



## **Military Superannuation and Benefits Amendment Trust Deed 1999 (No. 1)**

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I, BRUCE SCOTT, Minister for Veterans' Affairs and Minister Assisting the Minister for Defence, make this instrument under subsection 5 (1) of the *Military Superannuation and Benefits Act 1991*.

Dated 1 June 1999.

BRUCE SCOTT  
Minister for Veterans' Affairs  
and Minister Assisting the Minister for Defence

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# Military Superannuation and Benefits Amendment Trust Deed 1999 (No. 1)<sup>1</sup>

made under the

*Military Superannuation and Benefits Act 1991*

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**1 Name of instrument**

This instrument is the *Military Superannuation and Benefits Amendment Trust Deed 1999 (No. 1)*.

**2 Commencement**

This instrument commences on gazettal.

**3 Amendment of Trust Deed made under the *Military Superannuation and Benefits Act 1991***

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]      Rules, subrule 12 (2)**

*omit*

In

*insert*

Subject to Part 10, in

**[2]      Rules, paragraphs 13 (1) (a) and 13 (2) (d)**

*omit*

his or her

*insert*

subject to Part 10, his or her

**[3]      Rules, paragraph 13 (4) (b)**

*omit*

subrule (4A),

*insert*

Part 10,

**[4]      Rules, subrule 13 (4A)**

*omit*

**[5]      Rules, paragraph 14 (1) (c)**

*omit*

his or her

*insert*

subject to Part 10, his or her

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**[6] Rules, paragraph 14 (1) (d)**

*omit*  
subrule (6),  
*insert*  
Part 10,

**[7] Rules, paragraphs 14 (3) (b) and (c)**

*omit*  
subrule (6),  
*insert*  
Part 10,

**[8] Rules, subrule 14 (6)**

*omit*

**[9] Rules, paragraph 27 (1) (a)**

*omit*  
his or her  
*insert*  
subject to Part 10, his or her

**[10] Rules, paragraph 27 (1) (b)**

*omit*  
subrule (4),  
*insert*  
Part 10,

**[11] Rules, subrule 27 (4)**

*omit*

**[12] Rules, paragraph 28 (1) (a)**

*omit*  
his or her  
*insert*  
subject to Part 10, his or her

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**[13] Rules, paragraph 28 (1) (b)**

*omit*  
subrule (4),  
*insert*  
Part 10,

**[14] Rules, subrule 28 (4)**

*omit*

**[15] Rules, rule 39**

*omit*  
A deceased member's member benefit  
*insert*  
Subject to Part 10, a deceased member's member benefit

**[16] Rules, subrule 40 (1)**

*omit*  
subrule (4A),  
*insert*  
Part 10,

**[17] Rules, subrule 40 (4A)**

*omit*

**[18] Rules, subrule 49 (1)**

*omit*  
subrule (2),  
*insert*  
subrule (2) and Part 10,

**[19] Rules, subrule 51 (1)**

*omit*  
Where  
*insert*  
Subject to Part 10, if

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**[20] Rules, subrule 51 (1B)**

*substitute*

- (1B) If only part of a benefit payable under subrule (1) is payable because of subrule (1A), 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.

**[21] Rules, subrule 52 (1)**

*omit*

(2), (3) and (3A),

*insert*

(2) and (3) and Part 10,

**[22] Rules, subrule 52 (3A)**

*omit*

**[23] Rules, subrules 53 (1) and (2)**

*omit*

subrule (3),

*insert*

Part 10,

**[24] Rules, subrule 53 (3)**

*omit*

**[25] Rules, subrule 54 (2)**

*omit*

subrule (4A),

*insert*

Part 10,

**[26]      Rules, subrule 54 (3)**

*omit*

Where

*insert*

Subject to Part 10, if

**[27]      Rules, subrule 54 (4)**

*omit*

subrule (4A),

*insert*

Part 10,

**[28]      Rules, subrule 54 (4A)**

*omit*

**[29]      Rules, after subrule 64 (2)**

*insert*

- (2A) If a person is allowed to make an election under Part 10, he or she may make the election in the same way as an election mentioned in subrule (2).



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**[30] Rules, after rule 79**

*insert*

**Part 10 Surcharge deduction amount**

**80 Deduction of surcharge deduction amount**

- (1) If a member's surcharge debt account is in debit when a benefit under these Rules becomes payable to or in respect of the member, the member may, by notice in writing to the Board, elect to discharge the debt in 1 or more of the following ways:
  - (a) by deduction from the member's employer benefit before it is paid to the member as a lump sum, or before it is converted into a pension;
  - (b) by deduction from the member's member benefit before it is paid to the member as a lump sum;
  - (c) by deduction from the pension payable to the member after conversion of the member's employer benefit.
- (2) If the member does not make an election in accordance with subrule (1), the debt must be discharged in the following ways:
  - (a) if these Rules provide that the member is to receive the employer benefit in the form of a pension — by deduction from the member's employer benefit after it is converted into a pension;
  - (b) if these Rules provide that the member may elect to receive their employer benefit either as a lump sum payment or converted into a pension and the member elects to convert the whole or any part of the benefit to a pension — by deduction from the member's employer benefit after it is converted into a pension;
  - (c) in any other case — by deduction from the member's employer benefit before it is paid as a lump sum.

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**81 Deduction of surcharge deduction amount where member deceased**

- (1) If a deceased member's surcharge debt account is in debit, a person entitled under these Rules to be paid the deceased member's employer benefit or member benefit (*the claimant*) may, by notice in writing to the Board, elect to have the debt discharged in 1 or more of the following ways:
  - (a) by deduction from the deceased member's employer benefit before it is paid to the claimant as a lump sum, or converted into a pension;
  - (b) by deduction from the deceased member's member benefit before it is paid to the claimant as a lump sum;
  - (c) by deduction from the pension payable to the claimant after conversion of the deceased member's employer benefit.
- (2) If the claimant does not make an election in accordance with subrule (1), the debt must be discharged in the following ways:
  - (a) if these Rules provide that the claimant is to receive the deceased member's employer benefit in the form of a pension — by deduction from the deceased member's employer benefit after it is converted into a pension;
  - (b) if these Rules provide that the claimant may elect to receive the deceased member's employer benefit either as a lump sum payment or converted into a pension and the claimant elects to convert the whole or any part of the benefit to a pension — by deduction from the deceased member's employer benefit after it is converted into a pension;
  - (c) in any other case — by deduction from the deceased member's employer benefit before it is paid as a lump sum.

**[31] Rules, Schedule 12, item 1***substitute*

1. If a member's surcharge debt account, or a deceased member's surcharge debt account, is in debit when benefits become payable to or in respect of the member, the Board must determine, in writing:
  - (a) the surcharge deduction amount that, in its opinion, it would be fair and reasonable to take into account in working out the amount of the benefits; and
  - (b) if the benefits have been converted into a pension — the conversion factor for working out the yearly amount that would have to be paid to discharge a liability equal to the surcharge deduction amount.

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**[32] Rules, Schedule 12, item 3**

*after*

determined by the Board

*insert*

for paragraph 1 (a)

**[33] Rules, Schedule 12, after item 3**

*insert*

4. In making a determination for paragraph 1 (b), the Board must also have regard to:

- (a) written advice about the conversion factor, prepared by an actuary; and
- (b) the person's age when the benefit becomes payable to the person.

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**Note**

1. Made by the Minister for Veterans' Affairs on 1999.