

## EXPLANATORY STATEMENT

### MILITARY SUPERANNUATION AND BENEFITS AMENDMENT TRUST DEED 1999 (No. 2)

#### ISSUED BY THE AUTHORITY OF THE MINISTER FOR VETERANS 'AFFAIRS AND MINISTER ASSISTING THE MINISTER FOR DEFENCE

The Schedule to the Trust Deed made by the Minister for Veterans' Affairs and Minister Assisting the Minister for Defence under section 5 of the *Military Superannuation and Benefits Act 1991* ("the MSB Act") contains Rules ("the MSB Rules") which deal with the benefits to be provided to members of the MSB scheme upon retirement or to dependants of deceased members of the scheme. The benefits payable are a member benefit based on member contributions and interest accrued and an employer benefit which includes employer contributions.

The Minister is empowered, by section 5 of the MSB Act, to amend the Trust Deed (including the MSB Rules), by an instrument which, by subsection 49(1) of the MSB Act, is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*.

As a regulated superannuation fund, the MSB scheme must comply with the *Superannuation Industry (Supervision) Act 1993* and the *Superannuation Industry (Supervision) Regulations 1994* ("the SIS legislation"). The SIS legislation was amended on 30 June 1998 to improve and simplify the preservation rules by requiring that from 1 July 1999, all contributions made by or on behalf of a member be preserved on entry to a regulated superannuation fund. Members will not be able to access these moneys until they reach their preservation age. The SIS legislation was also amended to gradually increase the superannuation preservation age (currently age 55) from the year 2015, so that by the year 2024 the preservation age will be 60 years.

The amendments made by the Military Superannuation and Benefits Amendment Trust Deed 1999 (No. 2) change the MSB Rules to ensure compliance with the SIS legislation.

Previously, when members left the ADF they could take all their member contributions and interest earned in cash or they could elect to preserve it in the MSB Fund. Under the new provisions members will only be able to take in cash, their accumulated member contributions and interest earned up to and including 30 June 1999. Any accumulated contributions and interest earned after that date must be preserved in either the MSB Fund or another regulated superannuation fund until they reach their preservation **age**.

Similarly, the MSB Rules previously allowed members who had reached age 55, and had left the workforce permanently, to elect to take their employer benefit in the form of a lump sum. Under the new provisions members who have not reached their new preservation age will not be able to access their employer benefit as a full lump sum. They must either, preserve their employer benefit in the MSB Fund or another regulated superannuation fund or take it as a full or part pension and preserve the balance in a regulated superannuation fund.

## **Clause 1 - Name of Instrument**

This clause is formal.

## **Clause 2- Commencement**

This clause provides for commencement on 1 July 1999.

## **Clause 3 - Amendment of Trust Deed made under the *Military Superannuation and Benefits Act 1991*.**

This clause is formal.

## **Schedule 1 - Amendments**

This schedule amends the Military Superannuation and Benefits Trust Deed (incorporating the MSB Rules) made under the MSB Act to provide, in accordance with the *Superannuation Industry (Supervision) Regulations 1994*, that all contributions made by or on behalf of a member, on and from 1 July 1999, are preserved in a regulated superannuation fund until preservation age is attained.

Item 16 of the Schedule introduces a new Part 11 titled "Preserved benefits". This part, which is made up of new rules 82, 83 and 84, details how the new preservation provisions affect the member's member and employer benefits.

As a consequence of introducing the new Part, subrules and paragraphs which address the payment of the member's member benefit or employer benefit, as a lump sum have been amended to make them subject to Part 11.

This means that paragraphs 12(2)(a), 13(1)(a), 13(2)(d), 27(1)(a), 28(1)(a) and 52(1)(a) subparagraphs 52(1)(c)(ii) and 52(1)(d)(iv), and subrules 14(1), 49(1), and 51(1), have been amended.

Subrule 2(I) has been amended to include reference to new definitions for "preservation age" and "regulated superannuation fund", which have been inserted in Schedule I Clause 1 of the MSB Rules.

In addition to the amendments made in respect of the preservation provisions, a number of minor amendments have been made, consequent to title changes and previous amendments.

Subrule 10(4) and paragraph 51(1)(t) have been amended to reflect the correct full title of the *Supervision Industry (Supervision) Regulations 1994*.

Paragraph 23(8A)(c) and subrule 29(3) have been amended to include reference to the new paragraph 51(1)(f) inserted by Military Superannuation and Benefits Trust Deed (Amendment) (No. 2 of 1998). This amendment was previously overlooked.

Paragraph 51(1)(e) has been amended to reflect the change in name of the Insurance and Superannuation Commission to the Australian Prudential Regulation Authority and to reflect the correct full title of the Supervision *Industry (Supervision) Regulations 1994*.

Schedule 1 clause 1, definition of "interim benefit" has been amended to reflect the name change in the relevant determination, ie. Defence Force (Superannuation Interim Arrangement) Determination became Defence Force (Superannuation) (Productivity Benefit) Determination in Determination No. 3 of 1992 under section 52 of the *Defence Act 1903*.

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