

## EXPLANATORY MEMORANDUM

### MILITARY SUPERANNUATION AND BENEFITS AMENDMENT TRUST DEED 2001 (No 1)

#### ISSUED BY THE AUTHORITY OF THE MINISTER OF VETERAN'S AFFAIRS

The Schedule of the Trust Deed made by the Minister for Veteran's Affairs 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*.

The amendments made by the Military Superannuation and Benefits Amendment Trust Deed 2001 (No 1) change the MSB Rules to allow for twice yearly indexation of pensions paid under the MSB Act.

Currently pensions payable under the MSB Act are subject to indexation on an annual basis. An increase is payable from the first payday in July and is based on any increase in the Consumer Price Index (CPI) as measured in the preceding March quarter. Pensions are not reduced when there is a decrease in the CPI, however, that decrease will be offset against the next or subsequent increase in calculating the indexation amount.

The *Superannuation Legislation Amendment (Indexation) Act No.148, 2001* amended the *Superannuation Act 1922*, the *Superannuation Act 1976*, and the *Defence Force Retirement and Death Benefits Act 1973* to provide for twice-yearly indexation of superannuation pensions in place of existing annual indexation. The Amendment Trust Deed brings the MSB Scheme into line with the other Commonwealth superannuation schemes.

The amendments made by the Military Superannuation and Benefits Amendment Trust Deed 2001 (No 1) provides that indexed pensions payable under the MSB Act may be increased in January and July of every year. Pensions will be increased where, after any offsets, there has been a half yearly increase in the CPI as measured at the previous September or March quarter respectively.

#### **Clause 1- Name of Trust Deed**

This clause is formal.

#### **Clause 2 - Commencement**

This clause provides commencement on gazettal.

#### **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 for twice yearly indexation of pensions.

### **Item 1 - Rules, Part 6, Division 2, heading**

This item amends the heading of Part 6, Division 2 of the Rules from *Division 2 - Increases in Pensions and Certain Unfunded Preserved Benefits* to *Division 2 - Increases in Pensions*. While pensions will be indexed twice yearly, this will not apply to certain unfunded preserved benefits which will continue to be indexed yearly.

### **Item 2 - Rules, Part 6, rule 56, heading**

This item amends the heading of Part 6, rule 56 from *56 Increases in pensions and certain unfunded preserved benefits* to *56 increases in pensions*.

### **Item 3 - Rules, subrule 56 (1)**

This item amends subrule 56 (1) to reflect that indexation will be undertaken twice yearly, based changes to the Consumer Price Index measured at the March and September quarter.

### **Item 4 - Rules, subrule 56 (1)**

This item amends subrule 56 (1) so that it only relates to increases in pensions. Indexation of certain unfunded preserved benefits are now covered in the new *Division 3 - Increases in Certain Unfunded Preserved Benefits*.

### **Item 5 - Rules, subrule 56 (2)**

This item amends subrule 56 (2) to remove references to unfunded preserved benefits from Division 2.

### **Item 6 - Rules, subrule 56 (2)**

This item amends subrule 56 (1) to reflect that indexation will be undertaken twice yearly, based changes to the Consumer Price Index measured at the March and September quarter.

### **Item 7 - Rules, subrule 56 (3)**

This item amends subrule 56 (3) by inserting *or 31 December* to reflect the new half-yearly regime required to undertaken twice-yearly indexation.

### **Item 8 - Rules, subrule 58 (2)**

This item amends subrule 58 (2) by inserting *or 16 December* to reflect the new half-yearly regime required to undertaken twice-yearly indexation.

### **Item 9 - Rules, subrule 58 (3)**

This item amends subrule 58 (3) by inserting *or 16 December* to reflect the new half-yearly regime required to undertaken twice-yearly indexation.

**Item 10 - Rules, subrule 58 (3), formula**

This item amends subrule 58 (2) denominator in the formula from 12 to 6 to reflect the new half yearly regime required to undertaken twice yearly indexation, whereby the number of months will be 6 months rather than 12 months.

**Item 11 - Rules, subrule 58 (3)**

This item amends subrule 58 (3) by inserting *or 31 December* to reflect the new half-yearly regime required to undertaken twice-yearly indexation.

**Item 12 - Rules, subrule 58 (6)**

This item omits subrule 58 (6) to remove references to unfunded preserved benefits from Division 2.

**Item 13- Rules, subrule 59 (4)**

This item omits subrule 59 (4) to remove references to unfunded preserved benefits from Division 2.

**Item 14 - Rules, subrule 60 (1)**

This item amends subrule 60 by removing the "(1)". Item 16 removes subrule 60 (2).

**Item 15 - Rules, subrule 60 (1)**

This item amends subrule 60 (1) by inserting *or 31 December* to reflect the new half yearly regime required to undertaken twice yearly indexation.

**Item 16 - Rules, subrule 60 (2)**

This item omits subrule 60 (2) to remove references to unfunded preserved benefits from Division 2.

**Item 17 - Rules, subrule 61 (1)**

This item amends subrule 56 (1) to reflect that indexation will be undertaken twice yearly. The insertion of *and September quarter* provides for the new indexation that will take effect in January of each year.

**Item 18 - Rules, Part 6, after Division 2**

This item creates Division 3 of Part 6 of the Rules. The heading is *Division 3 - Increase in Certain Unfunded Preserved Benefits*. Division 3 comprises clauses previously included in Part 6, Division 2 relating to the indexation of certain unpreserved benefits.

**Item 19 - Rules, Schedule 1, Part 1, after definition of prescribed fee**

This item defines *prescribed half-year*.

**Item 20 - Further Amendments**

This item replaces various expressions of *year* with *half-year* to reflect the new half-yearly regime required to undertaken twice yearly indexation.