EXPLANATORY STATEMENT

INSTRUMENT NO 2 OF 1992

ISSUED BY THE AUTHORITY OF THE MINISTER FOR DEFENCE SCIENCE AND PERSONNEL

MILITARY SUPERANNUATION AND BENEFITS TRUST DEED (AMENDMENT)

The Schedule to the Trust Deed made by the Minister for Defence Science and Personnel under section 5 of the Military Superannuation and Benefits Act 1991 ("the MSB Act") contains Rules ("the MSB Rules") which deal with:

a. the contributions to be made by members of the Defence Force who are members of the Military Superannuation and Benefits Scheme ("the MSB scheme") established by the Trust Deed in accordance with section 4 of the MSB Act; and

b. the benefits to be provided to members of the MSB scheme upon retirement or to dependants of deceased members of the scheme.

The Minister is empowered, by subsection 5(1) of the MSB Act, to amend the Trust Deed (including the MSB Rules), by an instrument which, by subsection 49(1) of the MSB Act, is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

Operation of the MSB scheme has revealed an unintended effect of the MSB Rules with regard to the counting of contributions under the Defence Force Retirement and Death Benefits scheme towards a person's member benefit under the MSB scheme. The purpose of this Instrument is to amend the MSB Rules accordingly.

1. Interpretation

This clause defines expressions used in the Instrument.

2. Amendment

This clause is formal.

3. Schedule I(GLOSSARY)

Schedule 9 to the MSB Rules describes how a person's member benefit is calculated.

The member benefit consists of several elements including, in the case of a transferred member, the person's transfer value and notional interest thereon or, in the case of a 1973 scheme (deferred benefit) re-entrant, the person's carry over value and notional interest.
thereon. The elements constituting transfer value and carry over value are listed in Schedules 10 and 10A, respectively, to the MSB Rules, and include in each case previous contributions made by the person when a member of the DFRDB scheme. The expression "previous contributions" is defined in Schedule 1 to the MSB Rules to exclude any contributions refunded to the member under the Defence Force Retirement and Death Benefits Act 1973 ("the 1973 Act").

Three other cases have been identified in which the counting towards transfer value or carry over value of contributions made during particular service provides a member with benefits in excess of those intended to apply.

This clause amends the definition to exclude the contributions in question. The three cases are:

* Para (b). In the case of a person who applied under the 1973 Act to "buy back" previous service, etc - any such service which the person had not paid for before 1 October 1991 (the first day on which a member of the DFRDB scheme could transfer to the MSB scheme).

* Para (c). In the case of a 1973 scheme retirement pensioner - contributions made towards the 1973 scheme pension.

* Para (d). In the case of a person who, on transfer to public employment from the DFRDB or DFRB scheme, elected to have a transfer value paid to the public employment superannuation scheme - contributions relevant to the transfer value.

4. Application

This clause is a saving provision which excludes the operation of the amendments to a member who transferred before the date of commencement of the Instrument.