Military Superannuation and Benefits Amendment Trust Deed 2005 (No. 1)

I, DE-ANNE MARGARET KELLY, Minister for Veterans’ Affairs make this Trust Deed under subsection 5 (1) of the Military Superannuation and Benefits Act 1991.

Dated 7 July 2005

DE-ANNE KELLY
Minister for Veterans’ Affairs

1 Name of Trust Deed
This Trust Deed is the Military Superannuation and Benefits Amendment Trust Deed 2005 (No. 1).

2 Commencement
This Trust Deed commences on 1 August 2005.

3 Amendment of Military Superannuation and Benefits Trust Deed
Schedule 1 amends the Military Superannuation and Benefits Trust Deed made under the Military Superannuation and Benefits Act 1991.
Schedule 1 Amendments

(.section 3)

[1] Trust Deed, subclause 3 (3)

omit

Superannuation Industry (Supervision) Act 1993

insert

SIS Act

[2] Rules, subrule 7 (4)

omit

[3] Rules, subrule 10 (4), definition of prescribed arrangement, paragraph (b)

omit

Superannuation Industry (Supervision) Regulations 1994

insert

SIS Regulations


omit

The Board must allocate

insert

(1) The Board must allocate


insert

(2) Subject to rule 11R, a contribution to be allocated in accordance with this rule must be allocated as at the day that the contribution is received.
[6] Rules, subrule 11Q (2)

omit

[7] Rules, paragraph 11Q (5) (b)

omit

the Investment Divisions

insert

1 or more of the Investment Divisions

[8] Rules, subrule 11Q (6)

substitute

(6) Subject to rule 11R, a contribution to be allocated to an Investment Division in accordance with this rule must be allocated to the Investment Division as at the day that the contribution is received.

[9] Rules, subrule 11R (1)

omit

by members or the Department

[10] Rules, paragraphs 51 (1) (e) and (f)

omit

Superannuation Industry (Supervision) Regulations 1994

insert

SIS Regulations


insert

(2A) For paragraph (2) (b), ancillary benefit arising from a contribution taken to be made by a spouse under rule 110 is to be held for the spouse.
[12] Rules, Part 14

substitute

Part 14 Contributions to ancillary benefit

101 Definitions
In this Part:

approved deposit fund has the same meaning as in subsection 10 (1) of the SIS Act.

contribution means a contribution made, or taken to be made, under this Part.


Special Account has the same meaning as in section 4 of the Small Superannuation Accounts Act 1995.

102 Part 2 does not apply
Part 2 does not apply to contributions made under this Part.

103 Certain investment nominations to continue in operation

(1) An investment nomination in force under subrule 103 (2) (a former nomination) immediately before the commencement of this rule is to be taken:

(a) if made by a member — to have been made under subrule 11Q (1) and to continue in force until changed by the member under subrule 11Q (4); or

(b) if made by a DFRDB member — to have been made under rule 104 and to continue in force until changed by the member under that rule.

(2) However, subrule (1) does not apply to a former nomination by a member if:

(a) the member had also, before the commencement of this rule, made an investment nomination under subrule 11Q (1); and

(b) the investment nomination under subrule 11Q (1) had the same effect as the former nomination; and

(c) the investment nomination under subrule 11Q (1) was in force immediately before that commencement.
104 Investment nominations by DFRDB members and spouses

(1) This rule applies to:
   (a) a DFRDB member; and
   (b) a person taken to be making contributions under rule 110.

(2) A person may nominate to the Board the Investment Division or Investment Divisions to which contributions by the person should be allocated, from the day specified in the nomination.

(3) A person may change an investment nomination at any time.

105 Allocation of contributions

(1) This rule applies to:
   (a) a member; and
   (b) a DFRDB member; and
   (c) a person taken to be making contributions under rule 110.

(2) The Board must allocate contributions by a person to the Investment Division or Investment Divisions nominated by the person under their investment nomination and comply as far as possible with that nomination.

(3) If the Board:
   (a) has not received an investment nomination from a person; or
   (b) cannot comply with an investment nomination in relation to all or part of a person’s contribution because the nomination is defective or because 1 or more of the Investment Divisions have changed;

the Board must allocate the person’s contributions, or the part of the person’s contributions, to the default Investment Division.

(4) Subject to rule 11R, a contribution to be allocated to an Investment Division in accordance with this rule must be allocated to the Investment Division at the day that the contribution is received.

(5) A person’s contribution allocated under this rule becomes ancillary benefit for the person.

106 Government co-contribution and SG charge payments

(1) If the Board receives a Government co-contribution in respect of a member or a DFRDB member, the co-contribution is taken to be a contribution by the member or DFRDB member for rule 105.

(2) If the Board receives an amount payable to, or in respect of a member or a DFRDB member, under Part 8 of the *Superannuation Guarantee (Administration) Act 1992*, the amount is taken to be a contribution by the member or DFRDB member for rule 105.
107 **Amounts transferred from regulated superannuation funds, etc**

(1) A member or a DFRDB member may make a request in writing to the Board to transfer into the Scheme the whole or part of the member’s or DFRDB member’s benefit in:
   (a) another regulated superannuation fund; or
   (b) an RSA; or
   (c) an approved deposit fund; or
   (d) the Special Account.

*Note* This rule does not enable the transfer into the Scheme of a DFRDB member’s benefit in the 1973 Scheme, as the 1973 Scheme is not a regulated superannuation fund or an RSA.

(2) The Board:
   (a) must refuse to accept a transfer, if the transfer does not comply with the SIS Act; and
   (b) may refuse to accept a transfer, if the Board does not have sufficient information to accept the transfer.

(3) If the Board receives a request for transfer from:
   (a) a member or a DFRDB member; or
   (b) a regulated superannuation fund, an RSA, an approved deposit fund or the Special Account on behalf of a member or a DFRDB member;
   and the Board accepts the transfer, the transferred benefit is taken to be a contribution by the member or DFRDB member for rule 105.

108 **Salary sacrifice**

(1) A member or a DFRDB member may make a request in writing to the Department to deduct an amount from the member’s or DFRDB member’s pre-tax salary to be paid into the Scheme for the benefit of the member or DFRDB member.

(2) The Board may refuse to accept an amount on behalf of a member or a DFRDB member, if the Board does not have sufficient information to accept the amount.

(3) If the Department sends the Board an amount deducted under this rule and the Board accepts the amount, the amount is taken to be a contribution by the member or DFRDB member for rule 105.

109 **Additional personal contributions**

(1) A member may, in addition to any contributions made under Part 2, make 1 or more contributions into the Scheme for the benefit of the member by paying the contributions directly to the Board.
(2) A DFRDB member may, in addition to any contributions made under Part III of the 1973 Act, make 1 or more contributions into the Scheme for the benefit of the DFRDB member by paying the contributions directly to the Board.

(3) The Board may refuse to accept a contribution from a member or a DFRDB member, if the Board does not have sufficient information to accept the contribution.

110 Contributions for the benefit of the spouse of a member

(1) A member or a DFRDB member may make a request in writing to the Board to establish a superannuation interest for the spouse of the member or DFRDB member.

(2) A request must be accompanied by sufficient information to enable the Board to identify and contact the spouse.

(3) The member or DFRDB member may make contributions into the Scheme for the benefit of the spouse by paying the contributions directly to the Board.

(4) However, the Board may refuse to accept a contribution for the benefit of the spouse of a member or a DFRDB member, if the Board does not have sufficient information to accept the contribution.

(5) If a member or a DFRDB member makes a contribution under this rule and the Board accepts the contribution, the contribution is taken to be a contribution by the member’s spouse for rule 105.

Part 15 Transitional

111 Definitions

In this Part:

allocated contributions, in relation to a member or a DFRDB member, means the amount, or the total of all amounts, of Government co-contribution received by the Board in respect of the member or DFRDB member and allocated to the default Investment Division under subrule 103 (3) before the commencement of this rule.

relevant amount, in relation to the allocated contributions for a member or a DFRDB member, means the amount (if any) remaining in the default Investment Division for the member immediately before the commencement of this rule.
112 Transfer of certain amounts

(1) As soon as practicable after the commencement of this rule, the Board must, under subrule (7), transfer the relevant amount for a member if:

(a) at least part of the allocated contributions for the member remained in the default Investment Division immediately before the commencement; and

(b) the member had, before the commencement of this rule, made an investment nomination under subrule 11Q (1) or 103 (2); and

(c) the investment nomination was in force immediately before that commencement.

(2) As soon as practicable after the commencement of this rule, the Board must request a member to complete an investment nomination if:

(a) at least part of the allocated contributions of the member remained in the default Investment Division immediately before the commencement; and

(b) the member had, before the commencement of this rule, made an investment nomination under subrule 11Q (1) and an investment nomination under subrule 103 (2); and

(c) the investment nominations did not have the same effect; and

(d) the investment nominations were in force immediately before that commencement.

(3) A member requested to complete an investment nomination under subrule (2) must complete the investment nomination and submit it to the Board so that it is received by the Board within 5 working days.

(4) If the Board receives an investment nomination under subrule (3):

(a) the Board must, under subrule (7), transfer the relevant amount for the member in accordance with the member’s investment nomination; and

(b) the member’s investment nominations under subrules 11Q (1) and 103 (2) cease to have effect at the time the Board transfers the relevant amount.

(5) If the Board has not received an investment nomination from a member under subrule (3):

(a) the Board must, under subrule (7), transfer the relevant amount for the member in accordance with the member’s investment nomination under subrule 11Q (1); and

(b) the member’s investment nomination under subrule 103 (2) ceases to have effect at the time the Board transfers the relevant amount.

(6) As soon as practicable after the commencement of this rule, the Board must, under subrule (7), transfer the relevant amount for a DFRDB member if:

(a) at least part of the allocated contributions for the DFRDB member remained in the default Investment Division immediately before the commencement; and
(b) the DFRDB member had, before the commencement of this rule, made an investment nomination under subrule 103 (2) nominating an Investment Division or Investment Divisions; and
(c) the investment nomination was in force immediately before that commencement.

(7) The Board must transfer the relevant amount for the member or DFRDB member to the Investment Division or Investment Divisions nominated by the member or DFRDB member in the investment nomination and comply as far as possible with that nomination.

(8) However, this rule does not:
(a) affect the application of Division 5 of Part 2B in relation to the ancillary benefit of the member or DFRDB member; or
(b) prevent the member making a further investment nomination under subrule 11Q (1); or
(c) prevent the DFRDB member making a further investment nomination under subrule 104 (2).

(9) A transfer under subrule (7) is to be taken to have had effect on the commencement of this rule.

(10) If, but for this subrule, subrule (9) would operate, in whole or part, so that the amount held in an Investment Division in the name of the member or DFRDB member would be reduced by an amount (the loss) below the amount that would otherwise be the amount held in the Investment Division, the Fund must credit the Investment Division with the amount of the loss.

113 Allocation of Government co-contribution
If Government co-contribution received by the Board under subrule 103 (1) before the commencement of this rule had not been allocated before the commencement it must be allocated under subrule 105 as if received after the commencement.

114 Expiration and saving
(1) This Part ceases to have effect at the end of 31 January 2006.

(2) Despite subrule (1), a subrule 112 (3) investment nomination continues in force as if made under subrule 11Q (1).

(3) In subrule (2), subrule 112 (3) investment nomination means an investment nomination received under subrule 112 (3) that was in force immediately before this Part ceases to have effect.
[13] Rules, Schedule 1, Part 1, definition of *investment nomination*

substitute

*investment nomination* means a nomination under subrule 11Q (1) or
subrule 104 (2).

[14] Rules, Schedule 1, Part 1, definition of *preservation age*

omit

Superannuation Industry (Supervision) Regulations 1994

insert

SIS Regulations

[15] Rules, Schedule 1, Part 1, definition of *regulated superannuation fund*

omit

Superannuation Industry (Supervision) Act 1993

insert

SIS Act

[16] Rules, Schedule 1, Part 1, after definition of *retirement pensioner*

insert

RSA has the same meaning as in the Retirement Savings Accounts Act 1997.

[17] Rules, Schedule 1, Part 1, after definition of *service offence*

insert

SIS Act means the Superannuation Industry (Supervision) Act 1993

[18] Rules, Schedule 1, Part 1, definition of *SIS preservation threshold amount*

omit

Superannuation Industry (Supervision) Regulations 1994

insert

SIS Regulations
[19] **Rules, Schedule 1, Part 1, after definition of specialist operations allowance**

*insert*

**spouse:**

(a) in relation to someone who survives a deceased person — has the meaning given by Part 5 of this Schedule; and

(b) in any other case (except Part 13) — means a person who has a marital relationship within the meaning of Part 1A of this Schedule.

[20] **Rules, Schedule 1, Part 1A, paragraph 1A**

*substitute*

1A. A person has a marital relationship with another person (the *other*) at a particular time if the person ordinarily lives with the other as the other’s husband or wife on a permanent and bona fide domestic basis at the time.

[21] **Rules, Schedule 1, Part 5, paragraph 9**

*omit*

For the purposes of these Rules, a person

*insert*

A person