

EXPLANATORY STATEMENT

ISSUED BY THE MINISTER FOR FINANCE AND DEREGULATION

SUPERANNUATION (PRODUCTIVITY BENEFIT) ACT 1988 DECLARATION UNDER PARAGRAPH 3E(1)(b)

SUPERANNUATION (PRODUCTIVITY BENEFIT) (SECOND INTEREST FACTOR) DECLARATION 2013

The *Superannuation (Productivity Benefit) Act 1988* (the PB Act) provides superannuation arrangements, based on the minimum employer superannuation requirements envisaged in the *Superannuation Guarantee (Administration) Act 1992*, for certain Australian Government employees, office holders and contractors (employees).

The superannuation arrangements under the PB Act were closed to new employees from 1 July 2006. However, they continue to apply to persons who were covered by the Act on 30 June 2006 until they cease relevant employment or become a member of an Australian Government superannuation scheme.

The employer superannuation contributions provided for under the PB Act are guaranteed to employees where an employer fails to join the employee to a fund to receive those contributions. In such cases, extra amounts are payable by the employer in respect of interest that may have been earned had those contributions been paid to a fund. These additional amounts are calculated by applying the first interest factor for a financial year to the contributions that were due to be paid, but were not paid, in that year and the second interest factor in respect of any later years.

Paragraph 3E(1)(b) of the PB Act requires the Minister to declare, before each financial year, the factor ascertained using a specified formula that is to be the declared second interest factor for that year.

This Declaration, cited as the *Superannuation (Productivity Benefit) (Second Interest Factor) Declaration 2013*, specifies the formula for the second interest factor to be used for financial years commencing from 1 July 2013.

The second interest factor is used in section 8A of the PB Act to accrue interest for 2013-14 and each subsequent financial year on the amounts of unpaid employer contributions for previous financial years and the interest that has been applied to those amounts in previous years using either the first interest factor or the second interest factor for those years. The Declaration makes the factor reflect the estimated closing yield last published by the Reserve Bank of Australia before 1 June in the financial year immediately preceding the relevant financial year in respect of 10-year non-rebate Treasury Bonds.

In previous years, the interest rate has been determined annually, prior to each financial year, with the intention of setting the rate according to the same criteria as is prescribed by the Declaration. Referencing the Treasury Bond rate allows the Declaration to have perennial application, negating the need for annual declarations.

The Declaration should be read in conjunction with the *Superannuation (Productivity Benefit) (First Interest Factor) Declaration 2013*.

The Declaration is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LI Act).

No consultation was undertaken in relation to the Declaration. In accordance with paragraph 18(2)(a) of the LI Act, consultation was considered to be unnecessary because the instrument is of a minor or machinery nature.

The Declaration commences on 1 July 2013.

A Statement of Compatibility with Human Rights is at [Attachment A](#).

Statement of Compatibility with Human Rights

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

Superannuation (Productivity Benefit) (Second Interest Factor) Declaration 2013

This 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 Legislative Instrument

The *Superannuation (Productivity Benefit) Act 1988* (the PB Act) provides superannuation arrangements, based on the minimum employer superannuation requirements in the *Superannuation Guarantee (Administration) Act 1992*, for certain Australian Government employees, office holders and contractors.

The Declaration specifies the formula for the second interest factor to be used from the 2013-2014 financial year. The second interest factor is used in section 8A of the PB Act to accrue interest for relevant financial year on the amounts of unpaid employer contributions for previous financial years and the interest that has been applied to those amounts in previous years using either the first interest factor or the second interest factor for those years.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

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