The Schedule to the Trust Deed made by the Minister for Veterans’ Affairs and the Minister Assisting the Minister for Defence under section 5 of the Military Superannuation and Benefits Act 1991 (‘the MSB Act’) contains Rules (‘the MSB Rules’) which deal with the benefits to be provided to members of the MSB Scheme upon retirement, or to dependants of deceased members of the scheme. The benefits payable are a member benefit based on member contributions and accrued MSB Fund earnings, and an employer benefit which includes employer contributions.

The Minister is empowered, by section 5 of the MSB Act, to amend the Trust Deed (including the MSB Rules), by a legislative instrument which is not subject to disallowance for the purposes of section 44 (2) of the Legislative Instruments Act 2003.

Part 2 of the MSB Rules is amended to remove an anomaly arising from the current wording which is in the present tense, and which focuses attention on the notification of a member reaching their pension Maximum Benefit Limit (MBL) or their lump sum MBL. From the current wording, it is possible that Commonwealth Superannuation Administration (ComSuper) could determine a person has reached their MBL but by the time the person has been notified, they are no longer at their MBL.

Schedule 3 of the MSB Rules is amended to correct a drafting error.

Formulae in Schedule 8 of the MSB Rules are amended to update the formulae using current styles and to correct a drafting error.

The Military Superannuation and Benefits Amendment Trust Deed 2007 (No. 1) will commence on the day after its registration.

Consultation has taken place between the Military Superannuation and Benefits Board, ComSuper (the administrator of the MSB Scheme), the Office of Legislative Drafting, the Australian Government Actuary and Defence Military Superannuation Officers.

Clause 1 – Name of Trust Deed

This clause is formal.

Clause 2 – Commencement

This clause provides for commencement to be taken on the day after the Trust Deed is registered.

Clause 3 – Amendment of Military Superannuation and Benefits Trust Deed
This clause is formal.

Schedule 1 – Amendments

This schedule amends the Military Superannuation and Benefits Trust Deed (incorporating the MSB Rules) made under the Military Superannuation and Benefits Act 1991 to ensure that a member is not entitled to pay contributions once they have been notified that, at some time in the past, their benefit equalled or exceeded their Pension Maximum Benefit Limit. The amendment to the schedule also ensures that the member may elect to cease paying contributions once they have been notified that, at some time in the past, their benefit equalled or exceeded their Lump Sum Maximum Benefit Limit. The schedule also corrects two drafting errors and updates formulae using current styles.

Item 1 - Rules, subrule 5 (1)

This item alters the tense in subrule 5 (1) to ensure that notification that the benefit has at some point in the past reached or exceeded the Pension Maximum Benefit Limit is sufficient to preclude any further contributions.

Item 2 - Rules, subrule 5 (2)

This item alters the tense in subrule 5 (2) to ensure that, after a member is notified that the benefit has at some point in the past reached or exceeded the Lump Sum Maximum Benefit Limit, the member may elect to cease paying contributions.

Item 3 - Rules, Schedule 3, subparagraph 3 (a)

This item omits the term “in the case of a member whose salary is less than 10 times $25 000; or” and substitutes the term “in case of a member whose salary is less than $25 000 – 10 times $25 000; or” to correct a drafting error.

Item 4 – Rules, Schedule 8, Part 1, paragraph 2

This item updates the formula using current styles and removes the comma after the formula.

Item 5 – Rules, Schedule 8, Part 3, paragraph 7

This item updates the formula using current styles and removes the comma after the formula.

Item 6 – Rules, Schedule 8, Part 5, paragraph 12

This item updates the formula using current styles and corrects a minor drafting error.

Item 7 – Rules, Schedule 8, Part 5, paragraph 13

This item updates the formula using current styles and corrects a minor drafting error.