

## **EXPLANATORY STATEMENT**

Issued by the authority of the Minister for Families and Social Services

*Veterans' Entitlements Act 1986*

*Veterans' Entitlements (Pension Loans Scheme—Rate of Compound Interest)  
Determination 2018*

### **Purpose**

The *Veterans' Entitlements (Pension Loans Scheme—Rate of Compound Interest) Determination 2018* (the Determination) is made under subsection 52ZC(4) of the *Veterans' Entitlements Act 1986* (the Act). Subsection 52ZC(4) of the Act allows the Minister for Families and Social Services to determine the rate of compound interest that is payable on a loan under the Pension Loans Scheme.

The purpose of this Determination is to set the rate of compound interest that is payable on a loan under the Pension Loans Scheme at 5.25 per cent per annum.

In addition to the power to make this Determination under subsection 1135(4) of the Act, subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws), the power shall be construed as including a power exercisable in the like manner and subject to the like conditions (if any) to repeal, rescind, revoke, amend or vary any such instrument. Accordingly, the *Pension Loans Scheme (Veterans' Entitlements)—Rate of Compound Interest Determination No. 2 of 1997* will be repealed by this Determination.

### **Background**

The Pension Loans Scheme allows eligible veterans, partners of veterans, and war widows or widowers of pension age to improve their income in retirement by taking out a loan in the form of a reverse mortgage on their real estate from the Australian Government. The loan is paid in regular fortnightly instalments. A person's outstanding Pension Loans Scheme debt is subject to a compound interest rate calculated on a fortnightly basis.

This Determination sets the rate of compound interest payable on a loan under the Pension Loans Scheme at 5.25 per cent per annum. This has been the compound interest rate since 1997.

This rate is between 0.5 to 1 per cent above the Reserve Bank of Australia's current reported average lending rate for discounted owner-occupier housing loans. This reflects that a loan available under the Pension Loans Scheme carries a greater risk of not recovering the full amount loaned in comparison to a traditional mortgage.

The fixed compound interest rate of 5.25 per cent per annum is below the average interest rate for commercially available home equity loan products. This reflects the particular characteristics of the Pension Loans Scheme that lower the risk of not recovering the full loan amount, which are not present in commercially available home equity loan products.

For example, the Pension Loans Scheme is paid as an income stream that ceases when a person exceeds the Pension Loans Scheme's conservative loan-to-value ratios.

### **Commencement**

This Determination commences on the day after it is registered.

### **Consultation**

The Department of Veterans' Affairs was consulted as it has administrative responsibility for the Act.

This Determination maintains the existing compound interest rate of 5.25 per cent per annum. Public consultation was therefore seen as unnecessary.

### **Regulation Impact Statement (RIS)**

This Determination does not require a Regulatory Impact Statement, as it is not regulatory in nature, does not impact on business activity and will have no, or minimal compliance cost.

### **Explanation of the provisions**

**Section 1** provides the name of this instrument is the *Veterans' Entitlements (Pension Loan Scheme—Rate of Compound Interest) Determination 2018*.

**Section 2** provides that the Determination commences on the day after it is registered on the Federal Register of Legislation.

**Section 3** provides that the authority for making the Determination is subsection 52ZC(4) of the *Veterans' Entitlements Act 1986*.

**Section 4** provides that each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

**Section 5** provides that the rate of compound interest that is payable on a loan under the Pension Loans Scheme is 5.25 per cent per annum.

### **Schedule 1 – Repeals**

**Item 1** repeals the *Pension Loans Scheme (Veterans' Entitlements)—Rate of Compound Interest Determination No.2 of 1997*.

## **Statement of Compatibility with Human Rights**

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

This Legislative Instrument is the ***Veterans' Entitlements (Pension Loans Scheme—Rate of Compound Interest) Determination 2018***

The *Veterans' Entitlements (Pension Loans Scheme—Rate of Compound Interest) Determination 2018* (the Determination) 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**

This Determination is made under subsection 52ZC(4) of the *Veterans' Entitlements Act 1986* (the Act) and sets the rate of compound interest payable on a loan under the Pension Loans Scheme at 5.25 per cent per annum. A person's outstanding Pension Loans Scheme debt is subject to a compound interest rate calculated on a fortnightly basis.

### **Human rights implications**

The Determination engages the right to social security.

The Pension Loans Scheme allows eligible veterans, partners of veterans, and war widows or widowers of pension age to improve their income in retirement by taking out a loan in the form of a reverse mortgage on their real estate from the Australian Government. This supports the right to social security.

Subsection 52ZC(4) of the Act allows the Minister for Families and Social Services to determine the rate of compound interest rate that is payable on a loan under the Pension Loans Scheme.

The Pension Loans Scheme has an interest rate to provide fair and reasonable loans to those eligible by providing protection against the risk of non-recovery of debt, and covering capital and administrative costs. This Determination provides that interest rate for the Pension Loans Scheme. The Determination therefore enables the sustainable operation of the Pension Loans Scheme.

### **Conclusion**

This Determination provides that individuals participating in the Pension Loans Scheme are applied the compound interest that is payable on a loan under the Pension Loans Scheme at 5.25 per cent per annum. The Determination ensures the sustainable operation of the Pension Loans Scheme. As the Pension Loans Scheme is a part of the Australian social security system, this Determination furthers the right to social security, and is therefore compatible with Australia's human rights obligations.

**The Hon Paul Fletcher MP, Minister for Families and Social Services**