

## EXPLANATORY STATEMENT

### **Defence Force (Superannuation) (Productivity Benefit) Amendment (Interest Factor and Other Measures) Determination 2015**

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. Previously, the superannuation guarantee top-up and factors had to be changed yearly through amendments. This amendment to the Principal Determination automates the calculation of the superannuation guarantee top-up and factors by reference to the charge percentage in the *Superannuation Guarantee (Administration) Act 1992* and to the 10 yearly bond rate published by the Reserve Bank of Australia, respectively. This change will allow the Principal Determination to have perennial application, removing the need for future determinations to be made.

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 and Other Measures) Determination 2015**

***Individual amendments***

**Section 1. Name of determination**

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

**Section 2. Commencement**

The day after registration.

**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 Determination either amend and/or repeal and replace items in the Principal Determination.

**Schedule 1 - Amendments**

***Item [1] Subclause 3(1)***

This item amends the Principal Determination to define annual interest rate, for 2015 onwards, as being a rate equal to the last annual yield on Commonwealth government 10-year bonds published by the Reserve Bank of Australia immediately before 1 January of the calendar year. This amendment negates the need to manually determine the annual interest rate each calendar year through amending the Principal Determination.

***Item [2] and [3] Subclause 8AA(2), Subclause 8AA(2A), Subclause 8AA(2B) and Subclause 8AA(2C)***

These items amend the Principal Determination to define percentage as either being the amount stated in the tables at 2A and 2B or, for all periods on or after 1 July 2015, as the charge percentage specified in the *Superannuation Guarantee (Administration) Act 1992*. For the purposes of the Principal Determination, percentage must always be the same as the charge percentage specified in the *Superannuation Guarantee (Administration) Act 1992*. This amendment negates the need to manually determine the percentage. It will now automatically change with changes to the charge percentage specified in the *Superannuation Guarantee (Administration) Act 1992*.

***Item [4] and [5] Subclause 8AA(5) and Subclause 8AA(6)***

These items automate the calculation of I for all periods on or after 1 January 2015 by reference to the annual percentage rate. This amendment negates the need to manually determine I.

**Item [6] Subclause 8C(1)**

This item provides a mechanism to determine the annual interest rate for the period during which payment of a benefit is delayed. It is intended to operate so that the rate of interest is the rate that is applicable at the end of that period.

**Item [7] Subclause 8C(1)**

This item provides for the insertion of a note to assist an interpreter with where to find the definition of annual interest rate for the purposes of subclause 8C(1).

**Item [8] Schedule (note to Schedule heading)**

This item provides for a note to assist interpreters with interpreting the Determination.

***Legislative Instrument Act***

This amended Determination is a legislative instrument for the purpose of the *Legislative Instruments Act 2003*.

ComSuper, the administrator of the arrangements set out in the Principal Determination, Defence Legal, the Chief Finance Officer of the Chief Operating Officer Organisation 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 and Other Measures) Determination 2015***

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 automate the calculation of the superannuation guarantee top-up and factors by reference to the charge percentage in the *Superannuation Guarantee (Administration) Act 1992* and to the 10 yearly bond rate published by the Reserve Bank of Australia, respectively. This amendment is intended to prevent the need to continue to amend the Principal Determination on a yearly basis.

**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*