

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Finance and Deregulation

Defence Force Retirement and Death Benefits Act 1973

Declaration under section 73

Eligible superannuation schemes are schemes to which Defence Force Retirement and Death Benefit (DFRDB) members can transfer their benefits on leaving the DFRDB, provided they are not entitled to a pension at that time.

Under the *Defence Force Retirement and Death Benefit Act 1973* (DFRDB Act), the Minister for Finance and Deregulation (MFD) has the power to declare which schemes are eligible superannuation schemes.

The purpose of this Declaration, cited as the **Eligible Superannuation Scheme Declaration 2008**, is to consolidate in a single instrument those superannuation schemes which have been declared eligible superannuation schemes under the DFRDB Act, effective from 1 January 2008.

Advice provided by the Australian Government Solicitor (AGS) has identified no legal impediment in making the Declaration retrospective.

AGS noted that the retrospective enactment of the Declaration is provided for under the DFRDB Act, and in ensuring there is no gap in the availability of the option to transfer DFRDB benefits, which is a beneficial outcome for DFRDB members, would not appear to breach section 12 of the *Legislative Instruments Act 2003*.