



Australian Defence Force Superannuation Amendment (Trust Deed—Contributions) Instrument 2020

I, Darren Chester, Minister for Veterans and Defence Personnel, make the following instrument.

Dated 25 June 2020

Darren Chester
Minister for Veterans and Defence Personnel

Contents

1	Name.....	1
2	Commencement	1
3	Authority.....	1
4	Schedules.....	1
Schedule 1—Amendments		2
Part 1—Main amendments		2
<i>Australian Defence Force Superannuation Trust Deed 2015</i>		2
Part 2—Contingent amendments		7
<i>Australian Defence Force Superannuation Trust Deed 2015</i>		7

1 Name

This instrument is the *Australian Defence Force Superannuation Amendment (Trust Deed—Contributions) Instrument 2020*.

2 Commencement

- (1) 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	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 4 and anything in this instrument not elsewhere covered by this table	The day after this instrument is registered.	6 July 2020
2. Schedule 1, Part 1	The later of: (a) the day after this instrument is registered; and (b) 1 May 2020.	6 July 2020 (paragraph (a) applies)
3. Schedule 1, Part 2	The later of: (a) immediately after the commencement of the provisions covered by table item 2; and (b) immediately after the commencement of Schedule 2 to the <i>Defence Legislation Amendment (Miscellaneous Measures) Act 2020</i> . However, the provisions do not commence at all if the event mentioned in paragraph (b) does not occur.	6 July 2020 (paragraph (a) applies)

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under section 8 of the *Australian Defence Force Superannuation Act 2015*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Australian Defence Force Superannuation Trust Deed 2015

1 Section 4 (before the paragraph beginning “This instrument also deals with”)

Insert:

This instrument makes provision for CSC to offer certain ADF Super members permanent incapacity and death cover and includes rules about crediting amounts received in response to insurance claims to the personal accumulation account of the ADF Super member concerned and debiting insurance premium amounts from that account.

2 Section 5 (after paragraph (a) of the definition of *contribution*)

Insert:

- (ab) by an employer of an ADF Super member who is a former long-term ADF member (whether under an arrangement between the employer and the member for sacrificing the member’s salary into superannuation or otherwise); or

3 Section 5

Insert:

employer has the same meaning as in the SIS Act.

former long-term ADF member: a person is a *former long-term ADF member* if:

- (a) for a continuous period of at least 12 months, the person was any of the following:
- (i) a member of the Permanent Forces;
 - (ii) a continuous full-time Reservist; and
- (b) at a particular time (whether before, on or after the commencement of this definition), the person ceased to be any of the following:
- (i) a member of the Permanent Forces;
 - (ii) a continuous full-time Reservist; and
- (c) at that time, the person was an ADF Super member; and
- (d) at all times since that time, the person:
- (i) has continued to be an ADF Super member; and
 - (ii) has not been either a member of the Permanent Forces or a continuous full-time Reservist.

insurance company means:

- (a) a life insurance company (within the meaning of the *Income Tax Assessment Act 1997*); or
- (b) a general insurance company (within the meaning of that Act).

permanent incapacity has the same meaning as in the SIS Act.

4 After paragraph 8(1)(b)

Insert:

- (ba) amounts paid into the Fund under section 24C (insurance claims); and

5 After paragraph 10(a)

Insert:

- (ab) premiums for permanent incapacity and death cover provided to ADF Super members who are former long-term ADF members;

6 Paragraph 10(b)

Omit “and” (second occurring).

7 Subsection 11(2)

After “benefits”, insert “, and premiums for permanent incapacity and death cover.”.

8 After paragraph 14(c)

Insert:

- (ca) to provide information to ADF Super members who are former long-term ADF members about the permanent incapacity and death cover that may be offered, or that has been provided, to them; and

9 After paragraph 15(c)

Insert:

- (ca) take out a policy or policies with an insurance company or companies in CSC’s name to provide permanent incapacity and death cover for ADF Super members who are former long-term ADF members; and

10 After section 17

Insert:

17A Contributions by employers of former long-term ADF members

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

- (a) is made:
 - (i) by the employer of an ADF Super member who is a former long-term ADF member; and
 - (ii) for the benefit of the ADF Super member; and
- (b) is paid to CSC in a way determined by CSC under section 21.

Note 1: This section does not require an employer of an ADF Super member who is a former long-term ADF member to make contributions to the ADF Super Fund for the benefit of the ADF Super member, but the employer may do so, for example, under an arrangement between the employer and the member for sacrificing the member’s salary into superannuation.

Note 2: 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).

11 After section 18

Insert:

18A Contributions by former long-term ADF members 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 ADF Super member is a former long-term ADF member; and
- (c) the contribution is paid to CSC in a way determined by CSC under section 21.

Note 1: This section does not require an ADF Super member who is a former long-term ADF member (including a former long-term ADF member who is self-employed), or the spouse of such an ADF Super member, to make contributions to the ADF Super Fund.

Note 2: 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).

12 Section 19

After "section 18", insert "or 18A".

13 Paragraph 20(b)

Repeal the paragraph, substitute:

- (b) the contribution is paid to CSC by the Commissioner while the person or employee is:
 - (i) 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); or
 - (ii) an ADF Super member who is a former long-term ADF member (whether or not the payment relates to a period when the person or employee was a former long-term ADF member); and

14 Section 23

Repeal the section, substitute:

23 Transfers and rollovers of rollover superannuation benefits

The following ADF Super members may make a contribution by way of the rollover (consistently with the SIS Act) to CSC of a rollover superannuation benefit:

- (a) a serving ADF Super member;
- (b) an ADF Super member who is a former long-term ADF member.

15 After Part 1 of Chapter 3

Insert:

Part 1A—Insurance

24A CSC may arrange insurance for permanent incapacity and death

- (1) CSC may take out a policy or policies with an insurance company or companies in its name to provide permanent incapacity and death cover for ADF Super members who are former long-term ADF members.
- (2) The permanent incapacity and death cover is to be on the terms and conditions, including the circumstances, agreed between CSC and the relevant insurance company or companies.

Note: CSC may take out permanent incapacity cover and death cover in separate policies.

24B CSC may offer permanent incapacity and death cover to certain ADF Super members

- (1) Subject to the SIS Act, CSC may offer cover for permanent incapacity and death to some or all ADF Super members who are former long-term ADF members, subject to the terms and conditions of the policy taken out in accordance with section 24A, unless the insurance company does not provide cover in respect of the member under that policy.
- (2) Subject to the SIS Act, CSC may determine the terms and conditions of any permanent incapacity and death cover provided to persons under this section.

24C Insurance claims

- (1) If an ADF Super member who has been provided with permanent incapacity and death cover under section 24B dies, or makes an application for a claim against the cover, CSC must make a claim against the policy providing the cover.
- (2) If an insurance company pays an amount (the *insurance amount*) to CSC in response to a claim under subsection (1), CSC must:
 - (a) pay the insurance amount into the ADF Super Fund; and
 - (b) credit an amount equal to the insurance amount to the ADF Super member's personal accumulation account.

24D Insurance premiums

- (1) The premium for permanent incapacity and death cover provided to an ADF Super member is the amount of premium specified in the permanent incapacity and death cover policy.
- (2) CSC must debit an amount equal to the amount of the premium from the ADF Super member's personal accumulation account.
- (3) However, subsection (2) does not apply if the amount of the premium is greater than the balance of the ADF Super member's personal accumulation account.

16 At the end of section 26

Add:

Schedule 1 Amendments
Part 1 Main amendments

Note: If the accumulation account-holder was provided with permanent incapacity and death cover under section 24B, the holder's personal accumulation account will be credited with an amount equal to any amount paid by an insurance company in response to a claim made by CSC against the permanent incapacity and death cover policy in respect of the holder's death: see section 24C.

17 Before subparagraph 44(c)(i)

Insert:

- (ia) any amount credited to the account under section 24C (insurance claims); and

18 After paragraph 45(a)

Insert:

- (ab) any amount required by section 24D to be debited (insurance premiums);

Part 2—Contingent amendments

Australian Defence Force Superannuation Trust Deed 2015

19 Section 5 (after paragraph (d) of the note to heading)

Insert:

- (da) employer;
- (db) former long-term ADF member;

20 Section 5 (definition of *employer*)

Repeal the definition.

21 Section 5 (definition of *former long-term ADF member*)

Repeal the definition.