**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.