INSTRUMENT NO 3 OF 1992

MILITARY SUPERANNUATION AND BENEFITS ACT 1991

INSTRUMENT UNDER SUBSECTION 5(1)

I, Gordon Neil BILNEY, the Minister of State for Defence Science and Personnel, hereby make the following Instrument under subsection 5(1) of the Military Superannuation and Benefits Act 1991.

Dated This eleventh day of November 1992

[Signature]

Minister of State for Defence Science and Personnel

MILITARY SUPERANNUATION AND BENEFITS TRUST DEED (AMENDMENT)

1. Interpretation

1.1 In this Instrument:

"rule" means a rule set out in the Schedule to the Trust Deed;

"Schedule" means a schedule set out in the Schedule to the Trust Deed;

"Trust Deed" means the Trust Deed made, and in force, under section 4 of the Military Superannuation and Benefits Act 1991.

2. Amendment

2.1 The Rules in the Schedule to the Trust Deed are amended as set out in this Instrument.

3. Schedule 9(CALCULATION OF MEMBER BENEFIT)

3.1 Subparagraph 1(e):
Omit "and who has not since retired", substitute "(not being a person who has since retired and has again become a member)".
3.2 Subparagraph 1(e):
Omit from subsubparagraph (ii) "and".

3.3 Subparagraph 1(e):
Add at the end:

"less, in the case of a person who paid an amount to the Commonwealth under paragraph 3 of this Schedule or paragraph 3 of Schedule 10 (each paragraph, in this paragraph called a "repayment provision"), the amount of interest calculated under subsubparagraph (ii) in respect of so much of the person's transfer value as is an amount equal to the sum of:

(iii) the amount by which so much of the person's transfer value as comprised previous contributions is taken to have increased by reason of the recalculation of the person's transfer value in consequence of the operation of the relevant repayment provision; and

(iv) an amount equal to the amount by which the amount calculated under subparagraphs 1(a) and (b) of Schedule 10 is, by reason of the recalculation of the person's transfer value in consequence of the operation of the relevant repayment provision, no longer reduced by an amount calculated under subparagraphs 1(c), (d) and (e) of that Schedule;

in respect of the period before the day on which the amount so paid was, in fact, paid; and".

3.4 Add at the end:

"2. Where a transferred person who retired in the period from and including 27 May 1992 to and including 8 September 1992 (in this paragraph called the "relevant period"):

(a) had been, before transfer to the Scheme, a person in respect of whom an amount (in this paragraph called the "unpaid amount") remained unpaid to the Commonwealth by the person in respect of:

(i) an election by him or her under the previous legislation to have a period of service taken into account as service for pension or as qualifying service; or

(ii) an amount required to be paid by him or her under subsection 87(3) of the 1973 Act; and

(b) had, before transferring, paid the unpaid amount or a part of that amount to the Commonwealth;

then, the person is entitled to be paid, as additional member benefit, an amount ascertained by using the formula:

\[
\text{Recalculated member benefit} - \text{Original member benefit}
\]

where:
"Original member benefit" means the member benefit that was paid or payable to the person on his or her retirement; and

"Recalculated member benefit" means the member benefit that would have been payable to the person on his or her retirement if paragraph (b) of the definition of "previous contributions" in Schedule 1 (as in force during the relevant period) had been omitted from that definition.

3. Where a transferred person who has retired became a transferred person on a day (in this paragraph called the "person's commencement day"), and in the application of Schedule 10 to that person on that day:

(a) the calculation of the person's transfer value required the deduction of an amount (in this paragraph called the "deducted amount") in accordance with paragraph 1 of that Schedule from the sum of the amounts referred to in subparagraphs 1(a) and (b) of that Schedule; and

(b) the deducted amount included an amount in respect of an election referred to in subparagraph 1(c) or an amount referred to in subparagraph 1(e), of that Schedule;

then, if the person pays to the Commonwealth for the purposes of this paragraph, before the expiration of 90 days after the commencement of this paragraph, an amount (in this paragraph called the "paid amount") equal to, or less than, the deducted amount, then, the person is entitled to be paid, as additional member benefit, an amount ascertained by using the formula:

Recalculated member benefit - Original member benefit

where:

"Original member benefit" means the member benefit that was paid or payable to the person on his or her retirement; and

"Recalculated member benefit" means the member benefit that would have been payable to the person on his or her retirement if the person had paid the paid amount to the Commonwealth immediately before the person's commencement day.

4. Schedule 10(TRANSFER VALUE)

4.1 Add at the end:

"3. Where, on a day (in this paragraph called the "person's commencement day") a person became a transferred person (not being a person who has since retired), and in the application of this Schedule to that person on that day:
(a) the calculation of the person's transfer value required the deduction of an amount (in this paragraph called the "deducted amount") in accordance with paragraph 1 from the sum of the amounts referred to in subparagraphs 1(a) and (b); and

(b) the deducted amount included an amount in respect of an election referred to in subparagraph 1(c) or an amount referred to in subparagraph 1(e);

then, if the person pays to the Commonwealth for the purposes of this paragraph, before the expiration of 90 days after the commencement of this paragraph, an amount (in this paragraph called the "paid amount") equal to, or less than, the deducted amount, this Schedule applies to the person as if the person had paid the paid amount to the Commonwealth immediately before the person's commencement day."