

EXPLANATORY STATEMENT

Issued by the Minister for Finance

Superannuation Benefits (Supervisory Mechanisms) Act 1990

Determination under subsection 6(1)

Prescribed Requirements Amendment Determination 2014 (No. 1)

The *Superannuation Benefits (Supervisory Mechanisms) Act 1990* (the Act) establishes a supervisory framework for the provision of superannuation benefits to Australian Government employees.

Generally under section 5 of the Act a person employed under a Commonwealth law, or by a Commonwealth body, can only be provided with superannuation arrangements outside the Commonwealth superannuation schemes if:

- a Commonwealth law expressly provides for the provision of those benefits; or
- a Commonwealth law allows the provision of those benefits and the benefits satisfy the relevant prescribed requirements for provision of superannuation benefits under a superannuation arrangement; or
- a Commonwealth body has the power to provide those benefits and the benefits satisfy the relevant prescribed requirements for provision of superannuation benefits under a superannuation arrangement.

Section 6 of the Act provides that the prescribed requirements for the provision of superannuation benefits under a superannuation arrangement for the purposes of section 5 include requirements determined by the Minister.

The *Prescribed Requirements Amendment Determination 2014 (No. 1)* (the Determination) amends the *Prescribed Requirements Determination No. 1 of 1999* (the Principal Determination). The purpose of this Determination is to make minor machinery amendments and update references to outdated legislation in the Principal Determination.

In relation to section 17 and 18 of the *Legislative Instruments Act 2003*, no consultation was undertaken because the instrument is of a minor or machinery nature and does not substantially alter existing arrangements.

The Office of Best Practice Regulation (OBPR) assessed that the changes to be made by the Determination will have nil or low impacts and no further analysis in the form of a Regulation Impact Statement was required (OBPR ID: 16978).

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

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

The details of the Determination are explained in [Attachment A](#). A Statement of Compatibility with Human Rights is at [Attachment B](#).

PRESCRIBED REQUIREMENTS AMENDMENT DETERMINATION 2014 (NO. 1)

Section 1 – Name of Determination

This section provides that the name of the Determination is the *Prescribed Requirements Amendment Determination 2014 (No. 1)*.

Section 2 – Commencement

This section provides for the Determination to commence on the day after it is registered on the Federal Register of Legislative Instruments.

Section 3 – Amendment to *Prescribed Requirements Determination No. 1 of 1999*

This section provides that Schedule 1 of the Determination amends the *Prescribed Requirements Determination No. 1 of 1999* (the Principal Determination).

Schedule 1 – Amendments

Item 1 – Amendments to Schedule 1 to the *Prescribed Requirements Determination No. 1 of 1999*

Item 1 omits paragraph (e) in Schedule 1 to the Principal Determination, removing the reference to reporting requirements under the *Financial Management and Accountability Act 1997* as they are no longer necessary. Agency financial statements report on remuneration including superannuation costs. Item 1 also makes other minor consequential amendments as a result of omitting paragraph (e).

Item 2 – Amendments to Schedule 2 to the *Prescribed Requirements Determination No. 1 of 1999*

Item 2 amends the definition of “Secretary” by omitting paragraph 1 of Schedule 2 to the Principal Determination and replacing it with a new paragraph 1. This is a minor machinery amendment to update references to outdated legislation.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*

Prescribed Requirements Amendment Determination 2014 (No. 1)

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 the *Prescribed Requirements Amendment Determination 2014 (No. 1)* is to amend the *Prescribed Requirements Determination No. 1 of 1999* made on 25 March 1999 to make minor machinery amendments and update references to outdated legislation.

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.

Mathias Hubert Paul Cormann
Minister for Finance