

EXPLANATORY STATEMENT

Issued by the authority of the Minister for Veterans' Affairs and Minister for Defence
Personnel

Military Superannuation and Benefits Trust Deed

Military Superannuation and Benefits Amendment (Trust Deed) Instrument 2022

This Instrument amends the *Military Superannuation and Benefits Trust Deed* (the Trust Deed) as made under the *Military Superannuation and Benefits Act 1991* (the Act) to enable the Commonwealth Superannuation Corporation (CSC) to administer the First Home Super Saver Scheme (and other 2017/18 Federal Budget related matters).

Details of the Instrument are set out in the Attachment A.

The Statement of Compatibility with Human Rights is at Attachment B.

Section 5 of the Act specifies that CSC must consent to the amendments to the Trust Deed or if the amendments relate to certain matters. CSC has confirmed their consent to the amendments in a letter to the Minister for Veterans' Affairs and Minister for Defence Personnel on 11 February 2020.

This Instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

Commencement

The instrument would commence the day after registration.

Regulatory Impact Statement

The Office of Best Practice Regulation advised that no regulatory impact statement was required (OBPR ID 24745).

Consultation

CSC consented to the amendments.

ATTACHMENT A

Details of the *Military Superannuation and Benefits Amendment (Trust Deed) Instrument 2022*

Section 1 sets out the name of the Instrument.

Section 2 of this Instrument provides the commencement date of each provision in the Instrument.

Section 3 provides that this Instrument has authority under the *Military Superannuation and Benefits Act 1991*.

Section 4 provides that each instrument that is specified in a Schedule to this Instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Instrument has effect according to its terms.

Schedule 1 – Amendments to the Military Superannuation and Benefits Trust Deed – Amendments relating to release authorities

Item 1 amends the heading of Part 10A of the Rules. The amendment provides that Part 10A allows CSC to action all relevant release authorities (such as, but not limited to, those issued as part of the First Home Super Saver Scheme) rather than only those that relate to Division 293 of the *Income Tax Assessment Act 1997* (very high income individuals).

Item 2 repeals and substitutes the heading for Rule 81A. The new heading has been changed to include the wording ‘debt account discharge liability’.

Item 3 repeals and substitutes Rule 81B. The new Rule provides that CSC may action a release authority issued under the *Tax Administration Act 1953*. The new Rule also sets out how the benefit should be reduced when the member is a contributing member of the scheme, or if the member is a DFRDB member with an ancillary benefit.

This section inserts a new Rule 81C. The new Rule provides that CSC may action a release authority issued under the *Tax Administration Act 1953*. The new Rule also provides how the benefit should be reduced if the member is a preserved member of the scheme.

This section inserts a new Rule 81D. The new Rule provides that CSC may action a release authority if issued in relation to a first home super saver determination. The new Rule also sets out how the benefit should be reduced, and what components of the benefit may be released.

Item 4 amends Item 1 of Schedule 1 to the Rules, which provides definitions for the Rules. The term ‘first home super saver determination’ has been inserted to the list of defined terms.

Consultation

Before this Instrument was made, consultation was undertaken internally with Defence Legal, the Directorate of Military Policy, the Directorate of Military Conditions and Housing Policy, Director General Navy People, Director General Personnel – Army and Director General Personnel – Air Force. External consultation was also undertaken with the Department of Finance and CSC.

The rule-maker was satisfied that further external consultation was not required

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Military Superannuation and Benefits Amendment (Trust Deed) Instrument 2022

The *Military Superannuation and Benefits Amendment (Trust Deed) Instrument 2021* (the Instrument) is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Instrument

The Instrument enables the Commonwealth Superannuation Corporation (CSC) to administer the First Home Super Saver Scheme (and other 2017/18 Federal Budget related matters).

Human rights implications

Right to the enjoyment of just and favourable conditions of work

The protection of a person's right to just and favourable working conditions engages Article 7 of the International Covenant on Economic, Social and Cultural Rights. Article 7 recognises the right to just and favourable conditions of work including remuneration which provide for fair wages, equal pay for equal work and a decent living for the person and their families.

Legitimate objective – The changes are beneficial to members, as they allow additional access to funds in accordance with Federal Budget related matters.

Conclusion

The Instrument is compatible with human rights because it promotes and advances the protection of human rights.