



Military Superannuation and Benefits Amendment (Trust Deed) Instrument 2022

I, Andrew Gee, Minister for Defence Personnel, make the following instrument.

Dated 30 March 2022

Andrew Gee
Minister for Defence Personnel

Contents

1 Name 1	
2 Commencement	1
3 Authority	1
4 Schedules	1
Schedule 1—Amendments	2
Amendments relating to release authorities	2
<i>Military Superannuation and Benefits Trust Deed</i>	2

1 Name

This instrument is the *Military Superannuation and Benefits Amendment (Trust Deed) Instrument 2022*.

2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under the *Military Superannuation and Benefits Act 1991*.

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Amendments relating to release authorities

Military Superannuation and Benefits Trust Deed

1 Part 10A of the Schedule (heading)

Repeal the heading, substitute:

Part 10A—Release authorities

2 Rule 81A (heading)

Repeal the heading, substitute:

81A Reduction of benefits—debt account discharge liability

3 Rule 81B

Repeal the rule, substitute:

81B Reduction of benefits—members and DFRDB members with an ancillary benefit

- (1) This rule applies in relation to a member or DFRDB member if:
 - (a) CSC receives a release authority issued under section 131-15 in Schedule 1 to the *Taxation Administration Act 1953* in relation to the member or DFRDB member; and
 - (b) the release authority was issued for a reason other than a first home super saver determination that is made in relation to the member or DFRDB member; and
 - (c) the member or DFRDB member has an ancillary benefit.
- (2) CSC must:
 - (a) if the amount stated in the release authority is less than the amount of the ancillary benefit—reduce the amount of the ancillary benefit by the amount stated in the release authority; or
 - (b) if the amount stated in the release authority is equal to, or more than, the amount of the ancillary benefit—reduce the amount of the ancillary benefit to nil.
- (3) The reduction of the ancillary benefit under subrule (2) must occur after the amount of the ancillary benefit is reduced by the following amounts:
 - (a) any surcharge deduction amount to be paid by the member or DFRDB member;
 - (b) any amount required to be transferred because of a payment split that applies in relation to the member or DFRDB member.
- (4) CSC must pay to the Commissioner of Taxation the amount by which the ancillary benefit is reduced under subrule (2).

- (5) The application of these Rules in relation to a member or DFRDB member, and in relation to a benefit, is taken to be modified to the extent (if any) necessary to ensure that this rule is given effect.

81C Reduction of benefits—preserved benefits

- (1) This rule applies in relation to a person if:
- (a) CSC receives a release authority issued under section 131-15 in Schedule 1 to the *Taxation Administration Act 1953* in relation to the person; and
 - (b) the release authority was issued for a reason other than a first home super saver determination that is made in relation to the person; and
 - (c) the person has a preserved benefit retained in the Scheme.
- (2) CSC must:
- (a) if the person has an ancillary benefit and the amount stated in the release authority is equal to, or less than, the amount of the person's ancillary benefit—reduce the person's ancillary benefit by the amount stated in the release authority; or
 - (b) if the person has an ancillary benefit and the amount stated in the release authority is more than the amount of the person's ancillary benefit—do both of the following:
 - (i) reduce the person's ancillary benefit to nil;
 - (ii) reduce (but not below nil) the person's member benefit by the difference between the amount stated in the release authority and the amount of the person's ancillary benefit before it was reduced under subparagraph (i); or
 - (c) if the person does not have an ancillary benefit and the amount stated in the release authority is less than the amount of the person's member benefit—reduce the person's member benefit by the amount stated in the release authority; or
 - (d) if the person does not have an ancillary benefit and the amount stated in the release authority is equal to, or more than, the amount of the person's member benefit—reduce the person's member benefit to nil.
- (3) CSC must pay to the Commissioner of Taxation the amount by which the ancillary benefit or member benefit is reduced under subrule (2).
- (4) The application of these Rules in relation to the person, and in relation to a benefit, is taken to be modified to the extent (if any) necessary to ensure that this rule is given effect.

81D Reduction of benefits—release authorities issued in relation to a first home super saver determination

- (1) This rule applies in relation to a person if:
- (a) CSC receives a release authority issued under section 131-15 in Schedule 1 to the *Taxation Administration Act 1953* in relation to the person; and
 - (b) the release authority was issued in relation to a first home super saver determination that is made in relation to the person.
- (2) CSC must reduce one or both of the following benefits by an amount not exceeding the amount stated in the release authority:

Schedule 1 Amendments

Amendments relating to release authorities

- (a) the person's ancillary benefit;
 - (b) the person's member benefit.
- (3) The reduction of the ancillary benefit under subrule (2) must occur after the amount of the ancillary benefit is reduced by the following amounts:
- (a) any surcharge deduction amount to be paid by the member or DFRDB member;
 - (b) any amount required to be transferred because of a payment split that applies in relation to the member or DFRDB member.
- (4) CSC must only release from the benefits mentioned in subrule (2) contributions to those benefits that are eligible to be released under section 138-35 in Schedule 1 to the *Taxation Administration Act 1953*.
- (5) CSC must pay to the Commissioner of Taxation the amount by which the ancillary benefit or member benefit is reduced under subrule (2).
- (6) The application of these Rules in relation to the person, and in relation to a benefit, is taken to be modified to the extent (if any) necessary to ensure that this rule is given effect.

4 Item 1 of Schedule 1 to the Schedule

Insert:

first home super saver determination has the meaning given by subsection 138-10(1) in Schedule 1 to the *Taxation Administration Act 1953*.