



Military Superannuation Legislation Amendment (Sustaining the Superannuation Contribution Concession) Instrument 2013

I, Warren Snowdon, Minister for Defence Science and Personnel, make the following instrument under the *Defence Act 1903* and the *Military Superannuation and Benefits Act 1991*.

Dated: 2 July 2013

Warren Snowdon
Minister for Defence Science and Personnel

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1 Name of instrument

This instrument is the *Military Superannuation Legislation Amendment (Sustaining the Superannuation Contribution Concession) Instrument 2013*.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

This instrument is made under:

- (a) the *Defence Act 1903*; and
- (b) the *Military Superannuation and Benefits Act 1991*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Defence Force (Superannuation) (Productivity Benefit) Determination 1988

1 Clause 3

Insert:

debt account discharge liability has the meaning given by section 133-120 of Schedule 1 to the *Taxation Administration Act 1953*.

2 Clause 3, definition of *productivity benefit*

Repeal the definition, substitute:

productivity benefit:

- (a) means a productivity superannuation benefit payable in accordance with this Determination; and
- (b) includes a debt account discharge liability.

3 After clause 3A

Insert:

3B Very high income individuals

- (1) This clause applies in relation to a member if:
 - (a) the Commissioner of Taxation has given the member a release authority in respect of a debt account discharge liability; and
 - (b) the CSC has been given the release authority; and
 - (c) no benefits have been paid in accordance with subclause 6A(2) or rolled over in accordance with subclause 6A(3) (disregarding any benefits paid in accordance with paragraph 6(1)(c) or (d)).

Note 1: A release authority relates to the assessment of an amount of Division 293 tax (within the meaning of Division 293 of the *Income Tax Assessment Act 1997*). Section 293-5 of that Act describes persons who are liable to pay Division 293 tax as very high income individuals.

Note 2: The CSC may be given the release authority by the member or the Commissioner of Taxation.

- (2) The CSC must, as soon as practicable:
 - (a) pay the debt account discharge liability set out in the release authority; and
 - (b) ensure that the benefits that have not been paid to the member are reduced by the amount of the liability paid.
- (3) For subclause (2), the CSC must ensure that the reduction of the amount of the benefits, by the amount of the liability paid, occurs:
 - (a) after any amount of the benefits is reduced by the surcharge deduction amount (if any); and
 - (b) after the amount of the benefit is reduced in accordance with a payment split (if any).

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- (4) The application of this Determination in relation to a member and a benefit is taken to be modified to the extent (if any) necessary to ensure that subclauses (2) and (3) are given effect.

Military Superannuation and Benefits Trust Deed

4 Subrule 2(1) of the Schedule

Insert:

debt account discharge liability

5 Subrule 2(1) of the Schedule

Insert:

release entitlement

6 Subrule 12(2) of the Schedule

Omit “Part 10”, substitute “Parts 10 and 10A”.

7 Paragraph 13(4)(b) of the Schedule

Omit “Part 10”, substitute “Parts 10 and 10A”.

8 Paragraph 14(1)(d) of the Schedule

Omit “Part 10”, substitute “Parts 10 and 10A”.

9 Paragraph 14(3)(b) of the Schedule

Omit “Part 10”, substitute “Parts 10 and 10A”.

10 Paragraph 14(3)(c) of the Schedule

Omit “Part 10”, substitute “Parts 10 and 10A”.

11 Paragraph 27(1)(b) of the Schedule

Omit “Part 10”, substitute “Parts 10 and 10A”.

12 Paragraph 28(1)(b) of the Schedule

Omit “Part 10”, substitute “Parts 10 and 10A”.

13 Subrule 40(1) of the Schedule

Omit “Part 10”, substitute “Parts 10 and 10A”.

14 Subrule 51(1) of the Schedule

Omit “Part 10”, substitute “Parts 10 and 10A (but only to the extent that Part 10A relates to a payment to which paragraph (c) relates)”.

15 Subrule 52(1) of the Schedule

Omit “Part 10”, substitute “Parts 10 and 10A”.

16 Subrule 53(1) of the Schedule

Omit “Part 10”, substitute “Parts 10 and 10A”.

17 Paragraph 55(1)(c) of the Schedule

Omit “March quarter”, substitute “December quarter”.

18 Paragraph 55(1)(d) of the Schedule

Omit “the previous March quarter”, substitute “the December quarter of the previous year”.

19 Subrule 55(2) of the Schedule

Omit “March quarter”, substitute “December quarter”.

20 After Part 10 of the Schedule

Insert:

Part 10A—Provisions for very high income individuals

81A Reduction of benefits

- (1) This rule applies in relation to a member if:
- (a) the Commissioner of Taxation has given the member a release authority in respect of a debt account discharge liability; and
 - (b) the CSC has been given the release authority; and
 - (c) the employer benefit has not yet been paid.

Note 1: A release authority relates to the assessment of an amount of Division 293 tax (within the meaning of Division 293 of the *Income Tax Assessment Act 1997*). Section 293-5 of that Act describes persons who are liable to pay Division 293 tax as very high income individuals.

Note 2: The CSC may be given the release authority by the member or by the Commissioner of Taxation.

- (2) The CSC must, as soon as practicable:
- (a) pay the debt account discharge liability set out in the release authority; and
 - (b) ensure that the employer benefit is reduced by the amount of the liability paid.
- (3) For subrule (2):
- (a) if the employer benefit is to be paid as a whole or part pension, the CSC may determine the amount by which the pension will be reduced; and
 - (b) the CSC must ensure that the reduction of the amount of the pension, by the amount of the liability paid, occurs:
 - (i) after the amount of the employer benefit is reduced by the surcharge deduction amount (if any); and
 - (ii) after the amount of the employer benefit is reduced in accordance with a payment split (if any).

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- (4) The application of these Rules in relation to a member and a benefit is taken to be modified to the extent (if any) necessary to ensure that subrules (2) and (3) are given effect.

81B Reduction of benefits—ancillary benefit

- (1) This rule applies in relation to a member or a DFRDB member if:
- (a) the Commissioner of Taxation has given the member or DFRDB member a release authority in relation to a release entitlement for an ancillary benefit; and
 - (b) the CSC has been given the release authority.

Note 1: A release authority relates to the assessment of an amount of Division 293 tax (within the meaning of Division 293 of the *Income Tax Assessment Act 1997*). Section 293-5 of that Act describes persons who are liable to pay Division 293 tax as very high income individuals.

Note 2: The CSC may be given the release authority by the member or DFRDB member or by the Commissioner of Taxation.

- (2) The CSC must, as soon as practicable, ensure that:
- (a) the ancillary benefit is reduced by the amount of the release entitlement; and
 - (b) the reduction of the ancillary benefit, by the amount of the release entitlement, occurs:
 - (i) after the amount of the ancillary benefit is reduced by the surcharge deduction amount (if any); and
 - (ii) after the amount of the ancillary benefit is reduced in accordance with a payment split (if any).
- (3) The application of these Rules in relation to a member or a DFRDB member, and in relation to a benefit, is taken to be modified to the extent (if any) necessary to ensure that subrule (2) is given effect.

21 Item 1 of Part 1 of Schedule 1 to the Schedule

Insert:

debt account discharge liability has the meaning given by section 133-120 in Schedule 1 to the *Taxation Administration Act 1953*.

22 Item 1 of Part 1 of Schedule 1 to the Schedule

Insert:

release entitlement has the meaning given by section 135-10 in Schedule 1 to the *Taxation Administration Act 1953*.