

## EXPLANATORY STATEMENT

### **Defence Force (Superannuation) (Productivity Benefit) Amendment (Interest Factor) Determination 2014**

ISSUED BY THE ASSISTANT MINISTER FOR DEFENCE

Section 52 of the *Defence Act 1903* empowers the Minister to make determinations providing a superannuation productivity benefit in respect of continuous full time service by members of the Defence Force who are contributors to the Defence Force Retirement and Death Benefits (DFRDB) Scheme.

The Defence Force (Superannuation) (Productivity Benefit) Determination 1988 (the Principal Determination), made under section 52, makes provision for a 3 per cent productivity benefit in line with the Conciliation and Arbitration Commission's June 1986 National Wage decision. It also provides for a superannuation guarantee top-up in circumstances where a DFRDB benefit may not be payable.

The productivity benefit is a notional superannuation benefit accrued by DFRDB scheme members during their service and is paid from the Consolidated Revenue Fund when a member claims a benefit. The productivity benefit becomes part of the DFRDB superannuation unfunded liability and notional interest is calculated on the benefit.

#### ***Factor used in the calculation of interest***

The Principal Determination credits notional interest on the 3 per cent productivity benefit and superannuation guarantee top-up in accordance with factors set out in the schedule to the Principal Determination. It is necessary to amend the schedule to the Principal Determination to add the factor concerned in the calculation of interest applicable in respect of the period 1 January 2014 to 31 December 2014.

The factor taken into account is 0.0423 which is the 10 year Treasury Bond yield, declared on 31 December 2013 by the Reserve Bank of Australia and which has been sourced from the Reserve Bank of Australia's website.

The details of the Determination are explained in Attachment A.

A Statement of Compatibility with Human Rights is at Attachment B.

**Defence Force (Superannuation) (Productivity Benefit) Amendment (Interest Factor) Determination 2014**

***Individual amendments***

**Section 1. Name of determination**

This section is formal and names the amending Determination that amends the Principal Determination.

**Section 2. Commencement**

This section sets out the commencement dates for each section and for the Schedule of the amending Determination. Sections 1 to 4 and Schedule 1 commence on 1 January 2014. No person, other than the Commonwealth, will be disadvantaged by this retrospective commencement.

**Section 3. Authority**

This section details the subsection of the *Defence Act 1903* that authorises the Minister to make this Determination.

**Section 4. Schedule(s)**

This section provides that the Schedule to this amending instrument either amend and/or repeal and replace items in the Principal Determination and is formal.

**Schedule 1    *Amendments taken to have commenced on 1 January 2014***

***Item [1] Schedule (at the end of the table)***

This item amends the Schedule in the Principal Determination by adding the factor concerned in the calculation of interest applicable in respect of the period 1 January 2014 to 31 December 2014.

***Legislative Instrument Act***

This amended Determination is a legislative instrument for the purpose of section 44(2) of the *Legislative Instruments Act 2003* (LIA) and is not subject to disallowance in accordance with item 39 of the table in subsection 44(2) or sunseting in accordance with item 42 of the table in subsection 54(2) of the LIA.

ComSuper, the administrator of the arrangements set out in the Principal Determination, Defence Legal, the Group Finance Officer of the Chief Operating Officer Organisation in the Department of Defence and the Office of Parliamentary Counsel have all been consulted during the course of the preparation of this amending instrument.

A regulation impact statement is not required.

**Statement of Compatibility with Human Rights**

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

***Defence Force (Superannuation) (Productivity Benefit) Amendment (Interest Factor) Determination 2014***

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 purpose of this Amendment Determination is to amend the Defence Force (Superannuation) (Productivity Benefit) Determination 1988 (Principal Determination) to incorporate an interest factor to enable notional interest to be calculated on a notional superannuation productivity benefit that is accruing and that is paid from the Consolidated Revenue Fund when the benefit becomes payable.

**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.

Stuart Robert

Assistant Minister for Defence

Authority:

Section 52 of the *Defence Act 1903*