Military Superannuation and Benefits Amendment Trust Deed 2004 (No. 1)

I, MALCOLM THOMAS BROUGH, Minister for Employment Services, for the Minister for Defence, make this Trust Deed under subsection 5 (1) of the Military Superannuation and Benefits Act 1991.

Dated 11 May 2004

MALCOLM BROUGH
Minister for Employment Services
for the Minister for Defence

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1 Name of Trust Deed
This Trust Deed is the Military Superannuation and Benefits Amendment Trust Deed 2004 (No. 1).

2 Commencement
This Trust Deed commences, or is taken to have commenced, as follows:
(a) on 12 November 2003 — sections 1, 2 and 3 and Schedule 2;
(b) on 18 May 2004 — the remainder.

3 Amendment of Military Superannuation and Benefits Trust Deed
Schedules 1 and 2 amend the Military Superannuation and Benefits Trust Deed made under the Military Superannuation and Benefits Act 1991.
Schedule 1  Amendments commencing on 18 May 2004
(section 3)

[1] Rules, rule 2

after
allocation
insert
associate
associate A benefit
associate B benefit
associate pension

[2] Rules, rule 2

after
SIS preservation threshold amount
insert
SIS Regulations

[3] Rules, after subrule 5 (3)

insert

(4) This rule does not apply to benefits payable under Part 12 or Part 13.

[4] Rules, rule 11N

omit everything before paragraph (a), insert

As soon as practicable after the end of a financial year, the Board must give
to each unitised member and to each associate, a statement of the beneficial
interest that the member or associate holds in the Fund, including:

[5] Rules, Part 3, following the heading

insert

Note  The amount of a member benefit may have been affected by a family law
superannuation payment split under Part 13.
[6] Rules, after paragraph 39 (b)

insert

(ba) if the deceased person is survived by more than 1 spouse, the benefit is payable to the spouses;

(bb) if the deceased person is survived by:

(i) a spouse or spouses; and

(ii) an eligible child or children;

the benefit is payable to, or for the benefit of, the spouse or spouses and the child or children;

[7] Rules, before rule 49

insert in Part 5

48A Preserved benefits subject to family law payment split

This Part does not apply to benefits that are subject to a payment split under Part 13 until after the payment split has been given effect.

[8] Rules, Part 6, Division 2, heading

substitute

Division 2 Increases in pensions and associate pensions

[9] Rules, rule 56, heading

substitute

56 Increases in pensions and associate pensions

[10] Rules, subrule 56 (1)

after

a pension

insert

or an associate pension

after
the pension

insert
or associate pension

[12] **Rules, subrule 56 (2)**

after
pension

insert
or associate pension

[13] **Rules, subrule 58 (1)**

omit everything before paragraph (a), insert

(1) This rule applies to a pension or associate pension if:

[14] **Rules, paragraph 58 (1) (a)**

after each mention of
pension

insert
or associate pension

[15] **Rules, subparagraph 58 (1) (b) (iii)**

omit
half-year.

insert
half-year; or

[16] **Rules, after subparagraph 58 (1) (b) (iii)**

insert

(iv) a person who receives an associate pension in relation to a member spouse’s pension or associate pension and the member spouse’s pension or associate pension became payable to the member spouse during the preceding half-year.
Schedule 1
Amendments commencing on 18 May 2004

[17] Rules, paragraph 58 (2) (b)

after
child;
insert
or

[18] Rules, after paragraph 58 (2) (b)

insert
(c) where subparagraph (1) (b) (iv) applies — the pension or associate pension that was payable to the member spouse;

[19] Rules, paragraph 58 (3) (a)

substitute
(a) the pension or associate pension; or

[20] Rules, paragraph 58 (3) (b)

after
child;
insert
or

[21] Rules, after paragraph 58 (3) (b)

insert
(c) where subparagraph (1) (b) (iv) applies — the pension or associate pension that was payable to the member spouse;

[22] Rules, subrule 58 (3), definition of number of months in period

omit
referred to in paragraph (a) or (b)

insert
or associate pension referred to in paragraph (a), (b) or (c)
[23] Rules, subrule 58 (7), definition of preceding half-year

after pension

insert or associate pension

[24] Rules, rule 60

after each mention of pension

insert or associate pension

[25] Rules, rule 67

substitute

67 Instalments of pensions and associate pensions

(1) Pensions and associate pensions are to be paid in fortnightly instalments on pension pay-days.

(2) The amount of a fortnightly instalment of pension or associate pension is an amount ascertained by dividing the amount per annum of the pension or associate pension by 26.

(3) Where the amount of a fortnightly instalment of pension or associate pension includes a fraction of a cent:

   (a) if the fraction is less than one-half of a cent — the amount of the instalment is taken to be reduced by the amount of the fraction; or
   
   (b) if the fraction is one-half of a cent or more — the amount of the instalment is taken to be increased by treating the fraction as 1 cent.

(4) The amount of pension payable in respect of a day is one-fourteenth of the amount of the fortnightly instalment of the pension or associate pension.

[26] Rules, rule 69

after each mention of pension

insert or associate pension
[27] Rules, subrule 69 (5)

*substitute*

(5) In this rule:

*benefit* means associate A benefit, associate B benefit, employer benefit or member benefit.

[28] Rules, paragraph 70 (3) (a)

*substitute*

(a) an instalment, or part of an instalment, of a pension or associate pension; or

[29] Rules, paragraph 80 (1) (c)

*omit*

benefit.

*insert*

benefit;

[30] Rules, after paragraph 80 (1) (c)

*insert*

(d) by deduction from the member’s associate A benefit or associate B benefit before the benefit is paid.

[31] Rules, after Part 11

*insert*

Part 12 Associate benefit

85 Associate A benefit

(1) Associate A benefit is a benefit:

(a) created as associate A benefit under Part 13; and

(b) held for a person as units in one or more Investment Divisions.

(2) Divisions 5, 6 and 7 of Part 2B apply in relation to associate A benefit as if the person for whom the benefit is held were a unitised member and the units were units in a member funded account.

(3) A person is entitled to be paid associate A benefit when the person reaches his or her preservation age.
(4) The person may, at any time before the benefit becomes payable, request that the Board roll over or transfer the associate A benefit to a regulated superannuation fund, an RSA, or an approved deposit fund nominated by the person to be held for the benefit of the person.

(5) When the benefit becomes payable in accordance with subrule (3), the person may request that the Board:
   (a) pay the benefit to the person as a lump sum; or
   (b) roll over or transfer the benefit to a regulated superannuation fund, an RSA, or an approved deposit fund nominated by the person, to be held for the benefit of the person.

(6) If a person does not make a request under subrule (4) or (5), the benefit must be paid to the person as a lump sum when the person reaches the age of 65.

86 Associate B benefit

(1) Associate B benefit is a benefit:
   (a) created as associate B benefit under Part 13; and
   (b) preserved in the Scheme for a person; and
   (c) indexed annually at the long term bond rate.

(2) A person is entitled to be paid associate B benefit when the person reaches his or her preservation age.

(3) On reaching the age of 55, the person may request that the Board roll over or transfer the associate B benefit to a regulated superannuation fund, an RSA, or an approved deposit fund nominated by the person, to be held for the benefit of the person.

(4) When the benefit becomes payable in accordance with subrule (2), the person may request that the Board:
   (a) pay the benefit to the person as a lump sum; or
   (b) roll over or transfer the benefit to a regulated superannuation fund, an RSA, or an approved deposit fund nominated by the person, to be held for the benefit of the person.

(5) If a person does not make a request under subrule (3) or (4), the benefit must be paid to the person as a lump sum when the person reaches the age of 65.

87 Release of benefits because of total and permanent incapacity, on compassionate grounds, or because of severe financial hardship

(1) This rule applies to a person:
   (a) to whom associate A benefit or associate B benefit applies; and
   (b) who has not reached the age of 55.
(2) Subject to Part 10, the associate A benefit or associate B benefit becomes payable to the person as a lump sum:

(a) if the Board decides that by reason of the person’s physical or mental incapacity, the person has become unlikely ever to be able to work again in employment for which he or she is reasonably qualified by education, training or experience or for which the person could reasonably be qualified after retraining — on the date on which the Board so decided; or

(b) if the Australian Prudential Regulation Authority determines that the person satisfies a condition of release on a compassionate ground under subregulation 6.19A (2) of the SIS Regulations — on the date of the determination; or

(c) if the Board is satisfied that the person is in severe financial hardship within the meaning of subregulation 6.01 (5) of the SIS Regulations — on the date when the Board became so satisfied.

(3) An amount that becomes payable under paragraph (2) (b) or (c) is limited to so much of the benefit as is necessary to meet the expenses that give rise to the compassionate grounds or is necessary to alleviate financial hardship.

(4) If only part of a benefit payable under subrule (2) is payable because of subrule (3), that part may be reduced by part of the surcharge deduction amount before it is paid as a lump sum if the Board considers that there may be insufficient benefit remaining unpaid to pay the surcharge deduction amount.

88 Death of a person who has associate benefit

(1) This rule applies if a person for whom associate A benefit, or associate B benefit is held dies.

(2) Associate A benefit and associate B benefit are payable as a lump sum as follows:

(a) if the deceased person is survived by a spouse, the benefit is payable to the spouse;

(b) if the deceased person is survived by more than 1 spouse, the benefit is payable to the spouses;

(c) if the deceased person is survived by:

(i) a spouse or spouses; and

(ii) an eligible child or children;

the benefit is payable to, or for the benefit of, the spouse or spouses and the child or children;

(d) if the deceased person is not survived by a spouse but is survived by an eligible child or children, the benefit is payable to, or for the benefit of, the child or children;
(e) if the deceased person is not survived by a spouse or an eligible child and he or she had notified the Board in writing that:

(i) he or she had a person or persons dependent on him or her who would not be eligible to receive benefits as a spouse or eligible child; and

(ii) he or she had made provision for that person or those persons in his or her will;

the benefit is payable to, or for the benefit of, the person or persons;

(f) in any other case, the benefit is payable to the deceased person’s personal representative.

Part 13  Family law superannuation interest splitting

Division 1  Preliminary

89 Definitions

In this Part:

base amount means:

(a) for a splitting agreement — the base amount specified in, or calculated under, the agreement; or

(b) for a splitting order — the amount allocated under subsection 90MT (4) of the Family Law Act 1975.

employer funded component of a transfer amount, means the employer benefit, or part of the employer benefit, that is totally funded.

employer unfunded component of a transfer amount, means the employer benefit, or part of the employer benefit that is not totally funded.

family law value means the amount determined in accordance with regulations made under the Family Law Act 1975 that apply for paragraph 90MT (2) (a) of that Act (taking the relevant date to be the date on which the operative time occurs).

Note  The family law value is determined by applying those regulations, whether or not an order has been made under subsection 90MT (1) of the Family Law Act 1975.

member funded component of a transfer amount means the member benefit or part of the member benefit, that is totally funded.

member unfunded component of a transfer amount means the member benefit, or part of the member benefit, that is not totally funded.

operative time, for a splitting agreement or splitting order, means the time that is the operative time for Part VIIIB of the Family Law Act 1975 in relation to a payment split under the agreement or order.

payment split has the same meaning as in Part VIIIB of the Family Law Act 1975.
scheme value means the amount determined under rule 98.

splitting percentage means:
(a) for a splitting agreement — the percentage specified in the agreement under subparagraph 90MJ (1) (c) (iii) of the Family Law Act 1975; or
(b) for a splitting order — the percentage specified in the order under subparagraph 90MT (1) (b) (i) of the Family Law Act 1975.

transfer amount means:
(a) if a splitting percentage applies — the amount calculated by multiplying the splitting percentage by the greater of:
   (i) the family law value; and
   (ii) the scheme value; or
(b) if a base amount applies and the scheme value is not more than the family law value — the base amount; or
(c) if a base amount applies and the scheme value is more than the family law value — the amount calculated using the formula:

\[
\text{Scheme value} \times \frac{\text{Whole dollars in base amount}}{\text{Whole dollars in family law value}}
\]

Division 2  Dealing with splitting agreements and splitting orders

Subdivision 1  Payment split of benefit in the growth phase

90  Splitting a benefit that is not associate A benefit or associate B benefit

(1) This rule applies if:
(a) the Board receives a splitting agreement or a splitting order in respect of a member spouse’s superannuation interest that is:
   (i) a superannuation interest under the Act; and
   (ii) not associate A benefit or associate B benefit; and
(b) a pension is not payable in respect of the interest at the operative time; and
(c) the member spouse and the non-member spouse are both alive at the operative time; and
(d) if a base amount applies — the base amount at the operative time is not more than the family law value or the scheme value.

Note 1  This rule applies to the benefit of a member spouse as a member of the Scheme. The member spouse may also have associate benefit in the Scheme. Associate benefit is split under rule 91.
Note 2 The non-member spouse may also be a member of the Scheme, in which case he or she will have benefit held as a member of the Scheme as well as the benefit created under this rule.

(2) The Board must determine the transfer amount for the non-member spouse and allocate the transfer amount as associate benefit to the non-member spouse in accordance with subrules (3) and (4).

(3) The value of the following components of the transfer amount is transferred to the non-member spouse as associate A benefit:
   (a) any member funded component of the transfer amount;
   (b) any member unfunded component of the transfer amount;
   (c) any employer funded component of the transfer amount.

(4) Any employer unfunded component of the transfer amount is transferred to the non-member spouse as associate B benefit.

(5) If the non-member spouse has nominated to the Board the Investment Division or Investment Divisions to which the associate A benefit should be credited, (an investment nomination) the Board must comply as far as possible with the nomination.

(6) If the Board:
   (a) has not received an investment nomination from the non-member spouse; or
   (b) cannot comply with an investment nomination in relation to all or part of the associate A benefit because the nomination is defective or because the Investment Divisions have changed;

the Board must allocate the associate A benefit to the default Investment Division.

(7) To derive the transfer amount, the following benefits are reduced in respect of the superannuation interest of the member spouse:
   (a) any benefit in the member funded account;
   (b) any benefit in the member unfunded account;
   (c) any employer funded benefit;
   (d) any employer unfunded benefit.

(8) In allocating the transfer amount to the non-member spouse:
   (a) a proportion must be taken from any benefit, in the member funded account, any benefit in the member unfunded account, any employer funded benefit and any employer unfunded benefit; and
   (b) the proportion taken from each category of benefit must be the same as the category bears to the member spouse’s original interest immediately before the payment split.

(9) The total reduction of the benefit is made in accordance with the benefit reduction factors and methodology developed and maintained by an actuary for these Rules.
91 **Splitting associate A benefit or associate B benefit**

(1) This rule applies if:

(a) the Board receives a splitting agreement or a splitting order in respect of a superannuation interest that is associate A benefit or associate B benefit held for the member spouse; and

(b) an associate pension is not payable in respect of the interest at the operative time; and

(c) the member spouse and the non-member spouse are both alive at the operative time; and

(d) if a base amount applies — the base amount at the operative time is not more than the family law value or the scheme value.

*Note* This rule applies to associate benefit. If the member spouse is a member of the Scheme, the benefit of a member spouse as a member of the Scheme will be split under rule 90.

(2) The Board must determine the transfer amount for the non-member spouse and allocate the transfer amount as associate benefit to the non-member spouse in accordance with subrules (3) and (4).

(3) The component of the transfer amount that is taken from any associate A benefit of the member spouse is transferred to the non-member spouse as associate A benefit.

(4) The component of the transfer amount that is taken from any associate B benefit of the member spouse is transferred to the non-member spouse as associate B benefit.

(5) If the non-member spouse has nominated to the Board the Investment Division or Investment Divisions to which the associate A benefit should be credited, *(an investment nomination)* the Board must comply as far as possible with the nomination.

(6) If the Board:

(a) has not received an investment nomination from the non-member spouse; or

(b) cannot comply with an investment nomination in relation to all or part of the associate A benefit because the nomination is defective or because the Investment Divisions have changed;

the Board must allocate the associate A benefit to the default Investment Division.

(7) To derive the transfer amount, the associate A benefit and the associate B benefit are reduced in respect of the superannuation interest of the member spouse.

(8) In allocating the transfer amount to the non-member spouse:

(a) a proportion must be taken from:

(i) any associate A benefit; and

(ii) any associate B benefit; and
(b) the proportion taken from each category of benefit must be the same as the category bears to the member spouse’s original interest immediately before the payment split.

92 Member spouse is 1973 Act member

(1) This rule applies if:
(a) the Board receives a splitting agreement or splitting order in respect of a superannuation interest under the 1973 Act; and
(b) the non-member spouse is not entitled to associate pension under subsection 49B (2) of the 1973 Act.

(2) The Board must allocate the transfer amount as associate B benefit for the non-member spouse.

Note The benefit of the member spouse under the 1973 Act is reduced in accordance with the Defence Force Retirement and Death Benefits (Family Law Superannuation) Orders 2004.

93 Member spouse has a superannuation interest under section 52 of the Defence Act 1903

(1) This rule applies if the Board receives a splitting agreement or a splitting order in respect of a superannuation interest under section 52 of the Defence Act 1903.

Note 1 If a member spouse has a DFRDB productivity benefit accumulating under the Defence Act 1903, the non-member spouse is entitled to benefits.

Note 2 The benefit of the member spouse is reduced in accordance with the Defence Force (Superannuation) (Productivity Benefit) Determination.

(2) The Board must allocate the transfer amount as associate B benefit for the non-member spouse.

94 Member spouse is member who has associate benefit

(1) This rule applies if:
(a) the Board receives a splitting agreement or a splitting order in respect of the superannuation interest of a member spouse; and
(b) the member spouse:
   (i) is a member of the Scheme or a former member with preserved member benefit or preserved employer benefit; and
   (ii) has associate A benefit or associate B benefit; and
(c) a pension is not payable in respect of the interest at the operative time; and
(d) the splitting agreement or splitting order provides for the splitting of
the member spouse’s superannuation interest as a whole and does not
differentiate the member spouse’s superannuation interest as a member
or the interest that is preserved member benefit or preserved employer
benefit from the member spouse’s superannuation interest that is
associate A benefit or associate B benefit; and

(e) the member spouse and the non-member spouse are both alive at the
operative time; and

(f) if a base amount applies — the base amount at the operative time is not
more than the family law value or scheme value of the member interest
and any associate interest.

(2) The Board must determine a proportion of the transfer amount in relation
to 2 categories of interest:

(a) the member spouse’s superannuation interest as a member, the
preserved member benefit or preserved employer benefit; and

(b) the associate A benefit or associate B benefit;

and the proportion for each category of interest must be the same as the
category bears to the member spouse’s total superannuation interest
immediately before the payment split.

(3) Rule 90 is to be used in respect of the proportion of the transfer amount
determined for paragraph (2) (a) and rule 91 is to be used in respect of the
proportion of the transfer amount determined for paragraph (2) (b) as if the
amounts determined by the Board were amounts specified in the splitting
agreement or splitting order.

Note If the Board receives a splitting agreement or a splitting order that differentiates
between member benefit or preserved benefit and associate benefit, the agreement or order
will be given effect under rule 90 in respect of the member benefit or preserved benefit and
rule 91 in respect of any associate benefit.

Subdivision 2 Payment split of benefit in the payment phase

95 Member spouse is in receipt of a pension or associate pension

(1) This rule applies if:

(a) the Board receives a splitting agreement or a splitting order in respect
of the superannuation interest of a member spouse; and

(b) either:

(i) the splitting agreement or splitting order has an operative time on
or after the commencement of Schedule 1 to the Superannuation
Legislation Amendment (Family Law and Other Matters) Act
2004; or
(ii) the splitting agreement or splitting order has an operative time earlier than the commencement of Schedule 1 to the Superannuation Legislation Amendment (Family Law and Other Matters) Act 2004, and no benefits have become payable before that time in respect of the original interest to which the agreement or order relates; and

(c) at the operative time the member spouse receives:
   (i) a pension, other than a pension payable in respect of a child; or
   (ii) an associate pension; and

(d) the member spouse and the non-member spouse are both alive at the operative time; and

(e) if a base amount applies — the base amount at the operative time is not more than the family law value or the scheme value.

(2) The non-member spouse in relation to the splitting agreement or splitting order is entitled to an associate pension from the operative time at a rate calculated under rule 99 by reference to the transfer amount in relation to a pension or associate pension.

Note The associate pension for the non-member spouse does not include a reversionary component and therefore ceases on the death of the non-member spouse.

(3) The annual rate of the pension payable to the member spouse is reduced to the amount calculated under rule 100.

Note If a member in receipt of a pension was, for the purposes of family law superannuation splitting, a non-member spouse in relation to another member of the Scheme who was also in receipt of a pension at the operative time, the first-mentioned member may receive an associate pension.

A person who receives an associate pension does not become a member but a member who receives an associate pension in addition to a pension under the Scheme remains a member.

96 Commutation of small associate pension

(1) If the annual rate of associate pension is less than $1 300, the non-member spouse may elect to commute the associate pension.

(2) Commencing on 1 January 2005, the amount mentioned in subrule (1) is indexed on each 1 January and 1 July in accordance with rule 97.

(3) The election must be made, in writing to the Board, not later than 3 months after the non-member spouse becomes entitled to the associate pension.

(4) If the non-member spouse makes the election, the non-member spouse is entitled instead to a lump sum equal to the transfer amount mentioned in rule 95.
Indexation of amount for small associate pension

(1) If the all groups consumer price index number for the weighted average of the 8 capital cities published by the Statistician in respect of the last March quarter and the last September quarter before the date of the indexation (factor \( A \)) exceeds the highest all groups consumer price index number for the weighted average of the 8 capital cities published by the Statistician in respect of the previous March quarter and the previous September quarter of any earlier half-year, not being a half-year earlier than the half year that commenced on 1 January 2004 (factor \( B \)) the amount is increased at the rate worked out in accordance with subrule (2).

(2) The rate is \( A - B \) expressed as a percentage of \( B \).

Division 3 Determination of scheme value, associate pension rate and member spouse pension reduction

Scheme value

For the definition of scheme value the scheme value in relation to a member spouse is determined as follows:

Step 1 Identify the methodology and factors set out in regulations made for section 90MT of the Family Law Act 1975 that would be used to determine the family law value in relation to the member spouse in accordance with that section as if that section applied in relation to the member spouse.

Note The family law value is determined in accordance with the Family Law (Superannuation) Regulations 2001 that are made for paragraph 90MT (2) (a) of the Family Law Act 1975. The process of determining the family law value may include reliance on methodology and factors approved by the Attorney-General under subsection 90MT (3) of that Act.

Step 2 Substitute the factors with factors nominated by an actuary for this rule.

Step 3 Use the methodology identified in step 1, and the factors substituted in step 2, to determine the scheme value in relation to the member spouse.

Annual rate of associate pension

For rule 95, the annual rate of associate pension payable to a non-member spouse is calculated as follows:

Step 1 Identify the transfer amount in relation to the non-member spouse.
Step 2 Identify a pension factor, nominated by an actuary for this rule, based on the non-member spouse’s age and gender.

*Note 1* Schedule 4 to the *Family Law (Superannuation) Regulations 2001* sets out general pension factors based on age and gender, but those factors are not specific to benefits payable under the Act.

*Note 2* The associate pension does not include a reversionary component and therefore ceases on the death of the non-member spouse.

Step 3 Divide the transfer amount by the pension factor.

The result is the annual rate of the associate pension.

100 Reduction of pension

For rule 95, the amount to which an annual rate of pension is to be reduced is calculated as follows:

Step 1 Identify the annual rate of pension that was payable to the member spouse immediately before the operative time.

Step 2 Calculate a reduction factor using the formula

\[
\frac{\text{scheme value} - \text{transfer amount}}{\text{scheme value}}
\]

Step 3 Multiply the amount identified in step 1 by the reduction factor.

The result is the annual rate of pension payable after the operative time in respect of the member spouse’s interest.

[32] **Rules, Schedule 1, Part 1, after definition of allocation**

*insert*

- *associate* has the meaning given in subsection 46 (1A) of the Act.

*Note* Under subsection 46 (1A) of the Act an associate is a person to whom an associate benefit is payable. Associate benefit includes an associate A benefit, an associate B benefit and an associate pension.

- *associate A benefit* has the meaning given by subrule 85 (1).
- *associate B benefit* has the meaning given by subrule 86 (1).
- *associate pension* means a pension that is paid under rule 95.

[33] **Rules, Schedule 1, definition of eligible child**

*omit*

- a member or a former member,

*insert*

- an associate, a member or a former member,
[34] Rules, Schedule 1, Part 1, after definition of SIS preservation threshold amount

insert

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

[35] Rules, Schedule 1, Part 1A, subparagraph 1B (c)

omit

subparagraph

insert

sub-subparagraph

[36] Rules, Schedule 2, subparagraphs 5 (a) and (b)

omit

subparagraph 4 (4)

insert

subrule 4 (4)

[37] Rules, Schedule 2, paragraph 5

omit

paragraph (a)

insert

subparagraph (a)

[38] Rules, Schedule 2, subparagraphs 6 (a) and (b)

omit

subparagraph 4 (4)

insert

subrule 4 (4)

[39] Rules, Schedule 2, paragraph 6

omit

paragraph (a)

insert

subparagraph (a)
[40] **Rules, Schedule 3, subparagraph 1 (a)**

*omit*

$25,000 — $200,000;

*insert*

$25 000 — 8 times $25 000;

[41] **Rules, Schedule 3, subparagraph 3 (a)**

*omit*

$25,000 — $250,000;

*insert*

10 times $25 000;

[42] **Rules, Schedule 3, after paragraph 4**

*insert*

5. If a member’s benefits have been subject to a family law superannuation payment split under Part 13, the maximum benefit limit in relation to the member is calculated as if there were no benefit reduction under that Part.

6. This Schedule does not apply to associate A benefit or associate B benefit held for the member.

[43] **Rules, Schedule 3, further amendments**

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<td>Paragraph 4, definition of <em>pension maximum benefit multiple</em></td>
<td>person</td>
<td>member</td>
</tr>
<tr>
<td>Provision</td>
<td>omit each mention of</td>
<td>insert</td>
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<td>-----------</td>
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</tr>
<tr>
<td>Paragraph 4, definition of <em>pension maximum benefit multiple</em></td>
<td>person’s</td>
<td>member’s</td>
</tr>
</tbody>
</table>

[44] **Rules, Schedule 5, paragraph 2**

*omit each mention of*

subparagraph

*insert*

paragraph

[45] **Rules, Schedule 8, Part 5, after paragraph 13**

*insert*

13A. If an MBL member’s benefits have been subject to a family law superannuation payment split under Part 13, the employer benefit will be reduced, at the time of the payment split, in accordance with that Part.

*Note* The maximum benefit limit in relation to the member is calculated as if there were no benefit reduction under Part 13.

[46] **Rules, Schedule 11, paragraph 1**

*omit each mention of*

subparagraph 1 (b) (i)

*insert*

sub-subparagraph 1 (b) (i)

[47] **Rules, Schedule 12, after paragraph 4**

*insert*

*Note* A surcharge deduction amount is not subject to a family law superannuation payment split under Part 13.
Schedule 2 Amendment taken to have commenced on 12 November 2003

(section 3)

[1] Rules, Schedule 12, paragraph 3

substitute

3. The amount determined by the Board for subparagraph 1 (a) may not be more than the total of the following amounts:

(a) 15% of the employer-financed component of any part of the benefits payable to the member that accrued between 20 August 1996 and 1 July 2003;

(b) 14.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2003–2004 financial year;

(c) 13.5% of the employer-financed component of any part of the benefits payable to the member that accrued in the 2004–2005 financial year;

(d) 12.5% of the employer-financed component of any part of the benefits payable to the member that accrued after 30 June 2005.