



Military Superannuation and Benefits Amendment Trust Deed 2000 (No. 1)

I, BRUCE SCOTT, Minister for Veterans' Affairs, make this instrument under subsection 5 (1) of the *Military Superannuation and Benefits Act 1991*.

Dated 22 December 2000

BRUCE SCOTT
Minister for Veterans' Affairs

1 Name of instrument

This instrument is the *Military Superannuation and Benefits Amendment Trust Deed 2000 (No. 1)*.

2 Commencement

This instrument commences on gazettal.

3 Amendment of Military Superannuation and Benefits Trust Deed

Schedule 1 amends the Military Superannuation and Benefits Trust Deed made under the *Military Superannuation and Benefits Act 1991*.

Schedule 1 Amendments

(section 3)

[1] Trust Deed, paragraph 3 (2) (h)

substitute

- (h) establish 1, or more than 1, Reconsideration Committee:
 - (i) to examine and report on decisions of the Board and its delegates under the Rules relating to members' entitlements to benefits; and
 - (ii) to reconsider decisions of the Board and its delegates under the Rules relating to members' entitlements to benefits;

[2] Rules, rule 17

substitute

17 Incapacity Classification Committee

An Incapacity Classification Committee established under paragraph 3 (2) (g) of the Trust Deed is constituted under, has the functions set out in, and must operate in accordance with, this Division.

[3] Rules, subrule 30 (3)

after

preserved

insert

employer

[4] Rules, rule 72

substitute

72 Reconsideration Committees

A Reconsideration Committee established under paragraph 3 (2) (h) of the Trust Deed is constituted under, has the functions set out in, and must operate in accordance with, this Part.

[5] Rules, rule 74

substitute

74 Functions of Committee

- (1) The functions of a Committee are:
 - (a) to review a decision referred to it by the Board under this Part; and
 - (b) in accordance with a request of the Board, either:
 - (i) to make recommendations to the Board in relation to the decision; or
 - (ii) to affirm or vary the decision, or to set the decision aside and substitute another decision for it.
- (2) As part of performing its functions, the Committee:
 - (a) must take into account any evidence, relevant to a decision, that is made available, or submitted, to the Committee; and
 - (b) may take steps to obtain any other evidence that the Committee considers necessary for a proper reconsideration of the decision.

[6] Rules, rule 76, heading

substitute

76 Reconsideration of decisions made by delegates**[7] Rules, subrule 76 (1)**

substitute

- (1) A person who is affected by a decision of a delegate of the Board may apply to the Board for reconsideration of the decision within:
 - (a) a period of 30 days after the day on which the person was notified of the decision; or
 - (b) a longer period that, because of special circumstances, the Board allows, either during or after the 30 day period.

[8] Rules, subrules 76 (5) and (6)

substitute

- (5) If the Board requests the Committee, under subparagraph 74 (1) (b) (i), to make recommendations to the Board, the Board must, after receiving the Committee's recommendations:
 - (a) take into account the recommendations and any other matter that the Board considers relevant; and
 - (b) affirm or vary the decision, or set the decision aside and substitute another decision for it; and
 - (c) state in writing the results of the reconsideration, including the reasons for the Board's decision.
- (6) The Board must give a copy of a document mentioned in subrule (5) to the applicant.
- (7) If the Board requests the Committee, in accordance with subparagraph 74 (1) (b) (ii), to affirm, vary or set aside the decision:
 - (a) the Committee must:
 - (i) reconsider the decision; and
 - (ii) affirm or vary the decision, or set the decision aside and substitute another decision for it; and
 - (iii) state in writing the results of the reconsideration, including the reasons for the Committee's decision; and
 - (iv) give the statement, or a copy of the statement, to the Board; and
 - (b) the Committee's decision has effect as the decision on reconsideration.
- (8) The Board must give a copy of a document mentioned in subrule (7) to the applicant.

[9] Rules, rule 77, heading

substitute

77 Reconsideration of decisions made by Board and Committees

[10] Rules, subrule 77 (1)

substitute

- (1) A person affected by a decision of the Board (including a decision under subrule 76 (5)), or a decision of a Committee under subrule 76 (7), may apply to the Board for reconsideration of the decision within:
 - (a) a period of 30 days after the day on which the person was notified of the decision; or
 - (b) a longer period that, because of special circumstances, the Board allows, either during or after the 30 day period.

[11] Rules, paragraph 77 (2) (d)

substitute

- (d) be accompanied by the prescribed fee (if any).

[12] Rules, subrule 77 (3)

substitute

- (3) A decision of the Board, or a Committee, must not be reconsidered unless evidence is mentioned in the application for reconsideration that:
 - (a) is not trivial or lacking in substance; and
 - (b) was not previously considered by the Board or Committee in making that decision; and
 - (c) the Board reasonably considers is relevant to the decision.

[13] Rules, subrules 77 (8) and (9)

substitute

- (8) If the Board requests the Committee to reconsider the decision in accordance with subparagraph 74 (1) (b) (i), the Board must, after receiving the Committee's recommendations:
 - (a) take into account the recommendations and any other matter that the Board considers relevant; and
 - (b) affirm or vary the decision, or set the decision aside and substitute another decision for it; and
 - (c) state in writing the results of the reconsideration, including the reasons for the Board's decision.
- (9) The Board must give a copy of a document mentioned in subrule (8) to the applicant.

[14] Rules, rule 78

after

the Board

insert

or a Committee

[15] Rules, Schedule 1, Part 1, definition of *Committee* (second occurring)

omit

Reconsideration Advisory Committee

insert

Reconsideration Committee

[16] Rules, Schedule 1, Part 1, definition of *salary*, paragraph (a)

substitute

(a) includes:

(i) any service allowance payable to the person; and

(ii) any higher duties allowance payable to the person;
but no other allowance; and

[17] Rules, Schedule 7, after paragraph 2

insert

2A. For the purposes of ascertaining the amount of salary payable to a person during his or her service (or last 1 095 days of service) as a trainee other ranks who became entitled to an invalidity benefit or died, the person's salary, for the period of trainee service, is the maximum increment (less service allowance) that is applicable in the period to:

(a) the rank of Private Group 1 in the Army; or

(b) the equivalent rank in the Air Force or Navy that the trainee held.

2B. For the purposes of ascertaining the amount of salary payable to a person during his or her service (or last 1 095 days of service) as a trainee officer who became entitled to an invalidity benefit or died, the person's salary, for the period of trainee service, is the greater of:

(a) the maximum increment (less service allowance) that is applicable, in the period of the person's service, to the rank of Private Group 1; and

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- (b) the maximum increment (less service allowance) that is applicable to the person in that period.

[18] Rules, Schedule 7, paragraph 3, after definition of *service*

insert

trainee means a person who is or was a trainee officer, or trainee other ranks, of the Permanent Forces when he or she became entitled to an invalidity benefit or died.