

EXPLANATORY STATEMENT

Governor-General Act 1974

*Governor-General Superannuation Age Factors (Division 293 Tax Law)
Determination 2019 (No. 1)*

Authority for the Determination

The Governors-General Pension Scheme (GGPS) provides superannuation pensions for Governors-General. The GGPS is established by the *Governor-General Act 1974* (GG Act).

The *Governor-General Superannuation Age Factors (Division 293 Tax Law) Determination 2019 (No. 1)* (the Determination) is made by the Secretary of the Department of Finance under subsection 4BA(10) of the GG Act.

Purpose of the Determination

The Division 293 tax is an additional tax on superannuation contributions which reduces the tax concession for very high income earners. The Division 293 tax was introduced from the 2012-13 financial year. The Australian Taxation Office assesses and maintains the individual's Division 293 tax liability. A member of a defined benefit scheme (such as the GGPS) can elect to have the Division 293 tax liability discharged when their retirement benefit becomes payable from the scheme.

Section 4BA of the GG Act provides a retiring Governor-General the option of having a lump sum amount taken from their GGPS entitlements to pay their Division 293 tax liability, resulting in a permanent reduction in the Governor-General's GGPS pension. The reduction in the pension is calculated using age factors determined by the scheme's actuary. The age factors reflect life expectancies for a member in the GGPS based on age and gender. These factors are contained in the Schedule of the Determination

The approach for discharging the member's Division 293 tax liability through a permanent reduction in their pension aligns with arrangements in the other Commonwealth government defined benefit superannuation schemes.

Legislation Act 2003

The Determination is a legislative instrument for the purposes of section 8 of the *Legislation Act 2003*. However, as the Determination is an instrument relating to superannuation, it is exempted from disallowance by item 3 of the table in section 9 of the *Legislation (Exemptions and Other Matters) Regulation 2015*.

Consultation

Actuarial advice was obtained regarding the age factors included in the Determination. The Determination is of a minor or machinery nature, and aligns with arrangements in the other Commonwealth defined benefit superannuation schemes.

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 that are subject to disallowance. As mentioned above, the Determination is exempt from disallowance which means that a Statement of Compatibility with Human Rights is not required.

Commencement

This Determination commences on the day after it is registered on the Federal Register of Legislation.