

EXPLANATORY STATEMENT

Select Legislative Instrument 2012 No. 242

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. 2)*

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, that is the Chief Judge Advocate and a judge advocate appointed under the *Defence Force Discipline Act 1982*.

On 19 June 2012, the Remuneration Review Tribunal further adjusted the salaries (by three percent) of certain statutory office holders, including the Chief Judge Advocate. The Regulation passes on this adjustment to that position. The Regulation also passes on the adjustment to a judge advocate whose remuneration is provided for by the combined operation of the *Military Justice (Interim Measures) Act (No. 1) 2009* and the Principal Regulations.

The *Military Justice (Interim Measures)(Remuneration and Entitlements) Amendment Regulation 2012 (No. 2)* 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 anyone except the Commonwealth'. The regulation has a beneficial retrospective application to the office holders.

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

The regulation is expressed to commence on 1 July 2012 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 (OBPR reference 14134, 16 August 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 do not have any potential implications relating to other government departments or agencies or non-government organisations.

Statement of Compatibility with Human Rights

This regulation 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*. The regulation does not engage any applicable rights or freedoms, other than to provide an additional financial benefit to the affected persons which assists them to exercise their right to the enjoyment of just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights). Accordingly, in the Department of Defence's assessment, this regulation is compatible with human rights.

1212863A-120824Z