

## **Military Superannuation and Benefits (Eligible Member) Declaration 2012**

*FRLI ID: F2012L02301*

*Portfolio: Defence*

### **Committee view**

2.2 The committee seeks clarification from the Minister for Defence Science and Personnel in relation to the possible impact the Declaration, in particular the withdrawal of specified category status, may have on the right to the enjoyment of just and favourable conditions of work and the right to social security.

### **Overview**

2.3 The *Military Superannuation and Benefits Act 1991* makes provision for the payment of a retention benefit to certain members of the Military Superannuation and Benefits Scheme who have completed 15 years of continuous eligible service. Generally, only defence personnel who have obtained a certain rank are eligible for the benefit. However, members who do not satisfy the minimum rank requirement and are in employment categories where the normal opportunities for promotion do not exist may be declared by the Minister to be 'eligible members' for the purposes of receiving the benefit. These employment categories are referred to as 'specified categories'. The employment categories are listed in Ministerial Declarations.

2.4 The purpose of this Declaration is to withdraw specified category status from one employment category and to declare specified category status for three new categories.

### **Compatibility with human rights**

2.5 The statement of compatibility states that the Declaration engages (and in some respects promotes) the right to the enjoyment of just and favourable conditions of work contained in Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR).

2.6 In the statement's conclusion it is suggested that the Declaration is compatible with human rights because to the extent that it may limit human rights, those limitations are reasonable, necessary and proportionate. However, no consideration is given in the body of the statement as to how the Declaration may limit human rights. In particular, no consideration is given to the potential impact on human rights of the withdrawal of specified category status from one employment category. This appears to engage articles 7 (right to work) and 9 (right to social security) of the ICESCR.