 September 2007 **all** new pension **must** now commence in line with the new rules and the Fund's deed must be upgraded if necessary, to meet this requirement.

The new rules mean that from 1 July 2007 existing pensions may adopt new minimum payment rules and will be taken to meet the new rules in the pension standards in the *SIS Regulations*. Trustees must document the changes to the original terms and conditions of the pension for these new rules to take effect.

## The Account Based Pension

In essence the new account-based pension is a lump sum draw down account where the member must receive at least a minimum amount each year from the member's pension account each year. The annual pension payment is calculated in accordance with the table below.

Age Of member	% of account balance to be taken
Under 65	4
64 – 74	5
75 – 79	6
80 – 84	7
85 – 89	9
90 – 94	11
95 +	14

Other requirements that must be included in the terms and conditions of the pension include:

- the underlying capital of the pension cannot be increased after the commencement date by the addition of any contributions or rollovers;
- the pension is able to be converted to a lump sum subject to special rules applying for transition to retirement pensions – see below;
- the pension cannot be used as security for any borrowings (income or underlying capital);
- upon death of the member the pension can be transferred to a dependant\* as a revisionary pension or the balance of the pension account may be cashed and paid as a lump sum to a dependant or to the deceased estate of the member.
- The Simpler Super pension rules restrict the type of dependants to whom a revisionary pension may be paid or transferred. The rules prohibit the reversion or transfer of a pension to a dependant where that person is a child of the member and is an adult (25 years and older) unless they have a permanent disability that meets the provisions of the *Disability Services Act, 1986* and are in need of ongoing support.

The new pension rules specify that a pension (of any type) WILL NOT satisfy the rules if this occurs which means that the trustee is in breach of the superannuation laws and could cause the fund to become a non-complying fund.

Where a member dies their estate or dependants may receive any remaining account balance as a lump sum or pension or combination of both. An important issue to highlight here relates to the transfer of a pension to a 'reversionary beneficiary' upon a member's death. The new pension rules prohibit the reversion or transfer of a pension to a dependant where that person is an adult child (25 or older) of the member unless they have a specified permanent disability and are in need of ongoing support.

## **Tax of Pensions**

### **1. Taxation of Pension Assets in the Fund**

The taxable income of a Fund excludes any income or capital gains earned on assets that are being used by the trustee to provide pensions. These are exempt from taxation provided that the trustee has segregated those assets from the accumulation assets of the Fund. Upon segregating, the Fund will have two parts – the accumulation side and the pension side, each with different taxation consequences. If the trustee chooses not to segregate the assets of the Fund when a pension commences then they are required to obtain an actuarial certificate each year to ascertain the portion of the income and capital gains Of the Fund that will be tax exempt.

### **2. Taxation of Pension Benefits to a Member**

Benefits paid to a member are taxed according to their age, the type of benefit and the components that make up the member's balance in the fund. From 1 July 2007 pension payments made to a person age 60 and over will be tax free. Where the pension member is under age 60 the pension will be included in the member's assessable income and a 15% tax rebate will apply if the person is aged 55 and over or is totally and permanently disabled or the pension is payable upon the death of the member. The pension may have a tax-free amount which is to be calculated as the amount that the portion of the member's tax-free component bears to the taxable component for each pension payment.

The tax-free component and the taxable component should be determined for the total of the member's benefit in the fund and then applied proportionately to the member's pension account at the time of commencement of the pension.

The tax-free component includes:

- A consolidation of existing superannuation interests calculated as at 30 June 2007 as a fixed amount and includes any undeducted contributions, pre-July 1983 component, CGT exempt component, concessional component and post-June 1994 invalidity component. This is called the 'crystallised segment' of the tax-free component; and

- Non-concessional contributions (undeducted) made on or after 1 July 2007 that have not been included in the assessable income of the fund. This is called the 'contributions segment' of the tax-free component.

Tax-free benefits received are not required to be included in a person's income tax return.

The taxable component is calculated to be the total of the member's superannuation interest in the fund less the tax-free component and will comprise an element taxed in the fund and in limited circumstances perhaps an element untaxed in the fund. An element taxed in the fund refers to that part of a member's benefits – contributions and earnings – that have been subject to tax in the fund, which is typically the case for members of a SMSF.

While a person may be receiving a tax-free income stream while they are alive it may not seem important to keep track of the tax free and taxable components. Upon death of a pension member however it may be important if paying out death benefits to a non-dependant (within the meaning of the (Tax Act) as the tax-free component retains its status in the hands of the dependant.

The following table summarises the tax treatment applicable to the taxed element of the taxable component of benefits received by members from 1 July 2007. The Medicare levy is also payable on top of any rate > 0% quoted below.

<b>Age</b>	<b>Lump Sum</b>	<b>Pension</b>
Age 60 and over	Tax free	Tax free
Preservation age up to age 59	0% up to low rate cap of \$140,000 (2007/08 starting threshold & indexed thereafter)  15% tax on amount above low rate cap	Marginal income tax rates With a 15% tax rebate
Below preservation age	20%	Marginal income tax rates with no 15% tax rebate with the exception of disability pensions

**Member Acknowledgement**



I acknowledge that I have read the product disclosure information issued to me by the trustee of the Fund in relation to the commencement of a pension for myself to be paid from my self-managed superannuation fund.

*Sonya Nicol*  
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**Sonya Nicol**

**SIGN HERE**

01/07/2018