



Military Superannuation and Benefits Amendment (Trust Deed—ADF Super Consequential) Instrument 2015

I, Stuart Robert, Assistant Minister for Defence, make the following instrument.

Dated 17 September 2015

Stuart Robert
Assistant Minister for Defence

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1 Name

This is the *Military Superannuation and Benefits Amendment (Trust Deed—ADF Super Consequential) Instrument 2015*.

2 Commencement

Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information	
Column 1	Column 2
Provisions	Commencement
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.
2. Schedule 1, Part 1	The later of: (a) the start of the day after this instrument is registered; and (b) the commencement of Schedule 1 to the <i>Defence Legislation Amendment (Superannuation and ADF Cover) Act 2015</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.
3. Schedule 1, Part 2	The later of: (a) the start of the day after this instrument is registered; and (b) the commencement of Schedule 2 to the <i>Defence Legislation Amendment (Superannuation and ADF Cover) Act 2015</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.

3 Authority

This instrument is made under the *Military Superannuation and Benefits Act 1991*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Part 1—Amendments relating to ADF Super

Division 1—Main amendments

Military Superannuation and Benefits Trust Deed

1 Subrule 2(1) of the Schedule

Insert:

ADF Super

ADF Super member

2 At the end of Division 1 of Part 3 of the Schedule

Add:

14A Benefits on ceasing to be a member because of becoming an ADF Super member

- (1) This rule applies to a person who ceases to be a member because he or she has chosen to become an ADF Super member.

Employer benefit and amount of member unfunded account preserved

- (2) There is applicable to the person:
 - (a) a preserved benefit of the amount of the person's employer benefit; and
 - (b) a preserved benefit of the amount of the person's member unfunded account, if the person has such an account.

Amount of member funded account preserved unless rolled over or transferred

- (3) There is a preserved benefit applicable to the person of the amount of the person's member funded account, subject to subrules (5), (6) and (7).

Ancillary benefit preserved unless rolled over or transferred

- (4) If the person has an ancillary benefit, there is a preserved benefit applicable to the person of the amount of the ancillary benefit, subject to subrules (5), (6) and (7).

Request to roll over or transfer preserved benefit due to subrule (3) or (4)

- (5) The person may at any time request in writing that CSC roll over or transfer to ADF Super the amount of preserved benefit applicable to the person that is attributable to subrule (3) or (4).
- (6) CSC may roll over or transfer the amount in accordance with the request, despite any other provision of these Rules.
- (7) The amount of the person's preserved benefit immediately before a roll-over or transfer because of a request under subrule (5) is reduced by the amount transferred or rolled over.

3 Rule 35 of the Schedule

Repeal the rule.

4 At the end of rule 51 of the Schedule

Add:

- (4) Subrule (2) does not apply to a person if:
 - (a) the person ceased to be a member because he or she chose to become an ADF Super member; and
 - (b) invalidity pension is payable to the person under the *Australian Defence Force Cover Act 2015*; and
 - (c) the person has not turned 60.

5 After subrule 52(2) of the Schedule

Insert:

- (2A) Paragraphs (1)(b), (c) and (d) do not apply to a person if:
 - (a) the person ceased to be a member because he or she chose to become an ADF Super member; and
 - (b) invalidity pension is payable to the person under the *Australian Defence Force Cover Act 2015*; and
 - (c) the person has not turned 60.

6 Rule 57 of the Schedule

Omit “or 35”.

7 Paragraph 66(a) of the Schedule

After “other than”, insert “subrules 51(4) and 52(2A) and”.

8 Item 1 of Schedule 1 to the Schedule

Insert:

ADF Super has the same meaning as in the *Australian Defence Force Superannuation Act 2015*.

ADF Super member has the same meaning as in the *Australian Defence Force Superannuation Act 2015*.

9 Item 1 of Schedule 1 to the Schedule (definition of *eligible child*)

Omit “16” (wherever occurring), substitute “18”.

10 Item 1 of Schedule 1 to the Schedule (subparagraph (b)(ii) of the definition of *eligible child*)

Omit “subparagraph; and”, substitute “subparagraph.”.

11 Item 1 of Schedule 1 to the Schedule (subparagraph (b)(iii) of the definition of *eligible child*)

Repeal the subparagraph.

Division 2—Saving provision

Military Superannuation and Benefits Trust Deed

12 Before the Schedule

Insert:

13 Saving provisions for amendment of this Deed by Part 1 of Schedule 1 to the *Military Superannuation and Benefits Amendment (Trust Deed—ADF Super Consequential) Instrument 2015*

- (1) This clause applies to a pension that was suspended under rule 35 of the Rules immediately before the repeal of that rule by Part 1 of Schedule 1 to the *Military Superannuation and Benefits Amendment (Trust Deed—ADF Super Consequential) Instrument 2015*.
- (2) That rule continues to apply to the pension, despite the repeal.
- (3) Rule 57 of the Rules, as in force before its amendment by that Part, continues to apply to the pension, despite the amendment.

Part 2—Amendments relating to flexible service

Division 1—Main amendments

Military Superannuation and Benefits Trust Deed

13 Subrule 2(1) of the Schedule

Insert:
flexible service

14 Subrule 4(1) of the Schedule

Repeal the subrule, substitute:

- (1) Subject to subrule (2), the amount of the contribution payable by a member in a fortnight is equal to the relevant percentage of:
 - (a) the salary paid to the member in that fortnight; or
 - (b) if in that fortnight the member rendered flexible service—the salary that would have been paid to the member in that fortnight if the member had not rendered flexible service.

15 Rule 6 of the Schedule

Omit “calculated as if the member were on full pay”, substitute “calculated under rule 8”.

16 Subparagraph 7(2)(a)(i) of the Schedule

Repeal the subparagraph.

17 Paragraph 7(2)(a) of the Schedule

Omit “, in the case of subparagraph (ii), (iii) or (iv),”.

18 Subrules 7(2), (2A) and (3) of the Schedule

Omit “calculated as if the member were on full pay”, substitute “calculated under rule 8”.

19 Subrule 8(1) of the Schedule

Repeal the subrule, substitute:

- (1) If, under rule 6 or 7, a member elects to pay contributions in respect of all or part of a period of leave without pay, rule 4 applies to the amount of the contributions as if:
 - (a) in that period the member were paid salary in fortnights as if he or she were on full pay and not rendering flexible service; and
 - (b) the member’s salary did not include an allowance unless:
 - (i) the allowance was payable to the member on the day immediately before the start of the period; and
 - (ii) an appropriate authority of the Defence Force has notified CSC that, apart from the member’s absence on leave without pay, the allowance would have been payable to the member for the whole period.

20 Paragraph 10(2)(a) of the Schedule

Repeal the paragraph.

21 Subrule 10(4) of the Schedule

Repeal the subrule.

22 Item 1 of Schedule 1 to the Schedule

Insert:

flexible service means flexible service in accordance with a determination under:

- (a) subsection 32(3) of the *Naval Defence Act 1910*; or
- (b) subsection 46(3) of the *Defence Act 1903*; or
- (c) subsection 4H(3) of the *Air Force Act 1923*.

Division 2—Application provisions

Military Superannuation and Benefits Trust Deed

23 Before the Schedule

Insert:

14 Application provision for amendments of this Deed by Part 2 of Schedule 1 to the *Military Superannuation and Benefits Amendment (Trust Deed—ADF Super Consequential) Instrument 2015*

The amendments of paragraph 7(2)(a), and rule 10, of the Rules made by Part 2 of Schedule 1 to the *Military Superannuation and Benefits Amendment (Trust Deed—ADF Super Consequential) Instrument 2015* apply in relation to:

- (a) leave granted on or after the commencement of that Part; and
- (b) leave referred to in subparagraph 7(2)(a)(i) of the Rules, as in force immediately before the commencement of that Part, that was granted before that commencement, if an election relating to the leave was not made under subrule 7(2) of the Rules before that commencement.