

**Superannuation (Productivity Benefit) Penalty Interest Determination
(Amendment) 1997 No. 147**

EXPLANATORY STATEMENT

STATUTORY RULES 1997 No. 147

SUPERANNUATION (PRODUCTIVITY BENEFIT) ACT 1988

ISSUED BY THE AUTHORITY OF THE MINISTER FOR FINANCE

DECLARATION UNDER SECTION 4G

PENALTY INTEREST

The *Superannuation (Productivity Benefit) Act 1988* (the PB Act) provides the mechanism by which the Superannuation Guarantee (SG) is made available to Australian government employees who have no employer sponsored superannuation coverage. Prior to 1 July 1992, the PB Act provided productively superannuation to these employees.

Since 1 July 1990 the designated employers of such employees have been required to pay to the superannuation fund nominated by the Minister for Finance, or another superannuation fund approved by the Minister, or to a regulated fund under the Superannuation Industry Supervision legislation (where the employee is eligible), periodic contributions based on the salary of the employee.

Employers are required as well to pay to the same fund, on a once only basis, an amount being the entitlement accrued by the employee under the former *Superannuation Benefit (Interim Arrangement) Act 1988* and an amount in respect of contributions which would have been paid after 1 July 1990 had the employee joined a fund on that date. The employer is required to pay penalty interest in respect of any period of delay between the date when an amount should have been paid to a fund, once the employee has joined the fund, and the date when it was paid. Such a payment takes into account the loss of interest since the contributions began to accumulate on behalf of the employee and as well penalises the employer for having failed to meet its obligations.

Section 4G of the PB Act provides that the interest fixed under it for the purposes of sections 4E, 4EA and 4F is calculated in a way determined by the Minister.

Paragraph 4E(b) of the PB Act provides for interest to be paid on the amount accrued as an interim benefit under section 8A where the amount was not paid into a fund on the day on which the employee became a member of that fund. Interest is payable in respect of the period commencing on the day on which payment should have been made and ending on the day before the day when payment was made. Section 4EA of the PB Act provides for interest to be paid on the amount accrued as an interim benefit under section 8A where the amount was not paid on the day on which the employee became a member of the superannuation scheme established under the *Superannuation Act 1976* or the *Superannuation Act 1990*. Interest is payable in respect of the period commencing on the day on which payment should have been made and ending on the day before the day when payment was made.

Paragraph 4F(1)(b) of the PB Act provides for interest to be paid on an instalment of continuing contributions which was not paid into the fund on the day on which it was payable (either the employee's pay day or a day agreed between the employer and fund trustees).

Interest is payable in respect of the period commencing on the day on which payment should have been made and ending on the day before the day when payment was made.

The Determination provides for interest to be calculated on all amounts which should have been paid on a given day in respect of the period of delay. It is based on an interest rate of 9.83 per

cent per annum, which is equivalent to 2 per cent per annum higher than the rate used to establish the first and second interest factors for benefit calculation purposes under the Act. The formula used to calculate penalty interest during the 1997-98 financial year is specified in the Determination.