

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Veterans' Affairs

MILITARY SUPERANNUATION AND BENEFITS AMENDMENT TRUST DEED 2007 (No. 3)

The Schedule to the Trust Deed made by the Minister for Veterans' 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, accrued MSB Fund earnings and an employer benefit which includes employer contributions.

Section 5 of the MSB Act provides that the Minister may amend the Trust Deed (including the MSB Rules) by a signed instrument. This is a legislative instrument for the purpose of section 44(2) of the *Legislative Instruments Act 2003*.

From 1 July 2007, superannuation funds will not be able to accept after-tax member contributions if the member does not provide a tax file number to the fund. The Rules of the *Military Superannuation and Benefits Act 1991*, are amended in accordance with sub regulation 7.04 (2) of the *Superannuation Industry (Supervision) Amendment Regulations 2007 (No. 1)*.

Schedule 1 amends the Rules to provide for the treatment of member contributions that are paid into the Military Superannuation and Benefits Scheme Fund where no tax file number has been provided.

A definition of *tax file number* is also inserted into the Rules.

The Military Superannuation and Benefits Amendment Trust Deed 2007 (No. 3) will commence on 1 July 2007.

Consultation in respect of this instrument has taken place between the Military Superannuation and Benefits Board of Trustees No. 1, Commonwealth Superannuation Administration, the Office of Legislative Drafting and Defence.

Clause 1 cites the full title of the Trust Deed amendment.

Clause 2 provides for commencement on 1 July 2007.

Clause 3 provides for the amendment to the Trust Deed.

Schedule 1 – Amendments

Item 1- Rules, after subrule 10 (1)

This item inserts a new subrule 10 (1AA) to make it clear that the Department will pay an employer contribution on behalf of a member even if the member does not provide a tax file number to the Board and the contribution is returned by the Board under rule 11QA.

Item 2 - Rules, subrule 11Q (3)

This item omits the term “The Board” and inserts the term “Subject to rule 11QA, the Board”. Rule 11QA is a new rule, which is inserted into the Rules, to provide guidance to the Board on the treatment of contributions where no tax file number has been provided.

Item 3 – Rules, after rule 11Q

This item inserts a new rule 11QA to provide for the treatment of contributions where no tax file number has been provided to the Board. The new rule also provides for the treatment of contributions if a tax file number is provided to the Board within 30 days of the contribution being received by the Board. If a tax file number is not received by the Board within 30 days of the contribution being received, then the contribution must be returned.

Item 4 – Rules, subrule 105 (2)

This item omits the term “The Board” and inserts the term “Subject to rules 105A and 105B, the Board”. Rules 105A and 105B are new rules which are inserted in this amendment.

Item 5 – Rules, after rule 105

This item inserts a new rule 105A which provides guidance to the Board on the treatment of additional personal contributions where a member has not provided a tax file number. In this rule the term “member” also refers to a Defence Force Retirement and Death Benefits Scheme member who contributes additional personal contributions into the Military Superannuation and Benefits Fund.

This item also inserts a new rule 105B which provides guidance to the Board on the treatment of contributions for the benefit of a member’s spouse where the spouse’s tax file number has not been provided. In this rule the term “member” also refers to a Defence Force Retirement and Death Benefits Scheme member who contributes additional personal contributions into the Military Superannuation and Benefits Fund.

Item 6 – Rules, Schedule 1, after definition of *surcharge deduction amount*

This item inserts a definition for *tax file number*.