

EXPLANATORY STATEMENT

Parliamentary Contributory Superannuation Act 1948
Parliamentary Superannuation Age Factors (Surcharge)
Determination 2015 (No. 2)

Authority for the Determination

The Parliamentary Contributory Superannuation Scheme (PCSS) provides superannuation benefits for parliamentarians who entered Parliament before 9 October 2004. The PCSS is established by the *Parliamentary Contributory Superannuation Act 1948* (PCS Act).

The *Parliamentary Superannuation Age Factors (Surcharge) Determination 2015 (No. 2)* (the Determination) is made under subsection 22B(1) of the PCS Act. The Determination also revokes a previous Determination made under that subsection. This revocation is authorised by subsection 33(3) of the *Acts Interpretation Act 1901* which provides, among other things, that where an Act confers power to make an instrument the power shall, unless the contrary intention appears, be construed as including a power, exercisable in like manner, to revoke the instrument. No such contrary intention appears in the PCS Act.

Purpose of the Determination

The superannuation contributions surcharge (surcharge) is an additional tax on certain contributions made to a superannuation fund after 20 August 1996 and before 1 July 2005. Where a surcharge assessment is received after retirement, the PCS Act gives retiring parliamentarians the option of converting part of their PCSS pension to a lump sum in order to pay their surcharge liability. The conversion is calculated using age factors determined by the Parliamentary Retiring Allowances Trust. The most current factors are contained in the Determination.

Legislative Instruments Act 2003

The Determination is a legislative instrument for the purposes of section 5 of the *Legislative Instruments Act 2003* (LIA). However, as the Determination is an instrument relating to superannuation, it is exempted from disallowance by item 39 of the table in subsection 44(2) of the LIA.

Consultation

Consistent with paragraph 18(2)(a) of the LIA, consultation was considered unnecessary as the Regulation is of a minor or machinery nature and does not substantially alter existing arrangements. Actuarial advice was obtained regarding the factors included in the Determination. This advice was obtained from the Australian Government Actuary, consistent with the requirements of subsection 22B(1) of the PCS Act.

Statement of Compatibility with Human Rights

Subsection 9(1) of the *Human Rights (Parliamentary Scrutiny) Act 2011* requires a Statement of Compatibility with Human Rights for all legislative instruments subject to disallowance under section 42 of the LIA. As mentioned above, the Determination is exempt from disallowance which means that a Statement of Compatibility with Human Rights is not required.

Commencement

The Determination commences on the day after it is registered on the Federal Register of Legislative Instruments.