



Australian Defence Force Superannuation Trust Deed 2015

I, Stuart Robert, Assistant Minister for Defence, make the following deed for and on behalf of the Commonwealth.

Signed, sealed and delivered by

Stuart Robert
Assistant Minister for Defence

Dated 17 September 2015

Witnessed by

Rebecca L Skinner
Name of witness

Dated 17 September 2015

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Chapter 1—Preliminary

1 Name

This is the *Australian Defence Force Superannuation Trust Deed 2015*.

2 Commencement

This instrument commences on the day after it is registered.

3 Authority

This instrument is made under the *Australian Defence Force Superannuation Act 2015*.

4 Simplified outline of this instrument

This instrument establishes the Australian Defence Force Superannuation Scheme (ADF Super), and the ADF Super Fund. The Fund:

- (a) receives contributions (including rollovers and transfers) made to CSC for ADF Super members' superannuation, and proceeds of investments; and
- (b) is used to pay superannuation benefits in respect of ADF Super members, and administrative and investment costs; and
- (c) is held in trust by CSC.

CSC must perform its functions, and exercise its powers, relating to ADF Super in accordance with the SIS Act so that ADF Super is a complying superannuation fund.

The SIS Act contains extensive provisions (which apply to ADF Super and CSC) about when and how benefits may or must be paid. This instrument supplements those provisions by dealing with:

- (a) payment of benefits on death; and
- (b) letting CSC arrange for provision of income products bought with benefits; and
- (c) letting CSC provide ADF Super members with account-based pensions bought with benefits.

To work out the value of a person's interest in the ADF Super Fund, CSC must keep a personal accumulation account for the person.

The account is credited with either:

- (a) contributions by or for the ADF Super member concerned; or
- (b) the value of an interest created for a former spouse of an ADF Super member by splitting the ADF Super member's interest under the *Family Law Act 1975*.

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The account is also credited with earnings from investment of the balance of the account through the ADF Super Fund (which may be invested using a strategy chosen by the person).

The account is debited with:

- (a) payments of benefits in respect of the person; and
- (b) losses from investment of the balance of the account through the ADF Super Fund; and
- (c) fees for administration costs.

Similarly, CSC must keep a pension account from which an account-based pension is paid.

There are special rules for MySuper products provided through ADF Super, to ensure that all holders of such products are treated alike and money held in those products is invested consistently.

This instrument also deals with other administrative matters, such as reconsideration of CSC's decisions, correcting accounts, providing information to the Minister and delegation of functions and powers.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) account-based pension;
- (b) ADF Super member;
- (c) continuous full-time Reservist;
- (d) CSC;
- (e) MSBS;
- (f) non-member spouse;
- (g) Permanent Forces;
- (h) superannuation interest.

In this instrument:

accumulation account-holder means a person for whom CSC keeps a personal accumulation account.

Note: Section 42 requires CSC to keep personal accumulation accounts for ADF Super members and non-member spouses for whom non-member spouse interests have been created.

Act means the *Australian Defence Force Superannuation Act 2015*.

ADF Super Fund means the fund established by section 7.

ADF Super pensioner means a person who has one or more pension accounts, other than a reversionary beneficiary.

benefit application means an application that:

- (a) requests CSC to pay a benefit under this instrument; and
- (b) is made to CSC in a way determined by CSC under section 63; and

- (c) includes any supporting evidence of entitlement to the benefit required by CSC.

binding member nomination means a notice that:

- (a) is given by an ADF Super member to CSC in a way determined under section 63; and
- (b) requires CSC to pay some or all of the member's benefit on or after the member's death to one or more persons specified in the notice; and
- (c) complies with the provisions of the SIS Regulations relating to such a requirement; and
- (d) is in effect for the purposes of those provisions.

Note: Regulation 6.17A of the SIS Regulations contains provisions relating to a member requiring a benefit to be paid to the legal personal representative or dependant of the member on or after the member's death.

cached has the same meaning as in Part 5 of the SIS Regulations.

complying superannuation fund means a complying superannuation fund within the meaning of section 45 of the SIS Act.

contribution means a contribution to the ADF Super Fund for the benefit of an ADF Super member made:

- (a) by the Department (whether under the Act, under an arrangement between the Department and the member for sacrificing the member's salary as a serving ADF Super member into superannuation or otherwise); or
- (b) by the ADF Super member; or
- (c) by the ADF Super member's spouse (as defined in the SIS Act) as an eligible spouse contribution (as defined in the SIS Regulations); or
- (d) by the Commissioner of Taxation as:
 - (i) a Government co-contribution under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*; or
 - (ii) a payment of an amount of shortfall component under Part 8 of the *Superannuation Guarantee (Administration) Act 1992*; in respect of the ADF Super member (whether or not relating to a period when he or she was an ADF Super member).

decision includes doing or refusing to do any act or thing.

dependant has the same meaning as in the SIS Act.

legal personal representative has the same meaning as in the SIS Act.

MySuper product has the same meaning as in the SIS Act.

non-member spouse interest means an interest created in the ADF Super Fund for a non-member spouse under Part 7A of the SIS Regulations.

pension account means an account kept by CSC under section 46.

personal accumulation account means an account kept by CSC under section 42.

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reversionary beneficiary means a person who is receiving an account-based pension because of the death of an ADF Super pensioner.

roll over or **rollover** has the same meaning as in the SIS Act.

rollover superannuation benefit has the same meaning as roll-over superannuation benefit has in the *Income Tax Assessment Act 1997*.

serving ADF Super member means an ADF Super member who is:

- (a) a member of the Permanent Forces; or
- (b) a continuous full-time Reservist.

SIS Act means the *Superannuation Industry (Supervision) Act 1993* and the regulations in force under that Act.

SIS Regulations means the *Superannuation Industry (Supervision) Regulations 1994*.

Chapter 2—ADF Super and ADF Super Fund

Part 1—Establishment of Australian Defence Force Superannuation Scheme (ADF Super)

6 Establishment of ADF Super

A superannuation scheme (to be known as “Australian Defence Force Superannuation Scheme” or “ADF Super”) is established by this section for the benefit of persons who will be ADF Super members.

Note: Chapter 3 sets out administrative rules for ADF Super.

Part 2—ADF Super Fund

Division 1—Establishment and nature of ADF Super Fund

7 Establishment of ADF Super Fund

A fund for the purposes of ADF Super is established and vested in CSC by this section.

8 Content of ADF Super Fund

- (1) The ADF Super Fund comprises:
- (a) contributions paid into the Fund; and
 - (b) any other money paid or transferred to CSC under the Act or this instrument and paid into the Fund; and
 - (c) the income arising or derived from investments from the Fund; and
 - (d) any accretions to or profits on realisation of investments from the Fund.

Note: Part 1 of Chapter 3 requires CSC to pay contributions into the Fund in certain circumstances, subject to subsection (2) of this section.

- (2) CSC must reject, and not pay into the ADF Super Fund, a contribution or other money if:
- (a) the SIS Act would prevent the ADF Super Fund from accepting the contribution; or
 - (b) accepting the contribution may jeopardise the status of ADF Super as a complying superannuation fund.

9 CSC holds ADF Super Fund in trust

CSC holds the ADF Super Fund in trust.

Division 2—Payments from ADF Super Fund

10 Benefits etc. to be paid from ADF Super Fund

CSC must pay the following from the ADF Super Fund:

- (a) benefits in respect of ADF Super members;
- (b) the costs of the administration of the Act and this instrument; and
- (c) taxes relating to ADF Super and the ADF Super Fund.

Note: The costs of the administration of this Act and this instrument include the costs of and incidental to:

- (a) the management of the ADF Super Fund by CSC; and
- (b) the investment of money from the ADF Super Fund.

Division 3—Investments from ADF Super Fund

11 CSC must invest money in ADF Super Fund that is not immediately needed for payments

- (1) CSC must invest in accordance with this instrument money that:
 - (a) is in the ADF Super Fund; and
 - (b) in CSC's opinion, is not immediately required for the purpose of making payments out of the Fund under the Act and this instrument.
- (2) However, CSC must manage the ADF Super Fund so that money that is required to pay benefits payable out of the Fund is available for that purpose.

12 Manner of investment

- (1) CSC may invest money in any manner (including jointly with one or more other persons).
- (2) However, CSC must invest money under section 11 only through one or more investment managers who undertake to invest, and manage the investment of, the money on CSC's behalf.
- (3) CSC must ensure that any investment manager CSC engages for investment under section 11:
 - (a) operates within CSC's investment strategy and policy; and
 - (b) reports to CSC on the state of CSC's investments and the investment market at such times and in such manner as CSC determines.

13 CSC's investment strategy and policy

- (1) CSC must determine an investment strategy and policy of the ADF Super Fund as soon as possible after 1 July 2016.
- (2) CSC must regularly review the strategy and policy.
- (3) CSC may change the strategy or policy if CSC considers it necessary or desirable to do so.

Part 3—CSC's functions and powers relating to ADF Super and ADF Super Fund

14 CSC's functions

The functions of CSC in relation to ADF Super and the ADF Super Fund are to administer ADF Super and to manage and invest the ADF Super Fund in accordance with the Act and this instrument, including:

- (a) to receive payments made under the Act and this instrument; and
- (b) to pay benefits to the persons entitled to receive benefits from ADF Super in accordance with the Act and this instrument; and
- (c) to provide information about benefits or potential benefits, and available options, to:
 - (i) ADF Super members; and
 - (ii) non-member spouses; and
 - (iii) potential ADF Super members; and
- (d) to provide advice to the Minister on proposed changes to the Act and this instrument; and
- (e) to determine the value of interests in the ADF Super Fund.

15 CSC's powers

CSC has power in Australia and elsewhere to do all things necessary or convenient to be done for, or in connection with, the performance of its functions under this instrument and, in particular, may:

- (a) give guarantees; and
- (b) underwrite or sub-underwrite any form of investment including the underwriting or sub-underwriting of the issue of shares, debentures or units in a unit trust; and
- (c) borrow money and give security over the whole or any part of the assets of the ADF Super Fund; and
- (d) appoint agents and attorneys; and
- (e) act as agent for other persons; and
- (f) engage consultants and investment managers; and
- (g) take action to control or manage, or to enhance or protect, the value of any investment from the ADF Super Fund, or to enhance or protect, the return on any such investment; and
- (h) arrange for the purchase of income products, including retirement income products, by persons in receipt of benefits under Chapter 3; and
- (i) establish a trust for the purpose of investing the ADF Super Fund and manage and administer the trust; and
- (j) charge reasonable fees relating to the costs of the administration of the Act and this instrument.

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16 CSC to comply with the *Superannuation Industry (Supervision) Act 1993*

In performing its functions and exercising its powers in relation to ADF Super and the ADF Super Fund, CSC must comply with the requirements of the SIS Act.

Note: Under section 52 of the *Superannuation Industry (Supervision) Act 1993*, this instrument is taken to contain the covenants set out in that section.

Chapter 3—Rules for administration of ADF Super

Part 1—Contributions

Division 1—Contributions CSC must pay into ADF Super Fund

17 Contributions by the Department

CSC must pay into the ADF Super Fund a contribution paid to CSC, in a way determined by CSC under section 21, by the Department.

Note: CSC must not pay the contribution into the ADF Super Fund if it would be contrary to the SIS Act or jeopardise ADF Super's status as a complying superannuation fund: see subsection 8(2).

18 Contributions by serving ADF Super members and their spouses

CSC must pay a contribution into the ADF Super Fund if the contribution:

- (a) is made by a serving ADF Super member, or the spouse of a serving ADF Super member; and
- (b) is paid to CSC in a way determined by CSC under section 21.

Note: CSC must not pay the contribution into the ADF Super Fund if it would be contrary to the SIS Act or jeopardise ADF Super's status as a complying superannuation fund: see subsection 8(2).

19 Contributions by ADF Super members generally and their spouses

CSC must pay a contribution into the ADF Super Fund if:

- (a) the contribution is made by an ADF Super member, or the spouse of an ADF Super member; and
- (b) the contribution is paid to CSC in a way determined by CSC under section 21; and
- (c) the ADF Super member has made a benefit application for cashing, as an account-based pension under this Chapter, benefits including the contribution; and
- (d) the ADF Super member has chosen a particular investment strategy for the pension account concerned; and
- (e) CSC has accepted the choice.

This does not limit section 18.

Note: CSC must not pay the contribution into the ADF Super Fund if it would be contrary to the SIS Act or jeopardise ADF Super's status as a complying superannuation fund: see subsection 8(2).

20 Government co-contributions and superannuation guarantee shortfalls

CSC must pay a contribution into the ADF Super Fund if:

- (a) the contribution is a payment made by the Commissioner of Taxation as:
 - (i) a Government co-contribution under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* in respect of a person; or

Chapter 3 Rules for administration of ADF Super

Part 1 Contributions

Division 1 Contributions CSC must pay into ADF Super Fund

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- (ii) a payment of an amount of shortfall component under Part 8 of the *Superannuation Guarantee (Administration) Act 1992* in respect of an employee; and
- (b) the contribution is paid to CSC by the Commissioner while the person or employee is a serving ADF Super member (whether or not the payment relates to a period when the person or employee was a serving ADF Super member); and
- (c) the contribution is paid to CSC in a way determined by CSC under section 21.

Note: CSC must not pay the contribution into the ADF Super Fund if it would be contrary to the SIS Act or jeopardise ADF Super's status as a complying superannuation fund: see subsection 8(2).

21 CSC may determine way contributions are to be paid to CSC

CSC may determine the way in which contributions, payments or transfers of particular kinds must be paid to CSC. CSC may determine different ways for different kinds of contributions, payments and transfers.

Division 2—Special kinds of contributions ADF Super members may make

22 Special kinds of contributions ADF Super members may make

- (1) This Division sets out 2 special kinds of contributions an ADF Super member may make.
- (2) This Division does not limit the nature of contributions an ADF Super member may make.

23 Transfers and rollovers of rollover superannuation benefits by serving ADF Super members

A serving ADF Super member may make a contribution by way of the rollover (consistently with the SIS Act) to CSC of a rollover superannuation benefit.

24 Lump sums from other defence superannuation schemes

- (1) This section applies if an ADF Super member has received a lump sum either:
 - (a) because of an election under section 24 of the *Defence Force Retirement and Death Benefits Act 1973*; or
 - (b) under:
 - (i) the MSBS; or
 - (ii) the scheme established by determinations made under Part IIIAA of the *Defence Act 1903*.
- (2) The ADF Super member may make a contribution by way of the rollover or transfer of the sum (consistently with the SIS Act) to CSC if:
 - (a) the ADF Super member has made a benefit application for cashing, as an account-based pension under this Chapter, benefits including the contribution; and
 - (b) the ADF Super member has chosen a particular investment strategy for the pension account concerned; and
 - (c) CSC has accepted the choice.

Part 2—Application of benefits

Division 1—Benefits on death of accumulation account-holder

25 Accumulation account-holder may require CSC to pay benefits to his or her legal personal representative or dependants after he or she dies

- (1) This section applies if CSC gives an accumulation account-holder information CSC reasonably believes the holder reasonably needs for understanding the holder's right under this section.
- (2) The holder may, by a binding member nomination, require CSC to provide any benefits in respect of the holder, on or after the holder's death, to the legal personal representative or a dependant of the holder.

26 Payment on death of accumulation account-holder without a binding member nomination

If an accumulation account-holder dies and there is not a binding member nomination from the holder when he or she dies, CSC may pay the balance of the holder's personal accumulation account in such manner and in such proportions as CSC determines, consistently with the SIS Act.

Division 2—Income products

27 CSC may arrange to offer income products

CSC may enter into arrangements with a provider (other than the Commonwealth) of products, services or both to offer income products, including retirement income products, for purchase by persons in receipt of benefits under this instrument.

28 Benefit recipient may purchase income products arranged by CSC

A person who receives a benefit under this instrument may use the benefit to purchase income products arranged by CSC, subject to the SIS Act.

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Division 3—Account-based pensions provided by CSC

Subdivision A—When account-based pension may be provided

29 When CSC may provide account-based pension

If CSC receives a benefit application from an ADF Super member for an amount of benefits to be cashed as an account-based pension, CSC may, subject to the SIS Act, provide one or more account-based pensions to the member.

30 CSC may publish guidance on exercise of its powers relating to account-based pensions

CSC may publish guidance on the matters it may take into account in exercising:

- (a) its powers under section 29 to provide account-based pensions; and
- (b) its powers under the SIS Act that relate to account-based pensions.

Subdivision B—Payment and amount of pension

31 Application

This Subdivision applies if CSC provides an account-based pension under section 29 in respect of an ADF Super member.

32 Pension to be paid from pension account

The pension must be paid from the pension account for the pension.

Note: Section 46 requires a pension account to be kept for each account-based pension provided under section 29.

33 Timing and duration of pension

The pension must be paid at least annually, until the earlier of:

- (a) the death of the ADF Super member; and
- (b) the balance of the pension account for the pension is nil.

Note: The pension may still need to be paid, after the ADF Super member dies, to a reversionary beneficiary nominated by the member: see section 38.

34 Limits on amount of pension

- (1) The amount of a payment of the pension cannot exceed the balance of the pension account for the pension at the time of the payment.
- (2) The amount of the pension is subject to limits specified by the SIS Act.

Note: Subregulation 1.06(9A) of, and Schedule 7 to, the SIS Regulations provide for limits on the amount of the pension that depend on the pensioner's age.

Subdivision C—Commuting account-based pension

35 Commuting account-based pension

- (1) If CSC receives an application from an ADF Super pensioner or reversionary beneficiary to commute all or part of an account-based pension he or she is receiving under this Division, CSC may, in accordance with the application and subject to the SIS Act:
 - (a) roll over or transfer all or part of the balance of the pension account (from which the pension is paid) to any of the following for his or her benefit:
 - (i) a regulated superannuation fund (as defined in the SIS Act);
 - (ii) an approved deposit fund (as defined in the SIS Act);
 - (iii) an RSA provider (as defined in the *Retirement Savings Accounts Act 1997*); or
 - (b) pay the applicant a lump sum of an amount equal to all or part of the balance of the pension account; or
 - (c) if the applicant is an ADF Super member—credit an amount equal to all or part of the balance of the pension account to the member’s personal accumulation account.

Note 1: Regulations 1.06 and 1.07B of the SIS Regulations may prevent the pension from being commuted unless the pension has paid at least a certain amount in a particular year.

Note 2: If a reversionary beneficiary is also an ADF Super member, the amount mentioned in paragraph (c) may be credited to that member’s personal accumulation account.

- (2) CSC must debit from the pension account the amount rolled over, transferred, paid or credited under subsection (1).

Subdivision D—Pension transferable only on death of recipient

36 Pension transferable only on death of recipient

An account-based pension under this Division is transferable only on the death of the recipient of the pension (whether he or she is an ADF Super pensioner or a reversionary beneficiary).

Subdivision E—Death of account-based pension recipient

37 ADF Super pensioner may nominate reversionary beneficiary

An ADF Super pensioner may, before his or her account-based pension is first paid or at another time allowed by CSC, nominate one dependant as a beneficiary.

38 Death of ADF Super pensioner

- (1) This section applies if an ADF Super pensioner dies.
- (2) CSC must continue payment of the pension to the nominated beneficiary if:
 - (a) there is a valid nomination under section 37 when the pensioner dies; and

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- (b) the SIS Act and section 33 of this instrument permit CSC to continue payment.
- (3) If subsection (2) does not apply but there is a binding member nomination from the pensioner when he or she dies, CSC must deal with the balance of the pensioner's pension account in accordance with the nomination, subject to the SIS Act.
- (4) If subsections (2) and (3) do not apply, CSC may pay the balance of the pensioner's pension account in such manner and in such proportions as CSC determines, consistently with the SIS Act.

39 Death of reversionary beneficiary

On the death of a reversionary beneficiary, CSC must, subject to the SIS Act, pay the balance of the pension account concerned as CSC determines.

40 Change of investment strategy after death

If CSC is satisfied that an ADF Super pensioner or reversionary beneficiary has died, CSC may change the investment strategy for the balance of the pension account concerned.

Subdivision F—Pension cannot be used as security for borrowing

41 Pension cannot be used as security for borrowing

The capital value of a pension provided under section 29, and income from the pension, cannot be used as security for a borrowing.

Part 3—Personal accumulation accounts and pension accounts

Division 1—Personal accumulation accounts

42 CSC must keep personal accumulation accounts for ADF Super members and non-member spouses

- (1) For the purposes of working out benefits of ADF Super members and non-member spouses in ADF Super (including their withdrawal benefits, as defined in the SIS Regulations), CSC must keep:
 - (a) a single personal accumulation account for each ADF Super member; and
 - (b) a single personal accumulation account for each non-member spouse for whom a non-member spouse interest has been created.

Closure of personal accumulation account

- (2) However, CSC may close a personal accumulation account if the account has a nil balance.
- (3) If CSC closes a personal accumulation account for a person and an event occurs that requires an amount to be credited to the person's personal accumulation account under section 44, CSC must again keep a personal accumulation account for the person.

Merger of accounts for ADF Super member who is also non-member spouse

- (4) If a person is both an ADF Super member and a non-member spouse for whom CSC is keeping a personal accumulation account, the following actions must be taken if the person requests CSC to do so:
 - (a) crediting the balance of the personal accumulation account for the person as a non-member spouse to the account for the person as an ADF Super member;
 - (b) debiting the balance of the personal accumulation account for the person as a non-member spouse from that account;
 - (c) closing the personal accumulation account for the person as a non-member spouse.

43 Balance of personal accumulation account

The balance of a personal accumulation account at a time is the total of the amounts credited to the account under section 44 before that time less the total of the amounts debited from that account under section 45 before that time.

44 Credits to personal accumulation account

The following amounts are to be credited to a personal accumulation account:

- (a) if the account is kept for an ADF Super member:

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- (i) a contribution that is paid into the ADF Super Fund under Division 1 of Part 1 and relates to the member; and
- (ii) any amount credited to the account under paragraph 35(1)(c) (from the balance of the member's pension account); and
- (iii) any amount credited to the account under paragraph 42(4)(a) (about merger of accounts for an ADF Super member who is also a non-member spouse); and
- (iv) such other amounts as CSC determines;
- (b) if the account is kept for a non-member spouse—the amount credited under section 55 (on creation of the non-member spouse interest for the spouse);
- (c) in any case:
 - (i) any amount determined by CSC under section 50 in respect of earnings on investment of the balance of the account; and
 - (ii) the amount of any tax offset for CSC that is determined by CSC; and
 - (iii) any amount required by section 62 to be credited (to correct a mistake).

45 Debits from personal accumulation account

The following amounts are to be debited from a personal accumulation account kept for a person:

- (a) any benefit paid to or in respect of the person from his or her personal accumulation account, including any benefit paid as a rollover or transfer;
- (b) any amount determined by CSC under section 50 in respect of losses on investment of the balance of the amount;
- (c) the amount of any fee, cost or expense determined by CSC under section 52 to be payable from the account;
- (d) any amount of income tax paid or payable by CSC from the ADF Super Fund that is determined by CSC to be attributable to the account;
- (e) any other amount determined by CSC consistently with Part 7A of the SIS Regulations because the superannuation interest to which the account relates is subject to a payment split under Part VIIIIB of the *Family Law Act 1975*;
- (f) any amount required by section 62 to be debited (to correct a mistake).

Note: If the person is an ADF Super member, an amount transferred to the member's pension account for an account-based pension will be covered by paragraph (a).

Division 2—Pension accounts

46 Keeping pension accounts for pensions provided to ADF Super members

- (1) If CSC provides one or more pensions to an ADF Super member under section 29, CSC must keep a separate pension account for each pension.
- (2) CSC must continue to keep a pension account for an ADF Super member who dies, until the later of:
 - (a) CSC ceasing to make payments of pension to a reversionary beneficiary from the account; and
 - (b) CSC complying with section 38 or 39 in relation to the account.
- (3) CSC may cease to keep an account after it has a nil balance.

47 Balance of pension account

The balance of the pension account at a time is the total of the amounts that have been credited to the account under section 48 before that time less the total of the amounts that have been debited from the account under section 49 before that time.

48 Credits to pension account

- (1) The following amounts are to be credited to a pension account for a pension:
 - (a) the amount transferred from the ADF Super pensioner's personal accumulation account, as requested by the pensioner;
 - (b) any amount determined by CSC under section 50 in respect of earnings on investment of the balance of the account;
 - (c) any amount required by section 62 to be credited (to correct a mistake);
 - (d) such other amounts as CSC determines.
- (2) However, once the pension is first paid, an amount of a contribution or rollover is not to be credited to the pension account.

49 Debits from pension account

The following amounts are to be debited from a pension account:

- (a) any pension payments made to or in respect of the ADF Super pensioner or a reversionary beneficiary;
- (b) any amount determined by CSC under section 50 in respect of losses on investment of the balance of the amount;
- (c) any fee, cost or expense determined by CSC under section 53 to be payable from the account;
- (d) any amount required by subsection 35(2) to be debited (for commuting the pension concerned);
- (e) any amount required by section 62 to be debited (to correct a mistake);
- (f) such other amounts as CSC determines.

Section 50

Division 3—Crediting of fund earnings and debiting of fund losses

50 CSC may determine amounts of investment earnings and losses to be attributed to personal accumulation accounts and pension accounts

- (1) CSC may determine amounts to be credited to, or debited from, a personal accumulation account or a pension account that reasonably reflect the after-tax earnings or losses from the investment of the balance of the account (through the ADF Super Fund).

Note: Subparagraph 44(c)(i) and paragraphs 45(b), 48(1)(b) and 49(b) provide for the crediting and debiting of the account.

- (2) In determining an amount under subsection (1), CSC must have regard to:
- (a) the charges, costs and expenses incurred in the investment of amounts in all personal accumulation accounts and pension accounts; and
 - (b) if, under Division 4, the person for whom a personal accumulation account is kept chooses an investment strategy—the investment strategy chosen by the person.

Division 4—Member investment choice

51 CSC may let persons choose investment strategy for balances of their personal accumulation accounts and pension accounts

- (1) CSC may offer a person for whom it keeps a personal accumulation account or pension account, or a reversionary beneficiary whose pension is paid from a pension account, the opportunity to choose to have:
 - (a) the balance of the account invested in accordance with a particular investment strategy; or
 - (b) parts of the balance of the account invested in accordance with particular investment strategies.
- (2) CSC may determine when and how a person who may make such a choice may make or change the choice.

Section 52

Division 5—Fees, costs and expenses determined by CSC

52 Fees, costs and expenses for personal accumulation accounts

Administration fee

- (1) CSC may determine fees to be paid from a personal accumulation account relating to the costs of the administration of the Act and this instrument (generally and in matters relating more specifically to the account).

Fees, costs and expenses for investment strategy

- (2) CSC may determine fees, costs and expenses to be paid from a personal accumulation account relating to a choice of investment strategy for all or part of the balance of the account.

53 Fees, costs and expenses for pension accounts

CSC may determine the fees, costs and expenses relating to a pension account to be paid from the account.

Part 4—Reconsideration of decisions

54 CSC may reconsider and change decision

- (1) This section applies to a decision (the *original decision*) of CSC (including a decision made by a delegate of CSC) relating to ADF Super.
Note: The original decision may be one made under this Part.
- (2) CSC may on its own initiative, and must on request by a person affected by the original decision:
 - (a) reconsider the original decision; and
 - (b) affirm, vary, substitute or set aside the original decision.
- (3) A request for action under subsection (2) must set out the reasons for the request and be accompanied by information and any documents needed to support the request.
- (4) If the original decision was made by a delegate of CSC, CSC must ensure that any action under subsection (2) is carried out by CSC or another delegate of CSC.
- (5) CSC must keep a person who requested reconsideration of the original decision informed of progress of the reconsideration.
- (6) CSC must:
 - (a) inform a person affected by the original decision of the reconsideration of the decision, and whether the decision was affirmed, varied, substituted or set aside; and
 - (b) give the person a written statement of reasons for the decision to affirm, vary, substitute or set aside the original decision.

Part 5—Family law superannuation splitting

Division 1—Crediting value of non-member spouse interest to personal accumulation account

55 Crediting value of non-member spouse interest created to personal accumulation account for non-member spouse

If CSC creates a non-member spouse interest, CSC must credit the value of the benefits in the interest to the personal accumulation account kept for the non-member spouse for whom the interest was created.

Note: Part 7A of the SIS Regulations deals with the circumstances in which CSC may create a non-member spouse interest and provides for the value of the benefits in that interest.

Division 2—Guidance on exercise of powers relating to non-member spouse interest

56 CSC may publish guidance on exercise of its powers relating to non-member spouse interests

CSC may publish guidance on the matters it may take into account in exercising its powers under the SIS Act that relate to non-member spouse interests.

Part 6—Miscellaneous

Division 1—MySuper products

57 Compliance with SIS Act in relation to MySuper products

- (1) CSC must ensure that the requirements of the SIS Act for the provision of a MySuper product are complied with in relation to persons holding a MySuper product, or in relation to amounts held as a MySuper product, under this instrument.
- (2) In particular, CSC must ensure that any fees payable from a personal accumulation account in respect of a MySuper product comply with requirements of the SIS Act for the provision of a MySuper product.
- (3) Subsection (2) does not limit subsection (1).

58 Consistent treatment of all holders of MySuper products

CSC must ensure that:

- (a) all ADF Super members and non-member spouses who hold a MySuper product under this instrument are entitled to access to the same options, benefits and facilities in relation to their MySuper product; and
- (b) amounts determined under Division 3 of Part 3 as amounts to be credited to, or debited from, personal accumulation accounts in respect of MySuper products do not stream gains or losses to only some of those members and spouses, except to the extent permitted under subsection 59(2); and
- (c) the process used to credit and debit amounts to personal accumulation accounts in respect of a MySuper product is the same for each of those members and spouses.

59 Investment of amounts held as MySuper products

- (1) CSC must ensure that amounts held under this instrument as a MySuper product, in respect of ADF Super members and non-member spouses, are invested in accordance with a single diversified investment strategy.
- (2) For the purposes of subsection (1), CSC may adopt a single diversified investment strategy that allows gains and losses from different classes of assets of the ADF Super Fund to be streamed to different subclasses of the ADF Super members and non-member spouses who hold a MySuper product, in respect of their MySuper product, on the basis of their ages or some other basis that is permitted as a lifecycle exception within the meaning of the SIS Act.

Division 2—Incorrectly paid amounts

60 Correction of mistaken payments to and from ADF Super Fund

If CSC believes that a payment to or from the ADF Super Fund was made by mistake (of law or fact), CSC must take all reasonable steps to correct the mistake, including:

- (a) in the case of a payment to the ADF Super Fund:
 - (i) if possible, refunding the money to the person who made the payment to CSC; and
 - (ii) doing everything necessary to correct the records of the Fund to reflect the refund; and
- (b) in the case of a payment from the ADF Super Fund:
 - (i) all reasonable steps to recover the payment; and
 - (ii) doing everything necessary to correct the records of the Fund to reflect the recovery.

61 Returning contributions that should not have been accepted

- (1) If CSC becomes aware that it has accepted contributions relating to an ADF Super member that should not have been accepted for the ADF Super Fund under the SIS Act, CSC must take all reasonable steps to repay the contributions and make any adjustments it considers necessary to the member's personal accumulation account.
- (2) Subject to the SIS Act, CSC may adjust the repayment for:
 - (a) earnings or losses on investments from the ADF Super Fund for the period the contributions were held in the Fund; and
 - (b) fees debited from the member's personal accumulation account during the period the contributions were held in the Fund.

62 Correction of accounts

If CSC believes that an amount was credited to, or debited from, a personal accumulation account or a pension account by mistake (of law or fact), CSC must take all reasonable steps to correct the account, including:

- (a) debiting or crediting an amount from the account to reverse the mistaken credit or debit; and
- (b) doing everything necessary to correct the records of the ADF Super Fund to reflect the action taken under paragraph (a).

Section 63

Division 3—Other matters

63 CSC may determine ways in which applications and nominations are to be made

- (1) CSC may determine the ways in which applications and nominations are to be made to CSC.
- (2) CSC may determine different ways for different applications and nominations.

64 Relationship with other Chapters

If a provision of this Chapter is inconsistent with a provision of another Chapter, the provision of the other Chapter prevails.

Chapter 4—Accountability

Part 1—Requests by Minister for information

65 CSC must give Minister information he or she requires

CSC must give the Minister such information relating to the general administration and operation of ADF Super and the ADF Super Fund as the Minister requires.

Part 2—Delegation

66 Delegation by CSC

CSC may, by writing under its seal, delegate any of CSC's powers and functions under this instrument to any of the following:

- (a) a director of the Board of CSC;
- (b) a member of the staff of CSC;
- (c) an APS employee in the Department;
- (d) an officer or employee of a person who is responsible for investing money forming part of a superannuation fund vested in or managed by CSC;
- (e) any other person who performs duties in connection with the operation of this instrument;
- (f) a committee consisting of 2 or more persons each of whom is described in paragraph (a), (b), (c), (d) or (e);
- (g) another person.

67 Delegation by Minister

The Minister may, by signed writing, delegate any or all of his or her powers under this instrument to:

- (a) an SES employee, or acting SES employee, in the Department; or
- (b) an officer of the Navy who holds the rank of Commodore or a higher rank;
or
- (c) an officer of the Army who holds the rank of Brigadier or a higher rank; or
- (d) an officer of the Air Force who holds the rank of Air Commodore or a higher rank.