

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 53

Issued by the authority of the Minister for Defence

Military Justice (Interim Measures) Act (No.1) 2009

*Military Justice (Interim Measures)(Remuneration and Entitlements)
Amendment Regulation 2012 (No. 1)*

Schedule 4, Item 2 of the *Military Justice (Interim Measures) Act (No.1) 2009* (the Act) provides that the Governor-General may make regulations prescribing matters required or permitted to be prescribed by the Act, or which are necessary or convenient to be prescribed for carrying out or giving effect to the Act.

On 16 June 2011, the Governor-General in Council approved the *Military Justice (Interim Measures)(Remuneration and Entitlements) Regulations 2011* (the Principal Regulations) which prescribed relevant salary adjustments made by the Remuneration Review Tribunal, to, among others, certain Defence statutory office holders.

On 20 June 2011 (with effect from 1 July 2011), the Remuneration Review Tribunal further adjusted the salary of statutory office holders, including those Defence positions as outlined in the Principal Regulations.

The *Military Justice (Interim Measures)(Remuneration and Entitlements) Amendment Regulation 2012* amends the Principal Regulations to include the adjusted amounts with a retrospective operation. This retrospective operation does not offend 'Principle B' of the Senate Standing Committee on Regulations and Ordinances Principles that 'retrospectivity should not disadvantage any one except the Commonwealth'. The regulation has a *beneficial* retrospective application to the office holders.

The regulation is expressed to commence on 1 July 2011 which is the effective date of the relevant Remuneration Review Tribunal Determination.

The Act does not specify any conditions that need to be met before the power to make the regulation may be exercised.

After consulting the Office of Best Practice Regulation in respect of the need for, and preparation of, a Regulation Impact Statement, it advised that a Regulation Impact Statement was not required (OPBR reference 13496, 31 January 2012), as there were no regulatory impacts on business or the not-for-profit sector made by the regulation.

Only internal Defence consultation was necessary because the amendments did not have any potential implications relating to other government departments or agencies or non-government organisations.

The regulation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.