



# Superannuation Act 1990

No. 38 of 1990

## TABLE OF PROVISIONS

### PART 1—PRELIMINARY

Section

1. Short title
2. Commencement
3. Interpretation

### PART 2—THE TRUST DEED

4. Deed to establish Superannuation Scheme etc.
5. Amendment of Trust Deed

### PART 3—MEMBERS OF SUPERANNUATION SCHEME

6. Membership of Superannuation Scheme
7. Election by holder of statutory office to be member
8. Election by temporary employee to be member
9. Employees on probation
10. Members etc. of the Australian Federal Police
11. Director of company etc.
12. Cases where person taken not to have ceased to be member
13. Member not to be retired on grounds of invalidity without certificate from Board

### PART 4—CONTRIBUTIONS

14. Contributions of members to Superannuation Scheme etc. to be deducted from salary
15. Contributions to Superannuation Scheme etc. by employer

TABLE OF PROVISIONS—*continued*

Section

**PART 5—PAYMENTS RELATING TO BENEFITS**

- 16. Payments to and by Commonwealth in respect of benefits payable under Superannuation Scheme
- 17. Payments by Commonwealth to Board when invalidity pensioner again becomes member
- 18. Appropriation
- 19. Payment by approved authorities etc. to the Commonwealth in respect of benefits payable to members employed etc. by authorities

**PART 6—THE COMMONWEALTH SUPERANNUATION BOARD OF TRUSTEES No. 1**

- 20. Establishment
- 21. Incorporation etc.
- 22. Functions etc.
- 23. Membership of Board
- 24. Defective appointment not invalid etc.
- 25. Trustee Act of ACT to apply
- 26. Exemption from taxation
- 27. Application of Division 2 of Part XI of Audit Act
- 28. Annual report and financial statements

**PART 7—COMMISSIONER FOR SUPERANNUATION**

- 29. Functions of Commissioner
- 30. Other functions of Commissioner not to be prejudiced

**PART 8—THE TRUST**

- 31. Trust as investment manager of Fund
- 32. Powers of Trust
- 33. Duties of investment manager

**PART 9—MISCELLANEOUS**

- 34. Cost of administration of Act etc.
- 35. Certain authorities to pay part of costs of administration
- 36. Cost of medical examination on entry into Superannuation Scheme
- 37. Cost of medical examination etc. of member being considered for invalidity retirement
- 38. Pre-assessment payments
- 39. Recovery of unpaid contributions etc.
- 40. Payment of fees
- 41. Assignment of benefits
- 42. Member etc. bound by Rules
- 43. Indemnification of trustees etc.
- 44. Financial institution not liable in respect of certain payments out of account of deceased pensioner
- 45. Disallowable instruments
- 46. Tabling of statement of Government policy
- 47. Delegation by Minister
- 48. Regulations

**SCHEDULE**

**FORM OF TRUST DEED**



# Superannuation Act 1990

No. 38 of 1990

---

**An Act to make provision for and in relation to an occupational superannuation scheme for persons employed by the Commonwealth, and for certain other persons**

[Assented to 7 June 1990]

BE IT ENACTED by the Queen, and the Senate and the House of Representatives of the Commonwealth of Australia, as follows:

## PART 1—PRELIMINARY

### Short title

1. This Act may be cited as the *Superannuation Act 1990*.

### Commencement

2. (1) Subject to subsection (2), this Act commences on the day on which it receives the Royal Assent.

(2) Parts 3, 4 and 5, sections 35 to 42 (inclusive) and section 44 commence on 1 July 1990.

### **Interpretation**

3. In this Act, unless the contrary intention appears:

**“accumulated funded contributions”**, in relation to a person who has ceased to be a member, means the sum of:

- (a) the person’s accumulated member contributions (within the meaning of the Rules); and
- (b) the person’s accumulated funded employer contributions (within the meaning of the Rules);

**“approved authority”** means:

- (a) an authority or body that was, immediately before the commencement of the Superannuation Scheme, an approved authority for the purposes of the *Superannuation Act 1976* (other than any such authority or body declared, in writing, by the Minister not to be an approved authority for the purposes of this Act); and
- (b) an authority or body (not being an approved authority by virtue of paragraph (a)) that is declared, in writing, by the Minister to be an approved authority for the purposes of this Act and is:
  - (i) a body corporate incorporated for a public purpose by an Act or regulations made under an Act or by a law of a Territory; or
  - (ii) an authority or body, not being a body corporate, established for a public purpose by, or under, an Act or regulations made under an Act or by or under a law of a Territory; or
  - (iii) a company or other body corporate incorporated under an Act or a law of a State or Territory, being a company or body corporate in which the Commonwealth has a controlling interest; or
  - (iv) an authority or body (whether established by or under an Act or regulations made under an Act or by or under a law of a Territory or otherwise, and whether a body corporate or not) financed wholly or substantially, either directly or indirectly, by money provided by the Commonwealth; or
  - (v) a company or other body corporate incorporated under an Act or a law of a State or Territory, being a company or body corporate in which:
    - (A) an authority or body referred to in subparagraph (i), (ii), (iii) or (iv), has; or
    - (B) the Commonwealth and one, or more than one, such authority or body together have; or
    - (C) 2 or more such authorities or bodies together have; a controlling interest;

**“Board”** means the Commonwealth Superannuation Board of Trustees No. 1 established by section 20;

**“Chairperson”** means the Chairperson of the Board;

**“Commissioner”** means the person who for the time being:

(a) holds the office of; or

(b) is acting as;

Commissioner for Superannuation under Part II of the *Superannuation Act 1976*;

**“Fund”** means the fund established, and vested in the Board, by the Trust Deed;

**“permanent employee”** means:

(a) a person who is an officer for the purposes of the *Public Service Act 1922*; and

(b) any other person employed in a permanent capacity by the Commonwealth or by an approved authority;

**“Rules”** means the Rules for the administration of the Superannuation Scheme set out in the Schedule to the Trust Deed;

**“statutory office”** means:

(a) an office established by an Act, by regulations made under an Act or by a law of a Territory; or

(b) an office declared, in writing, by the Minister to be a statutory office for the purposes of this Act;

**“Superannuation Scheme”** means the superannuation scheme established by the Trust Deed;

**“temporary employee”** means:

(a) a person who is an employee for the purposes of the *Public Service Act 1922*; and

(b) any other person employed, otherwise than in a permanent capacity, by the Commonwealth or by an approved authority;

but does not include a person engaged or appointed for employment outside Australia only (other than such a person who is declared, in writing, by the Minister to be a person to whom this definition applies);

**“Trust”** means the Superannuation Fund Investment Trust established by section 28 of the *Superannuation Act 1976*;

**“Trust Deed”** means the deed referred to in section 4 and includes that deed as subsequently amended under section 5;

**“trustee”** means a person who holds office as a trustee of the Board and includes the Chairperson.

## **PART 2—THE TRUST DEED**

### **Deed to establish Superannuation Scheme etc.**

**4. (1)** Not later than 30 days after the commencement of this Act, the Minister must, for and on behalf of the Commonwealth, by deed:

(a) establish an occupational superannuation scheme for the benefit of:

- (i) persons employed by the Commonwealth and approved authorities; and
  - (ii) holders of statutory offices; and
  - (iii) other persons;
- who, on and after the commencement of Part 3, will be, under that Part, members of the scheme; and
- (b) establish, and vest in the Board, a fund for the purposes of the Superannuation Scheme; and
  - (c) set out the functions and powers of the Board.
- (2) The deed must be in the form set out in the Schedule.

#### **Amendment of Trust Deed**

5. (1) The Minister may, by signed instrument, amend the Trust Deed.

(2) Where compliance with a provision of the Trust Deed as amended under subsection (1) would have the effect that the Fund would cease:

- (a) to be a superannuation fund within the meaning of the *Occupational Superannuation Standards Act 1987*; or
- (b) to comply with any standard applicable to the operation of superannuation funds that has been prescribed for the purposes of subsection 7 (1) of that Act;

that provision is invalid.

### **PART 3—MEMBERS OF SUPERANNUATION SCHEME**

#### **Membership of Superannuation Scheme**

6. (1) Subject to subsection (2), each of the following persons is, by force of this section, a member of the Superannuation Scheme:

- (a) a permanent employee;
- (b) the Commissioner;
- (c) the holder of a statutory office who has made an election under section 7;
- (d) a temporary employee whose election under section 8 has effect;
- (e) the holder of a statutory office, or a temporary employee, who:
  - (i) immediately before being appointed to that office or being employed in his or her present employment was an invalidity pensioner within the meaning of the Rules; and
  - (ii) has been declared, in writing, by the Board to be sufficiently restored to health to perform the duties of that office or to engage in that employment;
- (f) the holder of a statutory office, or a temporary employee, who immediately before:

*Superannuation No. 38, 1990*

- (i) being appointed to that office; or
  - (ii) being employed in his or her present employment;
- was a person to whom a preserved benefit was applicable under the Rules;
- (g) the holder of a statutory office, or a temporary employee, who, immediately before:
    - (i) being appointed to that office; or
    - (ii) being employed in his or her present employment;was a member under another paragraph of this subsection or a previous application of this paragraph;
  - (h) a person to whom Division 2 or 3 of Part IV of the *Public Service Act 1922* applies;
  - (j) a person declared, in writing, by the Minister to be a person to whom this section applies.

(2) In spite of subsection (1), a person is not a member of the Superannuation Scheme if the person:

- (a) is an eligible employee for the purposes of the *Superannuation Act 1976*; or
- (b) is a person to whom the *Judges' Pensions Act 1968* applies; or
- (c) is declared, in writing, by the Minister to be a person to whom this section does not apply.

**Election by holder of statutory office to be member**

7. The holder of a statutory office (other than the holder of such an office referred to in paragraph 6 (1) (e), (f) or (g)) may elect, by writing in a form approved by the Board, to become a member of the Superannuation Scheme.

**Election by temporary employee to be member**

8. (1) A temporary employee (other than a temporary employee referred to in paragraph 6 (1) (e), (f) or (g)) may elect, by writing in a form approved by the Board, to become a member of the Superannuation Scheme.

(2) If a temporary employee who makes an election:

- (a) is employed under a contract for a term of not less than 3 months; or
- (b) has, during the period of 2 years immediately before the election, been a temporary employee, a permanent employee or the holder of a statutory office for a period that is not less, or for periods that together are not less, than 3 months; or
- (c) has a transfer value from another superannuation scheme (other than the scheme established under the *Superannuation Act 1976*) that the temporary employee intends to pay into the Fund;

the election has effect from and including the day on which it is made.

(3) If subsection (2) does not apply in relation to the temporary employee, the election has effect immediately after the end of the day on which the temporary employee has completed:

- (a) if paragraph (b) does not apply—a period of employment of 3 months; or
- (b) if during any period or periods within 2 years before the commencement of his or her present employment, the temporary employee was a permanent employee, a temporary employee or the holder of a statutory office—a period of employment that together with the first-mentioned period or periods is equal to 3 months.

#### **Employees on probation**

9. A person who is or becomes employed by the Commonwealth or by an approved authority is not taken, for the purposes of this Act, to be employed otherwise than in a permanent capacity only because the employment was or is on probation and has not been confirmed.

#### **Members etc. of the Australian Federal Police**

10. For the purposes of this Act, a member, or staff member, of the Australian Federal Police (other than the Commissioner of Police or a Deputy Commissioner of Police) is taken to be employed by the Commonwealth.

#### **Director of company etc.**

11. Where a person is a director of a company or other body corporate incorporated under a law of the Commonwealth or of a State or Territory (being a company or other body that is an approved authority) the Minister may determine, in writing, that the person is, for the purposes of this Act, a person employed by the company or other body.

#### **Cases where person taken not to have ceased to be member**

12. Where a person ceases to be a member and, immediately after so ceasing, again becomes a member, the person is taken, for the purposes of this Act, not to have ceased to be a member.

#### **Member not to be retired on grounds of invalidity without certificate from Board**

13. (1) In spite of anything contained in any Act, award, determination or contract of employment, a member who is under the age of 60 is not capable of being retired from the employment or office by virtue of which he or she is a member on the ground that, because of any mental or physical condition, the member is unable to perform his or her duties, unless the Board has certified in writing that, if the member is so retired, the member will be entitled to receive invalidity benefits under the Superannuation Scheme.



(2) In subsection (1), a reference to a member being retired from employment or office includes a reference to the services of the member being otherwise terminated.

#### **PART 4—CONTRIBUTIONS**

##### **Contributions of members to Superannuation Scheme etc. to be deducted from salary**

14. (1) Any contribution payable by a member under the Rules may be deducted from the member's salary and paid to the Board.

(2) Where additional death and invalidity cover is applicable to the member under the Rules, the amount of any payment that the member is required to make under the Rules in respect of any premium payable in respect of the member for the purposes of the cover may be deducted from the member's salary and paid to the Board.

##### **Contributions to Superannuation Scheme etc. by employer**

15. (1) In this section:

**“Department”** means:

- (a) a Department of State; or
- (b) a Department of the Parliament; or
- (c) a branch or part of the Australian Public Service in relation to which a person has, under an Act, the powers of, or exercisable by, the Secretary of a Department of the Australian Public Service;

**“designated employer”**, in relation to a member, means:

- (a) where the member is a permanent employee, or temporary employee, of the Commonwealth:
  - (i) if the remuneration in respect of his or her employment is paid wholly or principally out of money appropriated under an annual appropriation Act—the Department in respect of which the money is appropriated; or
  - (ii) if the remuneration in respect of his or her employment is paid wholly or principally out of money appropriated under an Act other than an annual appropriation Act—such Department as is determined by the Minister in writing; or
- (b) where the member is the holder of a statutory office:
  - (i) if the remuneration in respect of that office is paid by an approved authority—that authority; or
  - (ii) if subparagraph (i) does not apply—such Department as is determined by the Minister in writing; or
- (c) in any other case—the authority or body by which the member is employed.

(2) The designated employer of a member must pay to the Board, in accordance with the Rules, all contributions that under the Rules are payable by the employer of the member in respect of the member.

(3) Where additional death and invalidity cover is applicable to a member under the Rules, the designated employer of the member is liable for any payment that, under the Rules, the employer of the member is required to make to the Board in respect of any premium payable in respect of the member for the purposes of the cover.

(4) Where any amount payable by the designated employer of a member under subsection (2) or (3) remains unpaid after the day on which payment was due, the designated employer is liable to pay to the Board interest on any such amount that remains unpaid at such rate as the Board determines from time to time.

(5) An authority that is required to make a payment under subsection (2), (3) or (4) may apply for that purpose any money under its control.

## **PART 5—PAYMENTS RELATING TO BENEFITS**

### **Payments to and by Commonwealth in respect of benefits payable under Superannuation Scheme**

16. (1) Subject to subsection (2), where benefits (other than a preserved benefit) become payable under the Rules to, or in respect of, a person who has ceased to be a member:

- (a) the Board must pay to the Commonwealth out of the Fund an amount equal to the person's accumulated funded contributions; and
- (b) the Commonwealth must pay to the Board:
  - (i) an amount equal to any lump sum benefit that is payable to, or in respect of, the person under the Rules; and
  - (ii) if a pension is payable to the person, or to a spouse or child of the person, under the Rules—an amount equal to each instalment of that pension that is payable under the Rules.

(2) Where the only benefit that is payable under the Rules to, or in respect of, a person who has ceased to be a member is a lump sum benefit that does not exceed the person's accumulated funded contributions, subsection (1) does not apply in relation to the member.

(3) Where partial invalidity pension is payable to a person who is a member:

- (a) the Commonwealth must pay to the Board an amount equal to each instalment of partial invalidity pension payable under the Rules to the person; and

- (b) if, immediately before partial invalidity became payable to the person, the person was an invalidity pensioner—the Commonwealth must also pay to the Board:
  - (i) where, on the person's becoming an invalidity pensioner, a pension only became payable to him or her—an amount equal to the person's accumulated funded contributions at the time when he or she became an invalidity pensioner; or
  - (ii) where, on the person's becoming an invalidity pensioner, the person was entitled to receive a lump sum benefit and a pension—an amount equal to the difference between:
    - (A) the person's accumulated funded contributions at the time when he or she became an invalidity pensioner; and
    - (B) the amount of the lump sum benefit.
- (4) Subject to subsection (5), where a preserved benefit applicable to a person is payable under the Rules:
  - (a) the Board must pay to the Commonwealth an amount equal to the balance of the person's accumulated funded contributions remaining in the Fund; and
  - (b) the Commonwealth must pay to the Board:
    - (i) an amount equal to so much of the preserved benefit as is payable in a lump sum to, or in respect of, the person; and
    - (ii) if any part of the preserved benefit has been converted into a pension—an amount equal to each instalment of that pension that is payable under the Rules.
- (5) Where the preserved benefit payable to or in respect of a person under the Rules consists only of a lump sum benefit that does not exceed the balance of the person's accumulated funded contributions remaining in the Fund, subsection (4) does not apply in relation to the person.
- (6) The Board must pay into the Fund any amount paid to it under paragraph (1) (b), subsection (3) or paragraph (4) (b).

**Payments by Commonwealth to Board when invalidity pensioner again becomes member**

17. Where a person who, before reaching the age of 60, ceased to be a member on the grounds of invalidity again becomes a member, the Commonwealth must pay to the Board:

- (a) if, on retirement on the grounds of invalidity, a pension only became payable to the person—an amount equal to the person's accumulated funded contributions at the time when he or she became an invalidity pensioner; or

*Superannuation No. 38, 1990*

(b) if, on retirement on the grounds of invalidity, the person was entitled to receive a lump sum benefit and a pension—an amount equal to the difference between:

(i) the person's accumulated funded contributions at the time when he or she became an invalidity pensioner; and

(ii) the amount of the lump sum benefit;

and the Board must pay that amount into the Fund.

**Appropriation**

18. Any payment by the Commonwealth under section 16 or 17 is to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

**Payment by approved authorities etc. to the Commonwealth in respect of benefits payable to members employed etc. by authorities**

19. (1) This section applies to:

(a) an approved authority; and

(b) any other authority or body:

(i) whose staff consists of persons appointed or employed under the *Public Service Act 1922*; and

(ii) that has been declared, in writing, by the Minister to be an authority or body to which this section applies.

(2) If the Minister so determines, an authority or body to which this section applies must make payments to the Commonwealth in respect of any person who:

(a) is, or was at any time:

(i) in the case of an approved authority—employed by that authority; or

(ii) in the case of an authority or body referred to in paragraph (1) (b)—a member of the staff of the authority or body; and

(b) is a member, or was a member during the period when the person was employed by, or was a member of the staff of, the authority or body.

(3) Payments that an authority or body is required to make in respect of a person under subsection (2) are to be made:

(a) at such times as the Minister determines; and

(b) in such amounts, or at such rates, as the Minister determines, having regard to the benefits that are or may become payable, or have been paid, to or in respect of the person under the Rules.

(4) An authority or body that is required to make a payment under subsection (2) may apply for that purpose any money under its control.

*Superannuation No. 38, 1990*

(5) For the purposes of this section, the holder of a statutory office whose remuneration is paid by an authority or body is taken to be employed by that authority or body.

**PART 6—THE COMMONWEALTH SUPERANNUATION BOARD  
OF TRUSTEES No. 1**

**Establishment**

20. There is established by this section a board called the Commonwealth Superannuation Board of Trustees No. 1.

**Incorporation etc.**

21. (1) The Board:

- (a) is a body corporate with perpetual succession; and
- (b) has a common seal; and
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

(2) The common seal of the Board is to be kept in such custody as the Board directs and is to be used only as authorised by the Board.

(3) All courts, judges and persons acting judicially must take judicial notice of the common seal of the Board and must presume that it was duly affixed.

**Functions etc.**

22. (1) The functions and powers of the Board are those set out in the Trust Deed.

(2) The Board is also responsible for the general administration of this Act.

**Membership of Board**

23. (1) The Board is to consist of:

- (a) a Chairperson; and
- (b) 4 other trustees;

appointed on a part-time basis.

(2) The trustees are appointed, and hold office, as provided in the Trust Deed.

**Defective appointment not invalid etc.**

24. (1) The appointment of a person:

- (a) as Chairperson or trustee; or
- (b) to act as Chairperson or trustee;

is not invalid because of a defect or irregularity in connection with the appointment.

(2) Anything done by or in relation to a person purporting to act as Chairperson or trustee is not invalid on the ground that:

- (a) the occasion for the person's appointment had not arisen; or
- (b) the occasion for the person to act had not arisen or had ceased;  
or
- (c) the person's appointment had ceased to have effect.

**Trustee Act of ACT to apply**

25. Except in so far as it is inconsistent with a law of the Commonwealth, the *Trustee Act 1957* of the Australian Capital Territory applies to and in relation to the trustees acting in the performance of their functions, or the exercise of their powers, under the Trust Deed.

**Exemption from taxation**

26. (1) Subject to this section, the Board and the Fund are not liable to taxation under:

- (a) a law of the Commonwealth other than the *Income Tax Assessment Act 1936*; or
- (b) a law of a State or Territory to which the Commonwealth is not subject.

(2) Income derived from the investment of moneys standing to the credit of the Fund, or otherwise from the management of the Fund by the Board, is not liable to taxation under any law of a State or Territory.

(3) The regulations may provide that subsection (1) does not apply in relation to taxation under a specified law.

**Application of Division 2 of Part XI of Audit Act**

27. In its application in relation to the Board by virtue of section 63CA of the *Audit Act 1901*, Division 2 of Part XI of that Act has effect as if sections 63E and 63H are omitted.

**Annual report and financial statements**

28. (1) The Board must, as soon as practicable after the end of each financial year commencing after the commencement of this Act, prepare and give to the Minister:

- (a) a report on the performance of its functions during that year;  
and
- (b) financial statements in respect of the management of the Fund during that year in such form as is approved by the Minister.

(2) Before giving the financial statements to the Minister, the Board must submit them to the Auditor-General, who must report to the Minister:

- (a) whether the statements are based on proper accounts and records; and

*Superannuation No. 38, 1990*

- (b) whether the statements are in agreement with the accounts and records and show fairly the financial transactions and the state of the Fund; and
- (c) whether the receipt of moneys into the Fund, and the payment of moneys out of the Fund and the investment of moneys standing to the credit of the Fund, during the year have been in accordance with this Act and the Trust Deed; and
- (d) as to such other matters arising out of the statements as the Auditor-General considers should be reported.

(3) The Minister must cause a copy of the report, and of the financial statements, prepared by the Board, together with a copy of the report of the Auditor-General in respect of those financial statements, to be laid before each House of the Parliament within 15 sitting days of that House after the receipt of whichever of those documents was last received by the Minister.

(4) Where the Board has not complied with subsection (1) within a period of 6 months after the end of a financial year, the Board must, within 14 days after the end of that period, give to the Minister an interim report on the performance of its functions during that year together with interim financial statements in respect of the management of the Fund during that year.

(5) The financial statements given to the Minister under subsection (4) must be in the form approved by the Minister for the purposes of subsection (1) but need not be accompanied by a report of the Auditor-General.

(6) Where the Board gives a report and financial statements to the Minister under subsection (4), the Minister must:

- (a) cause a copy of the report and a copy of the financial statements to be laid before each House of the Parliament within 15 sitting days of that House after their receipt by the Minister; and
- (b) give a copy of the report and a copy of the financial statements:
  - (i) to the Australian Council of Trade Unions; and
  - (ii) upon request made by a relevant organisation, to that organisation.

(7) In subsection (6):

**“relevant organisation”** means:

- (a) an organisation:
  - (i) a substantial number of whose members are members of the Superannuation Scheme or eligible employees within the meaning of the *Superannuation Act 1976*; and
  - (ii) whose principal purpose is to protect and promote the interest of its members in matters concerning their employment; or

- (b) an organisation having as one of its principal purposes the protection and promotion of beneficiaries under the Superannuation Scheme in matters concerning their entitlements as beneficiaries.
- (8) A report furnished by the Board under this section in relation to a financial year must include particulars of:
  - (a) any statement of the policy of the Commonwealth on a matter relevant to the performance of the functions of the Board given, in accordance with the Trust Deed, by the Minister to the Chairperson during that year; and
  - (b) the consideration given by the Board to that policy; and
  - (c) the action (if any) taken by the Board as a result of that consideration.

## **PART 7—COMMISSIONER FOR SUPERANNUATION**

### **Functions of Commissioner**

**29. (1)** Subject to this Part, the Commissioner is responsible for the provision of administrative services to the Board in the performance of its functions.

**(2)** In the discharge of functions under this Act, the Commissioner must act in accordance with any policies determined, and any directions given, by the Board.

**(3)** Anything done by the Commissioner in the name of, or on behalf of, the Board is to be taken to have been done by the Board.

### **Other functions of Commissioner not to be prejudiced**

**30.** The Commissioner is not required under this Part to do anything that would prejudice the performance of:

- (a) the Commissioner's functions under any other Act (including any function that the Commissioner has by virtue of being the Chairman of the Defence Force Retirement and Death Benefits Authority); or
- (b) the Commissioner's functions under any regulations made under an Act.

## **PART 8—THE TRUST**

### **Trust as investment manager of Fund**

**31.** In addition to its functions and duties under the *Superannuation Act 1976*, the Trust:

- (a) is, in respect of the period commencing on 1 July 1990 and ending on 30 June 1995, appointed as the investment manager of any money standing from time to time to the credit of the



Fund that is, under the Trust Deed, available for investment;  
and

- (b) may, after that period, accept appointments by the Board as an investment manager of money standing to the credit of the Fund.

#### **Powers of Trust**

32. The Trust has power to do, in Australia or elsewhere, all things necessary or convenient to be done for or in connection with, or as incidental to, its duties as investment manager under section 31 and, in particular, has power:

- (a) to appoint agents or attorneys; and
- (b) to engage consultants; and
- (c) with the approval of the Board, to appoint other persons as investment managers.

#### **Duties of investment manager**

33. The duties of an investment manager appointed under this Part are to invest, and manage the investment of, funds placed with it for investment.

### **PART 9—MISCELLANEOUS**

#### **Cost of administration of Act etc.**

34. (1) The costs of the administration of this Act and of the Trust Deed, excluding the costs of and incidental to the management of the Fund by the Board and the investment of its money, are to be paid out of money appropriated from time to time by Parliament for the purpose.

(2) The cost of any medical examination, or of any test, that a person (other than a person referred to in section 36) is required to undergo under the Rules when the person proposes to become, or becomes, a member of the Superannuation Scheme is taken to be part of the cost of the administration of the Trust Deed.

#### **Certain authorities to pay part of costs of administration**

35. (1) For the purposes of this section, the Board may prepare an estimate of the costs referred to in subsection 34 (1) that are likely to be incurred in respect of a financial year.

(2) The Minister may, in writing, direct an authority or body that is or was, during the period specified in the direction, being a period that is included in, or is, a financial year in respect of which an estimate has been prepared under subsection (1):

- (a) an approved authority that employs or employed members; or
- (b) a declared authority whose staff includes or included members;

*Superannuation No. 38, 1990*

to pay to the Commonwealth such part of the costs estimated by the Board in respect of that period as:

- (c) is determined by the Minister having regard to such matters (if any) as are prescribed; and
- (d) is specified in the direction.

(3) An authority or body that is required to make a payment under subsection (2) may apply for that purpose any money under its control.

(4) In subsection (2):

“**declared authority**” means an authority (other than an approved authority) or a body:

- (a) whose staff consists of persons appointed or employed under the *Public Service Act 1922*; and
- (b) that has been declared, in writing, by the Minister to be an authority or body to which that subsection applies.

**Cost of medical examination on entry into Superannuation Scheme**

36. Where a person who:

- (a) proposes to become, or is, employed by an approved authority; or
- (b) is the proposed appointee to, or the holder of, a statutory office whose remuneration is paid by an approved authority; or
- (c) proposes to become, or is, a member of the staff of an authority (other than an approved authority) or a body:
  - (i) whose staff consists of persons appointed or employed under the *Public Service Act 1922*; and
  - (ii) that has been declared, in writing, by the Minister to be an authority to which this section applies;

is required under the Rules to undergo a medical examination or a test because the person proposes to become, or becomes, a member of the Superannuation Scheme, the cost of the examination or test is to be paid by the authority referred to in paragraph (a), (b) or (c) (as the case may be), and the authority may apply for that purpose any money under its control.

**Cost of medical examination etc. of member being considered for invalidity retirement**

37. Where, because of a mental or physical condition, a member is unable to perform the duties of the employment or office by virtue of which he or she is a member:

- (a) any cost incurred in relation to the panel of persons that, under the Rules, is engaged to assist the Board in deciding whether or not to approve invalidity retirement for the member; and
- (b) the cost of any medical examination that the member is required to undergo under the Rules to provide the panel with the medical evidence that it requires for that purpose; and

(c) where invalidity retirement is not approved for the member—  
the cost of any rehabilitation program recommended for the  
member under the Rules and undertaken by the member;  
are payable from the Consolidated Revenue Fund, which is appropriated  
accordingly.

**Pre-assessment payments**

**38. (1)** The Commonwealth must pay to the Board an amount equal to any pre-assessment payment made by the Board to a member under Division 2 of Part 12 of the Rules.

(2) Any payment by the Commonwealth under subsection (1) is to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

**Recovery of unpaid contributions etc.**

**39. (1)** Any amount (including an amount of contributions) that is payable to the Board under this Act or the Rules may be recovered by the Board in a court of competent jurisdiction as a debt.

(2) Any contribution payable by a person to the Board under the Rules that remains unpaid when the person ceases to be a member may be deducted from any payment or payments of benefit payable under the Rules to, or in respect of, the person.

(3) Where for any reason (including the making of, or cancellation of, an election under the Rules), the Board has paid an amount of benefit that is, or has become, not payable:

- (a) the amount so paid may be recovered by the Board in a court of competent jurisdiction as a debt; or
- (b) where the person to whom that amount was paid is receiving, or is entitled to receive, a benefit under the Rules, the amount so paid, or such part of that amount as the Board determines, may, if the Board in its discretion so directs, be recovered by deduction from that benefit.

**Payment of fees**

**40. (1)** Such fees as are prescribed are payable to the Commonwealth by a person who, under the Rules, requests the Board to reconsider one of its decisions.

(2) The regulations may make provision for and in relation to the refund of any fees paid under subsection (1).

**Assignment of benefits**

**41.** No pension or other benefit payable under the Rules is capable of being assigned.

**Member etc. bound by Rules**

**42. (1)** A person who is, or has ceased to be, a member is subject to the Rules to the extent that they are applicable in relation to the person.

**(2)** An authority or body who is, or has been, the employer of a member is subject to the Rules to the extent that they are applicable in relation to the authority or body.

**(3)** The Commonwealth is subject to the Rules to the extent that they are applicable in relation to the Commonwealth because it is, or has been, the employer of a member.

**Indemnification of trustees etc.**

**43. (1)** Any matter or thing done, or omitted to be done, in good faith by:

- (a) a trustee in the performance of his or her functions under the Trust Deed; or
- (b) the Commissioner in the performance of his or her duties under this Act; or
- (c) a member of the staff assisting the Commissioner in the performance of those duties;

does not subject him or her personally to any action, liability, claim or demand.

**(2)** Subsection (1) does not preclude the Board from being subject to any action, liability, claim or demand.

**Financial institution not liable in respect of certain payments out of account of deceased pensioner**

**44. (1)** In this section:

**“primary pension”** means a pension payable to a pensioner.

**(2)** Where:

- (a) after the death of a retirement pensioner, an amount purporting to be an instalment of primary pension payable to the pensioner on a pension pay day not later than the 7th pension pay day after his or her death is paid into an account of the pensioner with a bank, credit union or building society (in this section called the **“financial institution”**); and
- (b) the financial institution pays, out of that account, to the spouse of the deceased pensioner an amount not exceeding the amount so paid into the account;

then, in spite of any other law, the financial institution is not liable to the Commonwealth, the personal representative of the deceased pensioner or anyone else for any loss incurred because of the payment of that amount to the spouse of the pensioner.

**Disallowable instruments**

**45. (1)** Subject to subsection (2), each of the following instruments is a disallowable instrument for the purposes of section 46A of the *Acts Interpretation Act 1901*:

- (a) a declaration for the purposes of paragraph (a) of the definition of “approved authority” in section 3;
- (b) a declaration for the purposes of paragraph (b) of the definition of “approved authority” in section 3;
- (c) a declaration for the purposes of paragraph (b) of the definition of “statutory office” in section 3;
- (d) a declaration for the purposes of the definition of “temporary employee” in section 3;
- (e) an instrument under subsection 5 (1);
- (f) a declaration under paragraph 6 (1) (j);
- (g) a declaration under paragraph 6 (2) (c).

**(2)** An instrument referred to in subsection (1) (other than an instrument referred to in paragraph (1) (e)) is a Statutory Rule for the purposes of the *Statutory Rules Publication Act 1903*.

**(3)** A declaration referred to in paragraph (1) (b) may be expressed to have taken effect from and including a day not earlier than 12 months before the making of the declaration.

**Tabling of statement of Government policy**

**46.** Where, in accordance with the Trust Deed, the Minister gives to the Chairperson a statement of the policy of the Commonwealth government on any matter that is relevant to the performance of the functions of the Board, together with a request that the Board consider that policy in the performance of its functions, the Minister must cause a copy of the statement to be laid before each House of the Parliament within 15 sitting days of that House after the Minister has given the statement to the Chairperson.

**Delegation by Minister**

**47.** The Minister may, by signed instrument, delegate all or any of his or her powers under this Act or the regulations to:

- (a) the Board; or
- (b) an officer of the Department; or
- (c) the Commissioner or a member of the staff assisting the Commissioner in the performance of his or her functions under this Act.

**Regulations**

**48.** The Governor-General may make regulations, not inconsistent with this Act, prescribing all matters that:

- (a) are required or permitted to be prescribed by this Act; or
  - (b) are necessary or convenient to be prescribed for carrying out or giving effect to this Act.
-

**SCHEDULE**

Subsection 4 (2)

**FORM OF TRUST DEED**

THIS DEED is made on 1990  
BY THE COMMONWEALTH OF AUSTRALIA (in this Deed called  
'the Commonwealth')

WHEREAS section 4 of the *Superannuation Act 1990* (in this Deed called "the Act") provides that the Minister, for and on behalf of the Commonwealth, must, within 30 days after the commencement of the Act, by Deed establish an occupational superannuation scheme in order to provide benefits for certain of its employees and for certain other persons.

NOW THIS DEED WITNESSES as follows:

**Interpretation**

1. (1) In this Deed, where the context requires or admits, a reference to the Deed shall include a reference to the Rules, as set out in the Schedule (in this Deed called 'the Rules'), and the Rules shall form part of the Deed. In the case of an inconsistency between the Deed and the Rules, the Deed shall prevail.
- (2) In this Deed, where the context requires or admits, words and expressions defined in the Act or the Rules have the same meanings when used in the Deed. The headings in this Deed and in the Rules are for the convenience of reference only and shall not affect their interpretation.
- (3) In this Deed 'Minister' means:
  - (a) the Commonwealth Minister of State for Finance;
  - (b) if 2 or more Commonwealth Ministers administer Departments which have functions in relation to the administration of matters to which the Deed relates, the Minister who administers the Department which has the function in relation to each of those matters; or
  - (c) a member of the Executive Council acting for the time being for and on behalf of any of those Ministers.

**Establishment of the Superannuation Scheme and the Fund**

2. (1) There is hereby established an occupational superannuation scheme (in this Deed called "the Superannuation Scheme") to come into force on 1 July 1990 for the benefit of:
  - (a) persons employed by the Commonwealth and approved authorities;

**SCHEDULE—continued**

- (b) holders of statutory offices; and
  - (c) other persons who, under Part 3 of the Act, will be required to be, or may become, members of the Superannuation Scheme;  
to be administered in accordance with the Deed by the Commonwealth Superannuation Board of Trustees No. 1 established by the Act (in this Deed called ‘the Board’).
- (2) For the purposes of the Superannuation Scheme there is hereby established and vested in the Board a fund to be known as the Superannuation Fund No. 1 (in this Deed called ‘the Fund’).

**Functions and Powers of the Board**

3. (1) The functions of the Board are to administer the Superannuation Scheme and to manage and invest the Fund in accordance with the provisions of the Act and this Deed including, without limiting the generality of the foregoing the following functions:
- (a) to pay benefits to or in respect of members and to make payments to and receive payments from the Commonwealth as provided for in the Act;
  - (b) to provide advice to the Minister on proposed changes to the Act and the Deed; and
  - (c) to determine interest rates for the purposes of the Superannuation Scheme.
- (2) The Board has power in Australia and elsewhere to do all things necessary or convenient to be done for, or in connection with, the performance of its functions and, in particular, may:
- (a) give guarantees;
  - (b) underwrite or sub-underwrite any form of investment including the underwriting or sub-underwriting of the issue of shares, debentures or units in a unit trust;
  - (c) borrow moneys and give security over the whole or any part of the assets of the Fund;
  - (d) appoint agents and attorneys;
  - (e) act as agent for other persons;
  - (f) engage consultants and investment managers;
  - (g) engage a panel of persons to assist it in determining whether a person is to be retired on grounds of invalidity;
  - (h) establish a Reconsideration Advisory Committee or Committees to examine and report on decisions of the Board and its delegates under the Rules relating to members’ entitlements to benefits;



**SCHEDULE—continued**

- (i) effect policies with insurers in the Board's name to provide additional death and invalidity cover for members; and
  - (j) take action to control or manage, or to enhance or protect, the value of, any investment made out of the Fund, or to enhance or protect, the return on any such investment.
- (3) In exercising its functions and powers the Board shall have regard to:
- (a) the interests of members and their employers;
  - (b) any statement of the policy of the Commonwealth Government on any matter that is relevant to the performance of the functions, duties and powers of the Board furnished to the Board by the Minister with a request that the Board consider that policy;
- but notwithstanding anything contained in any statement of Commonwealth Government policy or the Deed, the Board shall, in exercising its functions and powers, comply with the requirements of the *Occupational Superannuation Standards Act 1987* and Regulations applicable to the Fund and the Superannuation Scheme.

**Appointment of Trustees**

4. (1) Four of the 5 Trustees constituting the Board shall be appointed by the Minister having regard to the following:
- (a) 2 of the Trustees shall be persons with experience in, and knowledge of, the formulation of government policy and public administration; and
  - (b) 2 of the Trustees shall be persons nominated by the Australian Council of Trade Unions (ACTU), provided that a person shall not be nominated by the ACTU, unless the ACTU has consulted relevant organisations as defined in subsection 28 (7) of the Act in relation to the nomination.
- (2) The 5th Trustee, who will also be the Chairperson of the Board, shall be appointed by the Minister after consultation with the other 4 Trustees in relation to the appointment.
- (3) The Chairperson and the Trustees nominated by the ACTU shall be appointed for such period, not exceeding 3 years, as the Minister specifies in the instrument of appointment. The Trustees referred to in subclause 4 (1) (a) shall hold office at the Minister's pleasure.
- (4) A Trustee shall be eligible for re-appointment.
- (5) A Trustee shall hold office on such terms and conditions as are determined by the Minister.

**SCHEDULE—continued**

- (6) The performance of the functions, or the exercise of the powers of the Board shall not be affected by reason of there being a vacancy in the membership of the Board.
- (7) The Trustees shall be paid such remuneration and allowances as are determined by the Remuneration Tribunal but, if no determination of that remuneration or allowances by the Tribunal is in operation, they shall be paid such remuneration and allowances as are determined by the Minister.
- (8) The Minister may grant leave of absence to a Trustee on such terms and conditions as to remuneration or otherwise as the Minister determines.
- (9) A Trustee may resign office by writing signed by the Trustee and delivered to the Minister.

**Termination of Appointment**

5. (1) The Minister may terminate the appointment of a Trustee for:
  - (a) misbehaviour or physical or mental incapacity; or
  - (b) inefficiency or incompetence.
- (2) If a Trustee:
  - (a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with the Trustee's creditors or makes an assignment of the Trustee's remuneration for their benefit;
  - (b) fails, without reasonable excuse, to comply with the Trustee's obligations under clause 7; or
  - (c) is absent, except on leave granted by the Minister, from 3 consecutive meetings of the Board of which the Trustee has had notice;the Minister may terminate the appointment of the Trustee.

**Acting Appointments**

6. (1) The Minister may appoint a person to act as Chairperson after consultation with the Board in relation to the appointment:
  - (a) during a vacancy in the office of Chairperson; or
  - (b) during any period, or during all periods, when the Chairperson is absent from duty or from Australia or is, for any reason, unable to perform the duties of the office of Chairperson.
- (2) The Minister may appoint a person to act as a Trustee:
  - (a) during a vacancy in the office of a Trustee; or

**SCHEDULE—continued**

- (b) during any period, or during all periods, when a Trustee is acting as Chairperson, is absent from Australia or is, for any reason, unable to perform the duties of that office.
- (3) The Minister shall only appoint a person to act as a Trustee who meets the same criteria, as set out in subclauses 4 (1) (a) or (b), as the Trustee in whose place the Trustee is to act.
- (4) An appointment under subclause (1) or (2) may be expressed to have effect only in such circumstances as are specified in the instrument of appointment.
- (5) While a person is acting as Chairperson or as a Trustee, the person has and may exercise all the powers, and shall perform all the duties, of the Chairperson or the Trustee as the case may be.
- (6) The Minister may:
  - (a) determine the terms and conditions of appointment, including remuneration and allowances of a person appointed to act in an office under subclause (1) or (2); and
  - (b) terminate such an appointment at any time.
- (7) A person appointed to act in an office under subclause (1) or (2) may resign the appointment by writing signed by the person and delivered to the Minister.

**Disclosure of Interests**

- 7. (1) Each Trustee shall:
  - (a) as soon as possible after, but in any case not later than 60 days after, appointment as a Trustee; and
  - (b) as soon as possible after, but in any case not later than 60 days after each anniversary of the Trustee's appointment as a Trustee,  
present to a meeting of the Board a statement in writing setting out particulars of those interests, whether pecuniary or otherwise and whether direct or indirect, of the Trustee as at the day of appointment or as at that anniversary, as the case requires, that could reasonably be expected to conflict with the proper performance by the Trustee of the Trustee's duties as a Trustee.
- (2) A statement presented by a Trustee to a meeting of the Board in pursuance of subclause (1) shall be incorporated into the minutes of the meeting.
- (3) Where a Trustee acquires an interest, whether pecuniary or otherwise and whether direct or indirect, that could reasonably be expected to conflict with the proper performance by the Trustee of the Trustee's duties as a Trustee and a statement

**SCHEDULE—continued**

containing particulars of the interest has not been given to a meeting of the Board in accordance with subclause (1), the Trustee shall, as soon as possible after acquiring that interest, present to a meeting of the Board a statement in writing setting out particulars of the interest and the statement shall be incorporated in the minutes of the meeting.

- (4) A Trustee who has a direct or indirect pecuniary interest in a matter being considered by the Board shall, as soon as possible after the relevant facts have come to the Trustee's knowledge, disclose the nature of the Trustee's interest at a meeting of the Board.
- (5) A disclosure under subclause (4) shall be recorded in the minutes of the meeting of the Board and the Trustee shall not, unless the Board or the Minister otherwise determines:
  - (a) be present during any deliberation of the Board with respect to that matter; or
  - (b) take part in any decision of the Board with respect to that matter.
- (6) For the purpose of the making of a determination by the Board under subclause (5) in relation to a Trustee who has made a disclosure under subclause (4), a Trustee who has a direct or indirect pecuniary interest in the matter to which the disclosure relates shall not:
  - (a) be present during any deliberation of the Board for the purpose of making the determination; or
  - (b) take part in the making by the Board of the determination.
- (7) Where a Trustee is obliged by subclause (4) to disclose the nature of an interest at a meeting of the Board, the fact that the Trustee has presented to a meeting of the Board a statement under subclause (1) or (3) that includes particulars of that interest does not relieve the Trustee of the Trustee's obligation under subclause (4).

**Meetings of the Board of Trustees**

8. (1) The Board shall hold such meetings as are necessary for the conduct of its affairs.
- (2) The Chairperson may at any time convene a meeting of the Board and shall, when so requested in writing by another Trustee, convene a meeting of the Board within 30 days of receiving such notice.
- (3) The Chairperson shall preside at all meetings of the Board at which the Chairperson is present. If the Chairperson is not

**SCHEDULE—continued**

going to be present at a meeting of the Board, the Chairperson may nominate one of the Trustees to be Chairperson for the meeting. In the absence of such nomination, the Trustees shall elect one of the Trustees present at the meeting as a Chairperson for the meeting.

- (4) At a meeting of the Board 4 Trustees, or acting Trustees, shall constitute a quorum and all decisions of the Board shall require a majority of 4 votes of the Trustees, or acting Trustees, present in person and voting.
- (5) The Board shall keep accurate records of all meetings held by the Board.

**Operation of the Fund**

9. (1) All contributions and other moneys paid to the Board, or as directed by the Board, shall be held in trust by the Board in the Fund. The Fund shall be managed and invested by the Board in accordance with the Act and the Deed.
- (2) The Fund shall comprise:
  - (a) contributions made by members;
  - (b) contributions made by employers pursuant to the Act and the Deed;
  - (c) any other moneys paid or transferred to the Board pursuant to the Act and the Deed or which become subject to the trusts of the Deed;
  - (d) the income arising from investments; and
  - (e) any accretions to or profits on realisation of investments;
- (3) The Fund shall be used by the Board to pay benefits to or in respect of members and to pay the costs and expenses of the management and investment of the Fund.

**Investment of the Fund**

10. (1) For the purposes of this clause:
  - (a) “invest” means expend moneys with a view to obtaining a present or future financial return (whether by way of income, profit or otherwise); and
  - (b) “profit” includes capital profit.
- (2) Moneys standing to the credit of the Fund which are, in the opinion of the Board, moneys that are not for the time being required for the purpose of making payments out of the Fund under the Act and the Deed shall, so far as is practicable, be invested by the Board in accordance with the Act and the Deed, but the Board shall so manage the Fund that moneys that are

**SCHEDULE—continued**

from time to time required to pay benefits that are payable out of the Fund are available for that purpose.

- (3) Moneys that, by virtue of subclause (2), are required to be invested by the Board may be invested in any manner and, without limiting the generality of the foregoing, may be invested by the Board jointly with another person or other persons.
- (4) The Board must determine an investment strategy and policy as soon as possible after 1 July 1990 and thereafter regularly review such a strategy and policy, and, where it considers necessary or desirable, change its existing investment strategy or policy. In determining and reviewing its investment strategy and policy, the Board shall consult with such persons or bodies as it thinks fit.
- (5) The Board shall invest moneys standing to the credit of the Fund that are available for investment only through an investment manager or managers who undertake to invest, and manage the investment of those funds on behalf of the Board. The Superannuation Fund Investment Trust has, by the Act, been appointed as the investment manager in respect of the period commencing 1 July 1990 and ending on 30 June 1995.
- (6) The Board shall ensure that the Superannuation Fund Investment Trust and any investment manager engaged by the Board:
  - (a) operates within the investment powers of the Board and the investment strategy and policy as determined for the time being by the Board; and
  - (b) reports to the Board on the state of the Board's investments and the investment market at such times and in such manner as the Board determines.

**Requests by Minister for Information**

11. The Board shall furnish to the Minister such information relating to the general administration and operation of the Superannuation Scheme and the Fund as the Minister may from time to time require.

**Delegation by the Board**

12. The Board may by an instrument under its seal delegate all or any of its powers under the Deed to any person, including the Commissioner for Superannuation or a Trustee, other than its powers under Part 11 of the Rules and this power of delegation.

## **THE SCHEDULE**

### **RULES FOR THE ADMINISTRATION OF THE SUPERANNUATION SCHEME**

#### **TABLE OF PROVISIONS**

**Rule**            **Provision Description**

#### **PART 1—PRELIMINARY**

##### **DIVISION 1—INTERPRETATION**

- 1.1.1            **Definitions**
- 1.1.2            **References to anniversary of birth etc.**
- 1.1.6            **Provisions in relation to former eligible employees**
- 1.1.7            **Additions to accumulated funded employer contributions**
- 1.1.8            **Additions to accumulated member contributions**

##### **DIVISION 2—MEDICAL EXAMINATIONS AND LIMITED BENEFITS MEMBERS**

- 1.2.1            **Medical examinations**
- 1.2.2            **Limited benefits member**
- 1.2.3            **Member to be notified of being a limited benefits member**
- 1.2.4            **Member does not undergo medical examination**

##### **DIVISION 3—BENEFIT ACCRUAL**

- 1.3.1            **Benefit accrual**
- 1.3.2            **Benefits subject to maximum**
- 1.3.3            **Benefit factor**
- 1.3.4            **Ongoing multiple**
- 1.3.5            **Calculation of ongoing multiple where preserved multiple applies**
- 1.3.6            **Calculation of ongoing multiple where CSS transfer multiple applies**
- 1.3.8            **Calculation of ongoing multiple where restoration multiple applies**
- 1.3.9            **Applicability of prospective multiple**
- 1.3.10           **Calculation of prospective multiple**
- 1.3.11           **Contribution days in CSS on which contributions were payable may count as contribution due days**
- 1.3.12           **Contribution days in CSS may count as contribution days**
- 1.3.13           **CSS membership may count for calculation of average factor**
- 1.3.14           **Rates of contribution in CSS may count as rates of contribution**
- 1.3.15           **Maximum average rate of contribution of 10 per cent for calculation of prospective multiple**
- 1.3.16           **Salary in CSS may count as salary**
- 1.3.17           **Certain periods of leave without pay to be excluded from calculation of averages**
- 1.3.18           **Trustees to have discretion where a regular employee had previously been a casual employee**
- 1.3.19           **Applicability of additional cover multiple**
- 1.3.20           **Calculation of additional cover multiple**
- 1.3.21           **Applicability of preserved multiple**
- 1.3.22           **Calculation of preserved multiple**
- 1.3.25           **Applicability of transfer multiple**
- 1.3.26           **Calculation of transfer multiple**
- 1.3.29           **Applicability of CSS transfer multiple**
- 1.3.30           **Calculation of CSS transfer multiple**
- 1.3.34           **Applicability of restoration multiple**
- 1.3.35           **Calculation of restoration multiple**
- 1.3.38           **Applicability of excess contribution multiple**
- 1.3.39           **Calculation of excess contribution multiple**
- 1.3.40           **Applicability of unfunded transfer multiple**

*Superannuation No. 38, 1990*

**SCHEDULE—continued**

- 1.3.41 Calculation of unfunded transfer multiple

**DIVISION 4—MAXIMUM BENEFIT**

- 1.4.1 Maximum benefit table  
1.4.2 Australian Federal Police adjustment payment  
1.4.3 Maximum benefit on invalidity or death  
1.4.4 Maximum benefit for some former eligible employees  
1.4.7 Maximum benefit when preserved benefit exceeds normal maximum benefit  
1.4.8 Maximum benefit for former invalidity pensioner  
1.4.9 Alterations to table of maximum benefits  
1.4.10 Unforeseen changes to maximum benefits

**PART 2—SALARY**

**DIVISION 1—ANNUAL RATE OF SALARY**

- 2.1.1 Definitions  
2.1.2 Annual rate of salary for full-time employee  
2.1.3 Annual rate of salary for permanent part-time employee  
2.1.4 Annual rate of salary for casual employee  
2.1.5 Fortnightly rate of salary  
2.1.6 Applicability of notional superannuation salary  
2.1.8 Amount of annual rate of notional superannuation salary  
2.1.10 Cessation of applicability of notional superannuation salary  
2.1.11 Applicability of CSS salary  
2.1.12 Amount of annual rate of CSS salary  
2.1.13 Cessation of applicability of CSS salary

**DIVISION 2—AVERAGE SALARY**

- 2.2.1 Average salary

**DIVISION 3—CONTRIBUTION SALARY**

- 2.3.1 Amount of fortnightly contribution salary  
2.3.2 Part-time hours not to be reduced where compensation payments are payable  
2.3.3 Annual rate of contribution salary

**DIVISION 4—MISCELLANEOUS**

- 2.4.1 Annual salary under CSS may apply  
2.4.5 Board to determine salary in some circumstances

**PART 3—CONTRIBUTIONS**

**DIVISION 1—CONTRIBUTIONS BY MEMBERS**

- 3.1.1 Liability to pay contributions  
3.1.2 Rate of contributions  
3.1.3 Failure to nominate contribution rate  
3.1.5 Minimum contribution rate while on compensation leave  
3.1.6 Cessation of contributions  
3.1.7 Leave of absence without pay  
3.1.13 Maternity and parental leave  
3.1.16 Payment of contributions where member on other leave of absence without pay or at less than full pay  
3.1.17 Deferment of contributions of contributors under DFRDB Act

**DIVISION 2—CONTRIBUTIONS BY EMPLOYERS**

- 3.2.1 Liability to pay contributions



*Superannuation No. 38, 1990*

**SCHEDULE—continued**

- 3.2.2 Table for employer contributions
- 3.2.3 Alterations to table for employer contributions
- 3.2.4 Employer contribution for full-time employees
- 3.2.5 Employer contribution for permanent part-time employees
- 3.2.6 Employer contribution for casual employees
- 3.2.7 Employer contribution where member changes from casual to regular employee

**DIVISION 3—PAYMENT OF CONTRIBUTIONS**

- 3.3.1 Payment of contributions

**DIVISION 4—PREMIUMS FOR ADDITIONAL DEATH AND INVALIDITY COVER**

- 3.4.1 Member premium
- 3.4.2 Employer premium
- 3.4.3 Payment of premiums

**PART 4—MEMBERS' BENEFITS**

**DIVISION 1—AGE RETIREMENT BENEFIT**

- 4.1.1 Lump sum benefit on age retirement
- 4.1.2 Other options on age retirement
- 4.1.4 Basis for conversion of lump sum to pension on age retirement
- 4.1.5 Phased-in restricted access to lump sum age retirement benefits
- 4.1.6 Options available where phased-in restricted access to lump sum age retirement benefits applies

**DIVISION 2—INVOLUNTARY RETIREMENT BENEFIT**

- 4.2.1 Circumstances in which retirement involuntary
- 4.2.2 Lump sum benefit on involuntary retirement on or after minimum retiring age
- 4.2.3 Other options in lieu of lump sum benefit on involuntary retirement after minimum retirement age
- 4.2.5 Basis for conversion of lump sum to pension
- 4.2.6 Lump sum benefit not available on involuntary retirement on or after minimum retiring age in some circumstances
- 4.2.7 Other options in lieu of preserved benefit on involuntary retirement on or after minimum retirement age
- 4.2.8 Preserved benefit on involuntary retirement before minimum retiring age
- 4.2.9 Other options on involuntary retirement before minimum retirement age
- 4.2.12 Lump sum option on involuntary retirement before minimum retirement age until 30 June 2000
- 4.2.14 Full lump sum option not available where person continues employment

**DIVISION 3—INVALIDITY RETIREMENT BENEFIT**

- 4.3.1 Benefits on invalidity after age 60 to be age retirement benefits
- 4.3.2 Invalidity benefits for limited benefits members
- 4.3.3 Pension benefit on invalidity before age 60
- 4.3.4 Option of lump sum of member contributions and interest on invalidity before age 60

**DIVISION 4—CESSATION AS MEMBER NOT OTHERWISE ENTITLED TO BENEFIT UNDER RULES**

- 4.4.1 Preserved benefit on cessation after less than 26 contribution due days
- 4.4.2 Other options on cessation after less than 26 contribution due days
- 4.4.3 Preserved benefit on cessation after not less than 26 contribution due days
- 4.4.4 Other options on cessation after not less than 26 contribution due days

**SCHEDULE—continued**

- 4.4.5 Casual employees not to cease to be a member only because of cessation of employment

**DIVISION 5—PARTIAL INVALIDITY PENSION**

- 4.5.1 Entitlement to partial invalidity pension where invalidity pensioner again becomes member  
4.5.3 Entitlement to partial invalidity pension where member's salary decreases for health reasons  
4.5.5 Pension not payable for compensable injuries  
4.5.6 Non-disclosure of information  
4.5.7 Calculation of annual rate of partial invalidity pension  
4.5.9 Payment of partial invalidity pension  
4.5.10 Subsequent reduction in salary for health reasons  
4.5.11 Adjustment of partial invalidity pension  
4.5.12 Suspension of partial invalidity pension  
4.5.13 Cessation of partial invalidity pension  
4.5.16 Cancellation of partial invalidity pension  
4.5.17 Provisions relating to former eligible employees  
4.5.18 Board to determine amount of partial invalidity pension in some circumstances

**DIVISION 6—REFUND OF EXCESS CONTRIBUTIONS**

- 4.6.1. When excess contribution multiple is included in benefit factor  
4.6.3 When excess contribution multiple is partially included in benefit factor  
4.6.4 When excess contribution multiple is excluded from benefit factor  
4.6.5 Refund of excess contributions  
4.6.6 Refund of excess contributions to be deducted from accumulated member contributions  
4.6.7 Trustees to decide beneficiaries of refund of excess contributions when member dies in service

**PART 5—SPOUSES' AND CHILDREN'S BENEFITS**

**DIVISION 1—DEATH OF A PENSIONER**

- 5.1.1 Applicability of reversionary pension  
5.1.2 Annual rate of reversionary pension  
5.1.3 Rate of pension when deceased pensioner is survived only by a spouse  
5.1.4 Rate of pension when deceased pensioner is survived only by eligible children  
5.1.5 Rate of pension when deceased pensioner is survived only by partially dependent children  
5.1.6 Rate of pension when deceased pensioner is survived by more than one class of dependant

**DIVISION 2—DEATH OF A MEMBER**

- 5.2.1 Applicability of reversionary pension  
5.2.2 Annual rate of reversionary pension  
5.2.3 Rates of spouses' and children's pensions  
5.2.4 Spouse's lump sum benefit  
5.2.6 Balance of benefit  
5.2.9 Limited benefits member

**DIVISION 3—OTHER PROVISIONS**

- 5.3.1 Rate of pension payable to a surviving spouse for six fortnights after the death of a pensioner  
5.3.2 Adjustments to pension when spouse dies  
5.3.3 Adjustments to pension when a child ceases to be an eligible child  
5.3.5 Adjustments to pension when a partially dependent child ceases to be partially dependent

*Superannuation No. 38, 1990*

**SCHEDULE—continued**

- 5.3.6 Adjustments to pensions allocated between classes of dependants
- 5.3.7 Adjustments to pensions when additional dependants apply
- 5.3.9 Final benefit payable (if any) when a pensioner, other than an invalidity pensioner dies
- 5.3.10 Final benefit payable (if any) when an invalidity pensioner dies

**PART 6—PRESERVED BENEFITS**

**DIVISION 1—GENERAL**

- 6.1.1 Circumstances in which preserved benefits become payable
- 6.1.2 Amount of preserved benefit
- 6.1.3 Member to have access to accumulated member contributions
- 6.1.5 Lump sum benefit where accumulated member contributions preserved
- 6.1.6 Pension option in certain cases when preserved benefit payable
- 6.1.8 Amount of pension benefit
- 6.1.9 Preserved benefit payable on death
- 6.1.10 Persons to whom preserved benefit is payable on death
- 6.1.12 Pension option for surviving spouse if preserved benefit with full accumulated member contributions becomes payable on death
- 6.1.15 Cessation of application of preserved benefit

**DIVISION 2—TRANSITIONAL PROVISIONS**

- 6.2.1 Person to have access to accumulated employer contributions if benefits preserved before qualifying age for lump sums reached
- 6.2.3 Pension option if benefits preserved before qualifying age for lump sums reached
- 6.2.5 Pension option for surviving spouse in certain cases when preserved benefit which does not include full accumulated member contributions becomes payable on death

**DIVISION 3—OTHER PROVISIONS**

- 6.3.1 Final benefit payable (if any) when a pensioner to whom a preserved benefit was applicable dies

**PART 7—PENSION AND UNFUNDED PRESERVED BENEFIT INCREASES**

- 7.1.1 Interpretation
- 7.1.5 Increases in pensions and unfunded preserved benefits
- 7.1.8 Adjustment of increase in certain circumstances
- 7.1.9 Further increase in unfunded preserved benefit
- 7.1.10 Date of effect of increases
- 7.1.12 Increases in accumulated unfunded employer contributions

**PART 8—TRANSFER VALUES**

**DIVISION 1—INWARDS TRANSFER VALUES**

- 8.1.1 Reference to transfer value
- 8.1.2 Period for acceptance of transfer value
- 8.1.3 Transfer values to be paid into Fund

**DIVISION 2—OUTWARDS TRANSFER VALUES**

- 8.2.1 Public employment
- 8.2.5 Eligible superannuation schemes
- 8.2.7 Amount of transfer value
- 8.2.8 Contributors under DFRDB Act
- 8.2.9 Election for transfer value by terminating member
- 8.2.12 Circumstances in which transfer value payable
- 8.2.14 Election for transfer value by person to whom a preserved benefit is applicable

*Superannuation No. 38, 1990*

**SCHEDULE—continued**

8.2.19 Certain former members not entitled to payment of transfer value

**PART 9—MISCELLANEOUS PROVISIONS**

**DIVISION 1—GENERAL PROVISIONS IN RELATION TO ELECTIONS AND BENEFITS**

- 9.1.1 Provisions relating to elections under Rules
- 9.1.6 Payment of benefit otherwise than to person entitled
- 9.1.7 Instalments of pensions
- 9.1.8 Benefits in respect of certain contributors under DFRDB Act
- 9.1.10 Benefits in unusual or exceptional circumstances
- 9.1.11 Cancellation of invalidity pension
- 9.1.12 Funded and unfunded components of benefits
- 9.1.13 Administrative arrangements

**DIVISION 2—CERTAIN PERSONS RE-APPOINTED OR RE-EMPLOYED**

9.2.1 Certain persons re-appointed or re-employed

**DIVISION 3—CANDIDATES AT PARLIAMENTARY ELECTIONS**

- 9.3.1 Persons to whom this Division applies
- 9.3.2 Death or physical or mental incapacity of person
- 9.3.3 Re-employment of person
- 9.3.4 Repayment of benefits
- 9.3.5 Annual rate of salary of person

**DIVISION 4—REDUCTION OF INVALIDITY PENSIONS BECAUSE OF EARNINGS**

- 9.4.1 Definitions for Division
- 9.4.3 Invalidation pensioner to provide information
- 9.4.5 Reduction of pension
- 9.4.8 Invalidation pensioner to provide estimates of earnings
- 9.4.10 Reduction or suspension of pension to be disregarded
- 9.4.11 Suspension of pension
- 9.4.13 Cancellation of invalidity pension where pension suspended for 12 months

**DIVISION 5—NON-DISCLOSURE OF INFORMATION IN CONNECTION WITH MEDICAL EXAMINATION**

9.5.1 Non-disclosure of information in connection with medical examination

**PART 10—ADDITIONAL DEATH AND INVALIDITY COVER**

- 10.1.1 Board to effect policies
- 10.1.3 More than one policy
- 10.1.4 Additional death and invalidity cover
- 10.1.5 Cessation of additional death and invalidity cover
- 10.1.6 Maximum amount of additional cover
- 10.1.8 Further election for additional cover
- 10.1.9 Variations to amount of additional cover
- 10.1.10 Medical evidence for additional cover
- 10.1.11 Member to be advised of premiums
- 10.1.12 Claims for additional cover

**PART 11—REVIEW OF DECISIONS**

**DIVISION 1—PRELIMINARY**

11.1.1 Interpretation

**SCHEDULE—continued**

**DIVISION 2—RECONSIDERATION ADVISORY COMMITTEES**

- 11.2.1 Establishment of Reconsideration Advisory Committees
- 11.2.2 Composition of committees
- 11.2.3 Regulation of affairs of committees
- 11.2.4 Duties of committees

**DIVISION 3—REVIEW OF DECISIONS MADE BY DELEGATES**

- 11.3.1 Request for reconsideration
- 11.3.2 Form of request
- 11.3.3 Referral to committee
- 11.3.4 Board to reconsider decisions
- 11.3.5 Transmission of results of reconsideration

**DIVISION 4—REVIEW OF DECISIONS MADE BY THE BOARD**

- 11.4.1 Request for reconsideration
- 11.4.2 Form of request
- 11.4.3 New evidence
- 11.4.4 Insufficient or no evidence provided
- 11.4.5 Referral to committee
- 11.4.6 Board to reconsider decisions
- 11.4.7 Transmission of results of reconsideration

**DIVISION 5—RECONSIDERATION OF DECISIONS  
ON THE BOARD'S OWN MOTION**

- 11.5.1 Powers of Board

**PART 12—INVALIDITY RETIREMENT PROCESS**

**DIVISION 1—MEDICAL ASSESSMENT**

- 12.1.1 Engagement of assessment panels
- 12.1.3 Medical evidence to be provided to assessment panels
- 12.1.4 Assessment panels may seek advice
- 12.1.5 Panels to make recommendations to Board
- 12.1.7 Assessment process
- 12.1.8 Board to make decision on invalidity retirement
- 12.1.10 Board's decision to be advised to member and employer

**DIVISION 2—PRE-ASSESSMENT PAYMENTS**

- 12.2.1 Entitlement to pre-assessment payments
- 12.2.3 Period during which pre-assessment payments to be made
- 12.2.5 Rates of payment
- 12.2.7 Payment of pre-assessment payments

**DIVISION 3—PROGRAM OF REHABILITATION**

- 12.3.1 Program of Rehabilitation

SCHEDULE—continued

**RULES FOR THE ADMINISTRATION OF THE  
SUPERANNUATION SCHEME**

**PART 1—PRELIMINARY**

***Division 1—Interpretation***

**Definitions**

1.1.1. In these Rules, unless the contrary intention appears:

**“accumulated employer contributions”**, in relation to a person, means the sum of his or her accumulated funded employer contributions and his or her accumulated unfunded employer contributions;

**“accumulated funded employer contributions”**, in relation to a person, means the sum of:

- (a) the funded employer contributions that have been, or are deemed to have been, paid, or have become payable, in respect of the person on or after his or her first day of membership; and
- (b) the amounts (if any) that, under rule 1.1.7 are to be added to the person’s accumulated funded employer contributions; and
- (c) the interest (if any) in respect of the amounts in paragraphs (a) and (b) in accordance with a determination or determinations by the Board as to rates of interest and the method of allocating interest to such amounts;

**“accumulated member contributions”**, in relation to a person, means an amount equal to the sum of:

- (a) the contributions that have been, or are deemed to have been, paid, or have become payable, by the person on or after his or her first day of membership; and
- (b) any amounts (if any) that, under rule 1.1.8 are to be added to the person’s accumulated member contributions; and
- (c) the interest (if any) in respect of the amounts in paragraphs (a) and (b) in accordance with a determination or determinations by the Board as to rates of interest and the method of allocating interest to such amounts;

**“accumulated unfunded employer contributions”**, in relation to a person, means the sum of:

- (a) in the case of a person whose first day of membership was 1 July 1990 and to whom a CSS transfer multiple was applicable on that day—the amount (if any) of the notional interim benefit provided for in section 8A of the *Superannuation (Productivity Benefit) Act 1988*; or
- (b) in the case of a person, not being a person to whom paragraph (a) applies, to whom a CSS transfer multiple was applicable on

SCHEDULE—continued

his or her first day of membership—the amount (if any) of the accumulated employer contributions under the 1976 Act immediately before that day that is attributable to the amount of notional interim benefit provided for the person in section 8A of the *Superannuation (Productivity Benefit) Act 1988*; or

- (c) in the case of a person to whom an unfunded transfer multiple was applicable on his or her first day of membership—the amount in paragraph (a) of the definition of “Productivity benefit” in rule 1.3.43; or
- (d) in the case of a person to whom a preserved benefit was applicable immediately before his or her first day of membership—the amount (if any) of the person’s accumulated unfunded employer contributions included in the preserved benefit on his or her last ceasing to be a member; or
- (e) in the case of a person who was an invalidity pensioner immediately before his or her first day of membership—the amount (if any) of the person’s accumulated unfunded employer contributions on the day immediately before the date of last becoming an invalidity pensioner; and
- (f) the interest (if any) in respect of the amount in paragraph (a), (b), (c), (d) or (e) in accordance with a determination or determinations by the Board as to rates of interest and the method of allocating interest to such amounts;

“**additional cover multiple**” means a multiple applicable to a person in accordance with rule 1.3.19;

“**annual rate of contribution salary**”, in relation to a member, is an annual rate of contribution salary calculated in relation to the member under Division 3 of Part 2;

“**annual rate of CSS salary**”, in relation to a member, is an annual rate of CSS salary calculated in relation to the member under Division 1 of Part 2;

“**annual rate of notional superannuation salary**”, in relation to a member, is an annual rate of notional superannuation salary calculated in relation to the member under Division 1 of Part 2;

“**annual rate of salary**”, in relation to a member, is an annual rate of salary calculated in relation to the member under Division 1 of Part 2;

“**annual rate of superannuation salary**”, in relation to a member, is an annual rate of superannuation salary calculated in relation to the member under Division 1 of Part 2;

“**approved medical practitioner**” means a medical practitioner approved by the Board for the purposes of the Deed and Rules;

“**associated child**”, in relation to a spouse of a deceased member or of a retirement pensioner, means an eligible child in relation to the

**SCHEDULE—continued**

deceased member or retirement pensioner who ordinarily lives with the spouse;

“**average salary**”, in relation to a person, is an average salary calculated in relation to the person under Division 2 of Part 2;

“**benefit accrual**”, in relation to a person, means an amount in relation to the person calculated in accordance with Division 3 of Part 1;

“**benefit factor**” means a factor applicable to a person in accordance with rule 1.3.3;

“**Board**” means the Commonwealth Superannuation Board of Trustees No. 1 established by the 1990 Act;

“**casual employee**” means a person who is not a regular employee;

“**child**”, in relation to a person who has died, means a child (including an adopted child, an ex-nuptial child or a stepchild, or any other person whom the Board determines is to be treated as a child of the first-mentioned person) of the person or of a spouse of the person;

“**Comcare**” means the Commission for the Safety, Rehabilitation and Compensation of Commonwealth Employees;

“**Commissioner**” and “**Commissioner for Superannuation**” have the same meaning as given to Commissioner under the 1990 Act;

“**compensation leave**” means any period during which a person is absent full-time from his or her employment due to an incapacity for work resulting from an injury in respect of which compensation is payable under section 19 or 22 of the *Commonwealth Employees' Rehabilitation and Compensation Act 1988* or any period in respect of which persons not covered by that Act are receiving similar compensation payments;

“**contribution day**” means the Thursday that falls on 5 July 1990, and each succeeding alternate Thursday;

“**contribution due day**”, in relation to a member, means:

- (a) a contribution day on which the member is required to pay contributions; and
- (b) a contribution day for the purposes of the 1976 Act that is deemed to be a contribution due day by paragraph 1.1.6 (c);

“**CSS transfer multiple**” means a multiple applicable to a person in accordance with rule 1.3.29;

“**deferred annuity**” means an annuity of the type referred to in sub-subparagraph 11 (c) (ii) (C) of the Regulations under the *Occupational Superannuation Standards Act 1987*;

“**designated employer**” has the same meaning as in section 15 of the 1990 Act;

“**DFRDB Act**” means the *Defence Force Retirement and Death Benefits Act 1973*;



SCHEDULE—continued

**“eligible child”**, in relation to a person who has died and was, at the time of his or her death, a member or a retirement pensioner, means a person who:

- (a) is a child in relation to the deceased person other than (where the deceased person was a retirement pensioner at the time of his or her death) a child who is declared by the Board not to be an eligible child for the purposes of these Rules having regard to any principles advised to the Board by the Minister; and
- (b) is a person the 16th anniversary of whose birth has not occurred or:
  - (i) the 16th anniversary of whose birth has occurred but the 25th anniversary of whose birth has not occurred; and
  - (ii) is receiving full-time education at a school, college or university; and
  - (iii) is not ordinarily in employment or engaged in work on his or her own account; and
- (c) immediately before the deceased person’s death:
  - (i) ordinarily lived with the deceased person (except where the person is a child of a spouse of the deceased person, but not of the deceased person); or
  - (ii) was, in the opinion of the Board, wholly or substantially dependent upon the deceased person; or
  - (iii) where the person is a child born after the deceased person’s death, ordinarily would have been, in the opinion of the Board, living with the deceased person or so dependent if the person had been born before the death of the deceased person;

**“eligible termination payment”** has the same meaning as in the *Income Tax Assessment Act 1936*;

**“excess contribution multiple”** means a multiple applicable to a person in accordance with rule 1.3.38;

**“final benefit accrual”**, in relation to a person, means the person’s benefit accrual on his or her last day of membership;

**“final unfunded benefit accrual”**, in relation to a person, means the person’s final benefit accrual less the sum of the person’s accumulated member contributions and accumulated employer contributions on his or her last day of membership;

**“first day of membership”**, in relation to a person, means:

- (a) except where paragraph (b), (c), (d), (e) or (f) applies to the person—the day on which he or she became a member; or
- (b) except where paragraph (c) or (d) applies to the person, where:

**SCHEDULE—continued**

- (i) the person was on 30 June 1990 an eligible employee for the purposes of the 1976 Act; and
- (ii) he or she continued to be an eligible employee until the date of his or her election to cease to be an eligible employee;

1 July 1990; or

(c) where:

- (i) he or she was on 30 June 1990 an eligible employee for the purposes of the 1976 Act; and
- (ii) the person was on leave without pay from his or her employer, or was deemed by section 87C of the *Public Service Act 1922* to be absent from duty on leave without pay from his employer, for the period 1 July 1990 to 31 March 1991 or any later date (and was not engaged in employment with another employer, the staff of which are covered by the Superannuation Scheme); and
- (iii) he or she rejoined his or her employer before 1 July 1991; and
- (iv) he or she continued to be an eligible employee until the date of his or her election to cease to be an eligible employee;

1 July 1990; or

(d) where:

- (i) he or she was on 30 June 1990 an eligible employee for the purposes of the 1976 Act; and
- (ii) the person was on leave without pay from his or her employer, or was deemed by section 87C of the *Public Service Act 1922* to be absent from duty on leave without pay from his employer, for the period 1 July 1990 to 30 June 1991 or any later date (and was not engaged in employment with another employer, the staff of which are covered by the Superannuation Scheme); and
- (iii) he or she continued to be an eligible employee until the date of his or her election to cease to be an eligible employee;

the date he or she rejoined his or her employer; or

(e) where:

- (i) the person became an eligible employee for the purposes of the 1976 Act after 30 June 1990; and
- (ii) the person elected to cease to be an eligible employee for the purposes of the 1976 Act;

the date the person last became an eligible employee; or

**SCHEDULE—continued**

(f) where the person has become a member on more than one occasion—the day on which he or she last became a member;  
“**fortnightly contribution salary**”, in relation to a member, is a fortnightly contribution salary calculated in relation to the member under Division 3 of Part 2;

“**fortnightly rate of salary**”, in relation to a member, means an annual rate of salary calculated in relation to the member under Division 1 of Part 2;

“**full-time employee**” means a permanent full-time employee and/or a temporary full-time employee;

“**funded employer contributions**”, in relation to a person, who is, or has been, a member, means:

- (a) employer contributions paid or payable in relation to the person in accordance with Division 2 of Part 3; and
- (b) contributions which are deemed to be funded employer contributions by paragraph 1.1.6 (b);

“**Fund**” means the Superannuation Fund No. 1;

“**if he or she had been working full-time**”, in relation to a permanent part-time employee, means:

- (a) if the employee’s position had been a full-time position and he or she had been working full-time in that position; or
- (b) where there is no equivalent full-time position, the employee had been working the hours of a full-time employee performing duties of a similar nature;

“**invalidity pension**” means a pension payable under Division 3 of Part 4;

“**invalidity pensioner**” means a person to whom an invalidity pension is being paid, or would have been paid, if not suspended;

“**invalidity retirement**”, in relation to a person, means his or her having been retired, or his or her services having been otherwise terminated, on the ground that he or she is totally and permanently incapacitated;

“**involuntary retirement**” in relation to a person means cessation as a member in circumstances in which the person is to be, or has been, deemed by virtue of rule 4.2.1 to have retired involuntarily;

“**last day of membership**”, in relation to a person, means:

- (a) except where paragraph (b) applies—the day on which he or she ceased to be a member; or
- (b) where the person has ceased to be a member on more than one occasion—the day on which he or she last so ceased;

“**limited benefits member**” means a person who, in accordance with Division 2 of this Part, is to be treated as a limited benefits member;

“**maximum benefit**” means a benefit calculated in accordance with Division 4 of this Part;

**SCHEDULE—continued**

**“maximum benefits member”** means a person whose benefit accrual is, by virtue of rule 1.3.2, equal to his or her maximum benefit;

**“maximum retiring age”**, in relation to a person, means the age of 65 years or such other age as is the maximum retiring age applicable to the person under the terms and conditions (including any law of the Commonwealth that affects the maximum retiring age of the person) under which:

- (a) he or she is employed or holds office; or
- (b) he or she was employed or held office on his or her last day of membership;

**“member”** means a person who is a member of the Superannuation Scheme by virtue of Part 3 of the 1990 Act;

**“member contributions”** in relation to a person means:

- (a) contributions paid or payable by the person in accordance with Division 1 of Part 3; and
- (b) contributions which are deemed to be member contributions by paragraph 1.1.6 (a);

**“minimum retiring age”** in relation to a person means the minimum retiring age applicable to the person under the terms and conditions (including any law of the Commonwealth that affects the minimum retiring age of a person) under which:

- (a) he or she is employed or holds office; or
- (b) he or she was employed or held office on his or her last day of membership;

**“1990 Act”** means the *Superannuation Act 1990*;

**“1976 Act”** means the *Superannuation Act 1976*;

**“1922 Act”** means the *Superannuation Act 1922*;

**“number of contribution due days in respect of the CSS transfer multiple”**, in relation to a person, means the number of fortnightly contributions paid, or payable under the 1976 Act before his or her first day of membership, including the number of any fortnightly contributions under the 1922 Act deemed to be contributions under the 1976 Act;

**“number of contribution due days in respect of the ongoing multiple”**, in relation to a person, means the number of contribution due days included in the calculation of the person’s ongoing multiple on last ceasing to be a member;

**“number of contribution due days in respect of the preserved multiple”**, in relation to a person, means the number of contribution due days applicable to the period or periods of membership to which the preserved benefit on which the preserved multiple is based relates, including, if applicable, the number of contribution due days in respect of a CSS transfer multiple and/or restoration multiple which was applicable to the person during a previous period of membership;

**SCHEDULE—continued**

**“number of contribution due days in respect of the restoration multiple”**, in relation to a person, means the sum of:

- (a) the number of contribution due days in respect of the person’s ongoing multiple on last ceasing to be a member; and
- (b) the number of contribution due days in respect of the person’s CSS transfer multiple (if any) on last ceasing to be a member; and
- (c) the number of contribution due days in respect of the person’s preserved multiple (if any) on last ceasing to be a member; and
- (d) the number of contribution due days that are applicable to the multiple (if any) in rule 1.3.37.

**“ongoing multiple”** means a multiple applicable to a person in accordance with rule 1.3.4;

**“partially dependent child”**, in relation to a person who has died and was, at the time of his or her death, a member or retirement pensioner, means a person who:

- (a) is a child of the deceased person other than;
  - (i) an eligible child; or
  - (ii) (where the deceased person was a retirement pensioner at the time of his or her death) a child who is declared by the Board not to be a partially dependent child for the purposes of these Rules having regard to any principles advised to the Board by the Minister; and
- (b) is a person the 16th anniversary of whose birth has not occurred or:
  - (i) the 16th anniversary of whose birth has occurred but the 25th anniversary of whose birth has not occurred; and
  - (ii) is receiving full-time education at a school, college or university; and
  - (iii) is not ordinarily in employment or engaged in work on his or her own account; and
- (c) to or in respect of whom, immediately before the deceased person’s death:
  - (i) the deceased person was voluntarily making, or required by a court to make, regular maintenance payments; or
  - (ii) where the person is a child born after the deceased person’s death—the deceased person would have been, in the opinion of the Board, voluntarily making, or required by a court to make, such payments if the person had been born before the death of the deceased person;

**“pension”** means a pension payable under these Rules;

**“pension pay day”** means the Thursday that falls on 12 July 1990, and each succeeding alternate Thursday;

SCHEDULE—continued

“**period of membership**”, in relation to a person, means the period commencing on the person’s first day of membership and ending on his or her last day of membership;

“**permanent employee**” has the same meaning as in the 1990 Act;

“**permanent full-time employee**” means a person who is:

- (a) a permanent employee who is employed to work full-time hours; or
- (b) the holder of a statutory office to which he or she has been appointed on a full-time basis; or
- (c) a person to whom Part IV of the *Public Service Act 1922* applies and who, immediately before that Part applied, was a permanent employee who was employed to work full-time hours; or
- (d) a person declared by the Board, in accordance with any principles advised by the Minister, to be a permanent full-time employee;

“**permanent part-time employee**” means a person who is:

- (a) a permanent employee who is employed to work less than full-time hours; or
- (b) the holder of a statutory office to which he or she has been appointed on other than a full-time basis; or
- (c) a person to whom Part IV of the *Public Service Act 1922* applies and who, immediately before that Part applied, was a permanent employee who was employed to work less than full-time hours; or
- (d) a person declared by the Board, in accordance with any principles advised by the Minister, to be a permanent part-time employee;

“**preservation fund**” means a fund that is required to preserve any benefits transferred to it;

“**preserved benefit**” means a benefit that is payable under Part 6;

“**preserved multiple**” means a multiple applicable to a person in accordance with rule 1.3.21;

“**prospective multiple**” means a multiple applicable to a person in accordance with rule 1.3.9;

“**qualifying age**” means, in respect of a financial year included in the following Table, the age specified opposite to that financial year in the Table:

<i>Financial Year</i>	<i>Age</i>
Financial year commencing on 1 July 1990	yrs 64
Financial year commencing on 1 July 1991	62
Financial year commencing on 1 July 1992	60

SCHEDULE—continued

<i>Financial Year</i>	<i>Age</i>
Financial year commencing on 1 July 1993	58
Financial year commencing on 1 July 1994	55
Financial year commencing on 1 July 1995	50;

**“rate of contribution”**, in relation to a person on a particular contribution due day, means the whole number percentage applicable to the person on that contribution due day under rule 3.1.2;

**“regular employee”** means a person who is a permanent full-time employee, a permanent part-time employee or a temporary full-time employee;

**“relevant day”**, in relation to a person who has died while a member or has ceased, or is to cease, to be a member because of invalidity retirement, means:

- (a) where, in the three years prior to a person’s last day of membership, the person had more than one protracted period of paid or unpaid sick leave or compensation leave related to the medical condition or medical conditions that substantially contributed to the person’s death or invalidity retirement—a day determined by the Board; or
- (b) where, in the three years prior to a person’s last day of membership, the person had a single protracted period of paid or unpaid sick leave or compensation leave related to the medical condition or medical conditions that substantially contributed to the person’s death or invalidity retirement—the day on which the person commenced the leave; or
- (c) in any other case—the person’s last day of membership;

**“restoration multiple”** means a multiple applicable to a person in accordance with rule 1.3.34;

**“retirement pensioner”** means a former member to whom a pension is payable under these Rules other than under Part 5;

**“reversionary pension”** means a pension that is applicable under rule 5.1.1 or rule 5.2.1;

**“spouse”**, in relation to a person who has died and who was, at the time of his or her death, a member or a retirement pensioner, means:

- (a) a person who was legally married to the deceased person at the time of the person’s death and who, at that time, was ordinarily living with the person on a permanent and bona fide domestic basis; and
- (b) a person who was legally married to the deceased person at the time of the person’s death but who was not ordinarily living with the person on a permanent and bona fide domestic basis at that time, and who, in the opinion of the Board, was wholly

**SCHEDULE—continued**

or substantially dependent upon the deceased person at that time; and

- (c) a person who was not legally married to the deceased person at the time of the person's death but who, for a continuous period of not less than 3 years immediately before the person's death, had ordinarily lived with the person as the person's husband or wife, as the case may be, on a permanent and bona fide domestic basis; and
- (d) a person who was not legally married to the deceased person at the time of the person's death but who, for a continuous period of less than 3 years immediately before the person's death, had ordinarily lived with the person as the person's husband or wife, as the case may be, on a permanent and bona fide domestic basis, and who, in the opinion of the Board, was wholly or substantially dependent upon the deceased person at the time of the deceased person's death;

but, where the deceased person was, at the time of his or her death, a retirement pensioner, does not include:

- (e) a person who was legally married to the deceased person at the time of his or her death if the marriage took place after the deceased person had become a pensioner and after the deceased person had attained the age of 60 years unless:
  - (i) the marriage took place not less than 5 years before the deceased person's death; or
  - (ii) the marriage took place less than 5 years before the deceased person's death but:
    - (A) the person had, immediately before the marriage, for a continuous period that commenced not later than 5 years before the deceased person's death but after the deceased person became a retirement pensioner and after the deceased person attained the age of 60 years, ordinarily lived with the deceased person as the person's husband or wife, as the case may be, on a permanent and bona fide domestic basis; or
    - (B) the person had, immediately before the marriage, for a continuous period that commenced not later than 3 years before the deceased person's death but before the deceased person became a retirement pensioner or attained the age of 60 years, whichever last occurred, ordinarily lived with the deceased person as the deceased person's husband or wife, as the case may be, on a permanent and bona fide domestic basis; or



**SCHEDULE—continued**

(C) the person had, immediately before the marriage, for a continuous period that commenced later than 3 years before the deceased person's death but before the deceased person became a retirement pensioner or attained the age of 60 years, whichever last occurred, ordinarily lived with the deceased person as the deceased person's husband or wife, as the case may be, on a permanent and bona fide domestic basis and was, in the opinion of the Board, wholly or substantially dependent upon the deceased person at the time of the deceased person's death; or

(f) a person who was not legally married to the deceased person at the time of his or her death if the person commenced living with the deceased person as the person's husband or wife, as the case may be, on a permanent and bona fide domestic basis after the deceased person had become a pensioner and after the deceased person had attained the age of 60 years unless the person had ordinarily so lived with the deceased person for a continuous period of not less than 5 years immediately before the deceased person's death;

**“Superannuation Scheme”** has the same meaning as in the 1990 Act;

**“temporary employee”** has the same meaning as in the 1990 Act;

**“temporary full-time employee”** means a person who is a temporary employee and who is employed to work full-time hours for a period of at least three months or such other period as the Board may determine;

**“totally and permanently incapacitated”** means that, because of a physical or mental condition the person is unlikely ever to work again in a job for which he or she is reasonably qualified by education, training or experience or could be so qualified after retraining;

**“transfer multiple”** means a multiple applicable to a person in accordance with rule 1.3.25;

**“unfunded benefit accrual”**, in relation to a person on a particular day, means the amount of the benefit accrual of the person on that day less the sum of the person's accumulated member contributions and accumulated employer contributions on that day;

**“unfunded preserved benefit”**, in relation to a person to whom a preserved benefit is applicable on a particular day, means the amount of the preserved benefit on that day that is attributable to the amount (if any) of the person's final unfunded benefit accrual included in that preserved benefit;

**“unfunded transfer multiple”** means a multiple applicable to a person in accordance with rule 1.3.40.

**SCHEDULE—continued**

**References to anniversary of birth etc.**

**1.1.2.** Subject to rule 1.1.5, a reference in these Rules to the anniversary of the birth of a person shall be read as a reference to the day on which the anniversary occurs, and a reference to the anniversary of the birth of a person last preceding a particular day shall, where the person is or has been a member and that anniversary occurred before his or her first day of membership, be read as a reference to his or her first day of membership.

**1.1.3.** Where a person was born on 29 February in any year, then, in any subsequent year that is not a leap year, the anniversary of the birth of the person shall be deemed to occur on 1 March of that subsequent year.

**1.1.4.** A person shall be taken to have reached a particular age on the day immediately before the relevant anniversary of his or her birth.

**1.1.5.** Where immediately before a person's first day of membership, he or she was an eligible employee for the purposes of the 1976 Act, a reference to the anniversary of the birth of a person last preceding a particular day:

- (a) where that anniversary occurred before his or her first day of membership, is to be read as a reference to the anniversary of his or her birth last preceding the particular day that occurred while he or she was an eligible employee; and
- (b) where that anniversary occurred before his or her first day of service for the purposes of that Act, is to be read as a reference to his or her first day of service for the purposes of that Act.

**Provisions in relation to former eligible employees**

**1.1.6.** Where a person on or immediately before his or her first day of membership was an eligible employee for the purposes of the 1976 Act and he or she elected to cease to be an eligible employee:

- (a) contributions paid, or payable, by the member under that Act during the period from the date of his or her first day of membership to the date of his or her election are deemed to be member contributions; and
- (b) productivity contributions paid, or payable, under that Act by his or her employer or employers during that period in respect of him or her are deemed to be funded employer contributions; and
- (c) contribution days for the purposes of that Act during the period on which the person was required to pay contributions are deemed to be contribution due days.

**SCHEDULE—continued**

**Additions to accumulated funded employer contributions**

**1.1.7.** There shall be added to a person's accumulated funded employer contributions any of the following amounts that are applicable to the person:

- (a) in the case of a person to whom a preserved benefit was applicable immediately prior to his or her first day of membership—the amount (if any) of the accumulated employer contributions in respect of the period of the person's membership preceding his or her first day of membership that was not paid to, or in respect of, the person when he or she last ceased to be a member but was included in his or her preserved benefit, together with the amount of any interest thereon up to his or her first day of membership in accordance with a determination or determinations by the Board as to rates of interest and the method of allocating interest to such preserved amount;
- (b) in the case of a person whose first day of membership is 1 July 1990 and to whom a CSS transfer multiple was applicable on that first day of membership—the net amount (if any) included in his or her CSS transfer credit by virtue of subparagraph 1.3.30 (c) (iv) that was deemed under the 1976 Act to be an employer contribution;
- (c) in the case of a person whose first day of membership is other than 1 July 1990 and to whom a CSS transfer multiple was applicable on that first day of membership—the sum of:
  - (i) the amount (if any) included in his or her CSS transfer credit by virtue of subparagraph 1.3.30 (c) (ii) other than that part (if any) of the amount that is attributable to the amount of the notional superannuation benefit provided for the person in section 8A of the *Superannuation (Productivity Benefit) Act 1988*; and
  - (ii) the net amount (if any) included in his or her CSS transfer credit by virtue of subparagraph 1.3.30 (c) (iv) that was deemed under the 1976 Act to be an employer contribution;
- (d) in the case of a person to whom a transfer multiple is applicable—that part (if any) of the transfer value under rule 1.3.25 which, in accordance with the Regulations under the *Occupational Superannuation Standards Act 1987* or a determination by the Board, is required to be preserved until the member's retirement;
- (e) in the case of a person who was an invalidity pensioner immediately prior to his or her first day of membership—the amount of his or her accumulated funded employer contributions on last becoming an invalidity pensioner.

**SCHEDULE—continued**

**Additions to accumulated member contributions**

**1.1.8.** There shall be added to a person's accumulated member contributions any of the following amounts that are applicable to the person:

- (a) in the case of a person to whom a preserved benefit was applicable immediately prior to his or her first day of membership—the amount (if any) of the accumulated member contributions in respect of the period of the person's membership preceding his or her first day of membership that was not paid to, or in respect of, the person when he or she last ceased to be a member, but was included in his or her preserved benefit, together with the amount of any interest thereon up to his or her first day of membership in accordance with a determination or determinations by the Board as to rates of interest and the method of allocating interest to such preserved amount;
- (b) in the case of a person to whom a CSS transfer multiple was applicable on his or her first day of membership—the sum of:
  - (i) the amount of accumulated contributions for the purposes of the 1976 Act included in his or her CSS transfer amount by virtue of paragraph 1.3.30 (a); and
  - (ii) the part (if any) of the net amount included in his or her CSS transfer credit by virtue of subparagraph 1.3.30 (c) (iii) that was paid under subsection 128 (2) of the 1976 Act into the Superannuation Fund established under that Act; and
  - (iii) the net amount (if any) included in his or her CSS transfer credit by virtue of subparagraph 1.3.30 (c) (iv) that was deemed under the 1976 Act to be a supplementary contribution;
- (c) in the case of a person to whom a transfer multiple is applicable—that part (if any) of the transfer value giving rise to the transfer multiple which is not, and will not be, required to be preserved until his or her retirement;
- (d) in the case of a person who was an invalidity pensioner immediately prior to his or her first day of membership—the amount (if any) of the accumulated member contributions in respect of the period of his or her membership preceding his or her first day of membership that was not paid as a lump sum pursuant to paragraph 4.3.5 (a) to, or in respect of, the person when he or she last became an invalidity pensioner.

**SCHEDULE—continued**

***Division 2—Medical examinations and limited benefits members***

**Medical examinations**

**1.2.1.** The Board may require a person who proposes to become or becomes a member to undergo not later than 60 days after his or her first day of membership, or within such other period as the Board allows, such medical examination or examinations and test or tests by an approved medical practitioner or practitioners as the Board determines.

**Limited benefits member**

**1.2.2.** If, after considering the report or reports of the medical examination or examinations and test or tests and such other matters (if any) as the Board considers relevant, the Board is of the opinion that the person is not of sufficiently sound health to carry out all the duties of his or her position, without taking excessive sick leave, for not less than 3 years commencing on his or her first day of membership, the person shall be treated as a limited benefits member during the period commencing on the date of notification referred to in rule 1.2.3, and ending on the last day of that 3 year period.

**Member to be notified of being a limited benefits member**

**1.2.3.** As soon as practicable after it has formed the opinion referred to in rule 1.2.2, the Board shall notify the member in writing:

- (a) that he or she is to be treated as a limited benefits member; and
- (b) of the period during which he or she is to be so treated; and
- (c) of the condition or conditions that led the Board to form the opinion referred to in rule 1.2.2.

**Member does not undergo medical examination**

**1.2.4.** Where a member does not undergo a medical examination or test required by the Board within the period referred to in rule 1.2.1 the member shall be treated as a limited benefits member during the period commencing on the day following the end of the period referred to in rule 1.2.1 and ending on:

- (a) if the member undergoes the required medical examination or test—the day from which the Board decides that the member is not to be treated as a limited benefits member for the purposes of rule 1.2.2; or
- (b) in any other case—the last day of the 3 year period referred to in rule 1.2.2.

**SCHEDULE—continued**

***Division 3—Benefit accrual***

**Benefit accrual**

**1.3.1.** Subject to rule 1.3.2, a person's benefit accrual on a particular day is his or her benefit factor multiplied by his or her average salary on that day.

**Benefits subject to maximum**

**1.3.2.** On and from the first day on which a person's benefit accrual under rule 1.3.1 equals or exceeds his or her maximum benefit, his or her benefit accrual on a particular day is to be equal to his or her maximum benefit on that day in accordance with rule 1.4.1.

**Benefit factor**

**1.3.3.** The benefit factor applicable to a person on a particular day is the sum of his or her ongoing multiple in accordance with rule 1.3.4 and any one or more of the following multiples that is, or are, applicable to the person:

- (a) a prospective multiple in accordance with rule 1.3.9;
- (b) an additional cover multiple in accordance with rule 1.3.19;
- (c) a preserved multiple in accordance with rule 1.3.21;
- (d) a transfer multiple in accordance with rule 1.3.25;
- (e) a CSS transfer multiple in accordance with rule 1.3.29;
- (f) a restoration multiple in accordance with rule 1.3.34;
- (g) subject to Division 6 of Part 4, an excess contribution multiple in accordance with rule 1.3.38, or part thereof;
- (h) an unfunded transfer multiple in accordance with rule 1.3.40.

**Ongoing multiple**

**1.3.4.** The ongoing multiple applicable to a person on a particular day is whichever is the lesser of:

- (a) a multiple that is the sum of the amounts calculated for each contribution due day by using the formula:

$$\frac{0.11}{26} \times \text{Factor} + 2 \times \frac{\text{Contribution Paid}}{\text{Salary}};$$

where:

**Factor** is:

- (i) in the case of a person who on the anniversary of his or her birth immediately preceding the contribution due day was a permanent full-time or temporary full-time employee and on the contribution due day was not a casual employee—1; and
- (ii) in the case of a person who on the anniversary of his or her birth immediately preceding the contribution due day

**SCHEDULE—continued**

was a permanent part-time employee and on the contribution due day was not a casual employee—the ratio on the anniversary of the person's birth immediately preceding the contribution due day that the hours being worked, or to be worked, in his or her part-time position bears to the full-time hours that he or she would have worked if he or she had been working full-time, provided that the hours in his or her part-time position shall include the hours (if any) not being worked but in respect of which a partial invalidity pension or compensation payment is applicable to the person; and

- (iii) in the case of any other employee—the ratio that the fortnightly contribution salary in respect of that contribution due day bears to the fortnightly rate of salary on the anniversary of birth immediately preceding that contribution due day; and

**Contribution Paid** is the amount of contribution paid, or payable, by the member in respect of that contribution due day; and

**Salary** is:

- (i) in the case of a person to whom a partial invalidity pension is payable on the anniversary of birth immediately preceding that contribution due day—the annual rate of contribution salary on the anniversary of birth immediately preceding that contribution due day; and
  - (ii) in any other case—the annual rate of salary on the anniversary of birth immediately preceding that contribution due day; and
- (b) the multiple that would, subject to rules 1.3.5, 1.3.6, 1.3.7 and 1.3.8, have applied in accordance with paragraph 1.3.4 (a) where:
- (i) if the number of contribution due days during the person's period of membership was less than 260—the person had paid contributions at the rate of 5 per cent of his or her fortnightly contribution salary on each of those contribution due days; or
  - (ii) in any other case—the person had paid contributions at the rate of 5 per cent of his or her fortnightly contribution salary on each of the first 260 contribution due days during his or her period of membership and at the rate of 10 per cent of his or her fortnightly contribution salary for each of the remaining contribution due days (if any).

**Calculation of ongoing multiple where preserved multiple applies**

**1.3.5.** Where a preserved multiple is applicable to a person in accordance with rule 1.3.21, rule 1.3.4 has effect as if:

- (a) where the number of contribution due days in respect of the preserved multiple is less than 260—the reference to 260 is a

**SCHEDULE—continued**

reference to a number by which 260 exceeds the number of those days; or

- (b) where paragraph 1.3.5 (a) does not apply—paragraph 1.3.4 (b) had been omitted.

**Calculation of ongoing multiple where CSS transfer multiple applies**

**1.3.6. Where:**

- (a) (i) a CSS transfer multiple is applicable to a person in accordance with rule 1.3.29; or
- (ii) a person was an eligible employee for the purposes of the 1976 Act immediately before 1 July 1990 and no contributions were payable by the person under that Act before 1 July 1990 but were so payable after that date; and
- (b) the number which is the sum of:
  - (i) the number of contribution due days in respect of the CSS transfer multiple; and
  - (ii) the number of contribution days for the purposes of the 1976 Act deemed under rule 1.1.6 (c) to be contribution due days;

is less than 260;

rule 1.3.4 has effect as if paragraph 1.3.4 (b) had read:

“(b) the multiple that would have applied in accordance with paragraph 1.3.4 (a) if the person had paid the contributions deemed under rule 1.1.6 (a) to be member contributions and:

- (i) where the number of contribution due days during the person’s period of membership was equal to or less than 260—the person had paid contributions at the rate of 5 per cent of his or her fortnightly contribution salary on each of the contribution due days after the day the member had elected to cease to be an eligible employee for the purposes of the 1976 Act; or
- (ii) where the number of contribution due days during the person’s period of membership was greater than 260:
  - (A) the person had paid contributions at the rate of 5 per cent of his or her fortnightly contribution salary on each of the contribution days in the period commencing on the day after the day the member had elected to cease to be an eligible employee for the purposes of the 1976 Act and ending on the member’s 260th contribution day inclusive; and
  - (B) 10 per cent of his or her fortnightly contribution salary thereafter.”.



**SCHEDULE—continued**

**1.3.7. Where:**

- (a) (i) a CSS transfer multiple is applicable to a person in accordance with rule 1.3.29; or
  - (ii) a person was an eligible employee for the purposes of the 1976 Act immediately before 1 July 1990 and no contributions were payable by the person under that Act before 1 July 1990 but were so payable after that date; and
- (b) the number which is the sum of:
- (i) the number of contribution due days in respect of the CSS transfer multiple; and
  - (ii) the number of contribution days for the purposes of the 1976 Act deemed under rule 1.1.6 (c) to be contribution due days;

is more than 260;

rule 1.3.4 has effect as if paragraph 1.3.4 (b) had been omitted.

**Calculation of ongoing multiple where restoration multiple applies**

**1.3.8.** Where a restoration multiple is applicable to a person in accordance with rule 1.3.34, rule 1.3.4 has effect as if:

- (a) where the number of contribution due days in respect of the restoration multiple is less than 260—the reference to 260 is a reference to a number by which 260 exceeds the number of those days; or
- (b) where paragraph 1.3.8 (a) does not apply—paragraph 1.3.4 (b) had been omitted.

**Applicability of prospective multiple**

**1.3.9.** A prospective multiple applies to a person:

- (a) who ceases to be a member because of invalidity retirement or death before reaching the age of 60 years; and
- (b) who, on the relevant day in relation to him or her, is not a limited benefits member or a maximum benefits member.

**Calculation of prospective multiple**

**1.3.10.** Where a prospective multiple is applicable to a person in accordance with rule 1.3.9, that multiple is a number equal to the ongoing multiple that would have applied to the person in accordance with paragraph 1.3.4 (a) if:

- (a) his or her first day of membership had been the day immediately after his or her last day of membership; and
- (b) his or her last day of membership had been the day on which he or she would reach, or would have reached, the age of 60 years; and

**SCHEDULE—continued**

- (c) the number of contribution due days during the period of membership in relation to that first and last day of membership had been equal to:
- (i) where on the relevant day the person had been a regular employee—the number of contribution days in that period; or
  - (ii) where on the relevant day the person had been a casual employee—subject to rule 1.3.17, the number that bears the same relation to the number of contribution days in that period as the number of contribution due days in the 78 contribution days immediately preceding the relevant day bears to 78 (or, subject to rules 1.3.11 and 1.3.12, where the number of contribution days in the person's period of membership is less than 78, the relation that the number of contribution due days in the person's period of membership bears to that lesser number); and
- (d) for each contribution due day in paragraph 1.3.10 (c), **Factor** in the formula in paragraph 1.3.4 (a) is:
- (i) where on the relevant day the person was a permanent full-time or temporary full-time employee—1; or
  - (ii) where on the relevant day the person was a permanent part-time employee—subject to rule 1.3.18, the average of the **Factors** in the formula in paragraph 1.3.4 (a) for the 78 contribution due days immediately preceding the relevant day in respect of the person (or, subject to rules 1.3.11 and 1.3.13, where the number of such contribution due days is less than 78, for each such contribution due day); or
  - (iii) in any other case—subject to rule 1.3.17, the average of the **Factors** in the formula in paragraph 1.3.4 (a) for the contribution due days in the 78 contribution days immediately preceding the relevant day in respect of the person (or, subject to rules 1.3.11, 1.3.12 and 1.3.13, where the number of such contribution days is less than 78, for each such contribution due day); and
- (e) in a case where the sum of:
- (i) the number of contribution due days in respect of the person's ongoing multiple by virtue of rule 1.3.4; and
  - (ii) the number of contribution due days in respect of whichever (if any) of his or her CSS transfer multiple his or her preserved multiple or restoration multiple applies;
- is less than 260, he or she had paid contributions at the rate of 5 per cent of his or her fortnightly rate of contribution salary on:

**SCHEDULE—continued**

- (iii) the number of contribution due days that is the number by which 260 exceeds the sum of the numbers of contribution due days in subparagraphs 1.3.10 (e) (i) and (ii); or
  - (iv) where the number of contribution due days in the period in paragraph 1.3.10 (c) is less than the number in subparagraph 1.3.10 (e) (iii)—that number of contribution due days; and
- (f) he or she had paid contributions for each of the remaining such contribution due days at a rate of whichever is the greater of:
- (i) 5 per cent of his or her fortnightly rate of contribution salary; and
  - (ii) subject to rule 1.3.15:
    - (A) where on the relevant day the person was a regular employee—subject to rule 1.3.18, the average of the rates of contribution at which the person paid contributions on each of the 78 contribution due days immediately preceding the relevant day in relation to the person (or, subject to rules 1.3.11 and 1.3.14, where the number of such contribution due days is less than 78, on each such contribution due day); or
    - (B) where on the relevant day the person was a casual employee—subject to rule 1.3.17, the average of the rates of contribution at which the person paid contributions on each of the contribution due days in the 78 contribution days immediately preceding the relevant day in respect of the person (or, subject to rules 1.3.11, 1.3.12 and 1.3.14, where the number of such contribution days is less than 78, on each such contribution due day in that period); and
- (g) for each contribution due day in paragraph 1.3.10 (c), the annual rate of salary or, if a partial invalidity pension were applicable to the person on the relevant day, the annual rate of contribution salary in respect of the person had been the same amount as on the anniversary of birth of the person on or immediately preceding the relevant day and:
- (i) where on the relevant day the person was a regular employee—the fortnightly contribution salary had been the same amount as the amount of the fortnightly contribution salary on the anniversary of birth of the person on or immediately preceding the relevant day; or
  - (ii) where on the relevant day the person was a casual employee—subject to rule 1.3.17, the fortnightly

**SCHEDULE—continued**

contribution salary had been the amount that, when expressed as a proportion of the the annual rate of salary on the anniversary of birth of the person on or immediately preceding the relevant day, is the same number as the average of the ratios on the contribution due days in the 78 contribution days immediately preceding the relevant day of the fortnightly contribution salary to the annual rate of salary on the anniversary of birth immediately preceding the contribution due day (or, subject to rules 1.3.11, 1.3.12 and 1.3.16, where the number of such contribution days is less than 78, for each such contribution due day).

**Contribution days in CSS on which contributions were payable may count as contribution due days**

**1.3.11. Where:**

- (a) the number of contribution due days in paragraph 1.3.10 (d), subparagraph 1.3.10 (f) (ii) or 1.3.10 (g) (ii) is less than 78; and
- (b) a CSS transfer multiple is applicable to the member;

the reference to contribution due days in that paragraph or subparagraph shall be read as including contribution days for the purposes of the 1976 Act on which the person was required to make contributions under that Act since last becoming an eligible employee for the purposes of that Act.

**Contribution days in CSS may count as contribution days**

**1.3.12. Where:**

- (a) the number of contribution days in subparagraph 1.3.10 (c) (ii), 1.3.10 (d) (iii) or 1.3.10 (g) (ii) or sub-subparagraph 1.3.10 (f) (ii) (B) is less than 78; and
- (b) a CSS transfer multiple is applicable to the member;

the reference to contribution days in that subparagraph or sub-subpargaraph shall be read as including contribution days for the purposes of the 1976 Act on which the person was an eligible employee for the purposes of that Act since last becoming an eligible employee for the purposes of that Act.

**CSS membership may count for calculation of average factor**

**1.3.13. Where a CSS transfer multiple is applicable to the member and:**

- (a) the number of contribution due days in subparagraph 1.3.10 (d) (ii) is less than 78; or
- (b) the number of contribution days in subparagraph 1.3.10 (d) (iii) is less than 78;

**SCHEDULE—continued**

the reference to **Factors** used in the formula shall be read as including **Factors** that would have applied in the formula in paragraph 1.3.4 (a) if the contribution days under the 1976 Act on which the person was required to make contributions had been contribution due days and the member had made the contributions he or she was required to make under that Act on those contribution due days since last becoming an eligible employee for the purposes of that Act.

**Rates of contribution in CSS may count as rates of contribution**

**1.3.14.** Where a CSS transfer multiple is applicable to the member and:

- (a) the number of contribution due days in sub-subparagraph 1.3.10 (f) (ii) (A) is less than 78; or
- (b) the number of contribution days in sub-subparagraph 1.3.10 (f) (ii) (B) or rule 1.3.18 is less than 78;

the reference to rates of contribution in that sub-subparagraph or rule shall be read as including rates at which the person contributed on the contribution days for the purposes of the 1976 Act on which the person was required to make contributions under that Act since last becoming an eligible employee for the purposes of that Act.

**Maximum average rate of contribution of 10 per cent for calculation of prospective multiple**

**1.3.15.** For the purpose of subparagraph 1.3.10 (f) (ii), where the average rate at which the person paid contributions exceeds 10 per cent of his or her fortnightly rate of contribution salary it shall be taken, for the purposes of that subparagraph, to be 10 per cent.

**Salary in CSS may count as salary**

**1.3.16.** Where:

- (a) the number of contribution days in subparagraph 1.3.10 (g) (ii) is less than 78; and
- (b) a CSS transfer multiple is applicable to the member;

the reference to fortnightly contribution salary and annual rates of salary in subparagraph 1.3.10 (g) (ii) shall be read as including the fortnightly contribution salaries and annual rates of salary that would have applied in the formula in paragraph 1.3.4 (a) if the contribution days for the purposes of the 1976 Act on which the person was required to make contributions under that Act since last becoming an eligible employee for the purposes of that Act were contribution due days and the member had made the contributions he or she was required to make under that Act on those contribution due days.

**SCHEDULE—continued**

**Certain periods of leave without pay to be excluded from calculation of averages**

**1.3.17. Where:**

- (a) subparagraph 1.3.10 (c) (ii), 1.3.10 (d) (iii) or 1.3.10 (g) (ii) or sub-subparagraph 1.3.10 (f) (ii) (B) applies to a person; and
- (b) the person had previously been a regular employee; and
- (c) while the person had been a regular employee he or she had been on a period of leave without pay during which he or she was not required to make, and did not make, contributions, either under the Superannuation Scheme or as an eligible employee for the purposes of the Superannuation Act 1976;

the number of contribution days in that period of leave without pay shall not count towards the 78, or lesser number of, contribution days referred to in that subparagraph, sub-subparagraph or rule.

**Trustees to have discretion where a regular employee had previously been a casual employee**

**1.3.18. Where:**

- (a) subparagraph 1.3.10 (d) (ii) or sub-subparagraph 1.3.10 (f) (ii) (A) applies to a person; and
- (b) the person had been a casual employee on some of the 78 contribution days immediately preceding the relevant day (or, subject to rules 1.3.11, 1.3.12, 1.3.13 and 1.3.14, where the number of such contribution days while the person was a member is less than 78, during such lesser number of contribution days);

the Board, having regard to the spirit of subparagraph 1.3.10 (f) (ii) or paragraph 1.3.10 (d) and the need to maintain equity between members, may use such number of contribution due days in calculating the average of the rates of contribution and the average of the factors in the formula in paragraph 1.3.4 (a) as it considers appropriate to reflect the contribution and salary experience of the person over the period up to the relevant day, provided that the number determined by the Board shall include the number of contribution due days in the 78 contribution days immediately preceding the relevant day (or, subject to rules 1.3.11, 1.3.12, 1.3.13, 1.3.14 and 1.3.16, where the number of such contribution days while the person was a member is less than 78, during such lesser number of contribution days)

**Applicability of additional cover multiple**

**1.3.19. An additional cover multiple applies to a person:**

- (a) who ceases to be a member because of invalidity retirement or death before reaching the age of 60 years; and

**SCHEDULE—continued**

- (b) to whom additional death and invalidity cover was applicable on his or her last day of membership; and
- (c) in respect of whom a payment will be, or has been, received by the Board as a result of a claim by the Board under rule 10.1.12 in relation to the person.

**Calculation of additional cover multiple**

**1.3.20.** Where an additional cover multiple applies to a person in accordance with rule 1.3.19 that multiple is the number that is the amount of the payment referred to in that rule divided by the amount of his or her average salary on his or her last day of membership.

**Applicability of preserved multiple**

**1.3.21.** A preserved multiple applies to a person to whom a preserved benefit applied immediately before his or her first day of membership.

**Calculation of preserved multiple**

**1.3.22.** Subject to rules 1.3.23 and 1.3.24, where a preserved multiple applies to a person, that multiple is the number that is the amount, which if he or she had not again become a member, would have been the amount of the preserved benefit on the earlier of:

- (a) the day 12 months after his or her first day of membership; and
- (b) his or her last day of membership;

divided by the amount of his or her average salary on that day.

**1.3.23.** Where:

- (a) the preserved benefit in rule 1.3.22 is a preserved benefit that was applicable to a person under rule 4.4.3 or paragraph 4.4.4 (b); and
- (b) when a person last ceased to be a member, the number that applied to **CDD** in the formula in rule 4.4.3 was at least 26 but less than 104;

the amount of the preserved benefit for the purposes of rule 1.3.22 on the relevant day under that rule is to be calculated by using the formula:

$$\frac{104 \times \mathbf{PB}}{\mathbf{CDD}} + \mathbf{AMC} + \mathbf{AEC};$$

where:

**PB** is the amount that would have been the amount of the preserved benefit on the relevant day under rule 1.3.22 if he or she had not again become a member less the sum of:

- (a) the amount (if any) that would have been the amount on the relevant day under rule 1.3.22 of his or her accumulated

**SCHEDULE—continued**

employer contributions included in the preserved benefit if he or she had not again become a member; and

- (b) the amount (if any) that would have been the amount on the relevant day under rule 1.3.22 of his or her accumulated member contributions included in the preserved benefit if he or she had not again become a member; and

**CDD** is the same number that applied to **CDD** in the formula in rule 4.4.3 when he or she last ceased to be a member; and

**AMC** is the amount (if any) that would have been the amount on the relevant day under rule 1.3.22 of his or her accumulated member contributions included in the preserved benefit if he or she had not again become a member; and

**AEC** is the amount (if any) that would have been the amount on the relevant day under rule 1.3.22 of his or her accumulated employer contributions included in the preserved benefit if he or she had not again become a member.

**1.3.24.** Where the preserved benefit in rule 1.3.22 is a preserved benefit that was applicable to a person under rule 4.4.1, the amount of the preserved benefit for the purposes of rule 1.3.22 on the relevant day in that rule is to be taken to have been the amount of the preserved benefit that would have been applicable to the person on that day if:

- (a) on the day the person last ceased to be a member:
  - (i) he or she had been entitled to a benefit under rule 4.4.3; and
  - (ii) **CDD** for the purposes of the formula in rule 4.4.3 had been the number 104; and
  - (iii) he or she had not made an election under rule 4.4.4; and
- (b) he or she had not again become a member.

**Applicability of transfer multiple**

**1.3.25.** A transfer multiple applies to a person where, in accordance with Division 1 of Part 8, the Board has accepted from, or in relation to, him or her a transfer value of a kind referred to in paragraph 8.1.1 (a) or (b).

**Calculation of transfer multiple**

**1.3.26.** Where a transfer multiple applies to a person in accordance with rule 1.3.25, that multiple shall be the multiple calculated in accordance with rules 1.3.27 and 1.3.28 or, where there is more than one transfer value accepted by the Board in respect of a person, the sum of the multiples calculated in accordance with rules 1.3.27 and 1.3.28 in respect of each such transfer value.



**SCHEDULE—continued**

**1.3.27.** Where a transfer value of the kind referred to in paragraph 8.1.1 (a) or (b) is accepted by the Board, the relevant day for the calculation of the transfer multiple in respect of that transfer value is to be the earlier of:

- (a) the day 12 months after receipt by the Board of the transfer value; and
- (b) his or her last day of membership.

**1.3.28.** Where a transfer value of the kind referred to in paragraph 8.1.1 (a) or (b) is accepted by the Board in relation to a person, the transfer multiple in respect of that transfer value is the number calculated by using the formula:

$$\frac{\text{TV}}{\text{AS}},$$

where:

**TV** is the sum of:

- (a) the amount of the transfer value paid to the Board in relation to the person, less the amount of any tax payable by the Fund in relation to the payment; and
- (b) the interest (if any) up to the relevant day under rule 1.3.27 in respect of the net amount in paragraph (a) in accordance with a determination or determinations by the Board as to rates of interest and the method of allocating interest to such amount; and

**AS** is the amount of the person's average salary on the relevant day under rule 1.3.27.

**Applicability of CSS transfer multiple**

**1.3.29.** A CSS transfer multiple applies to a person:

- (a) who elected to cease to be an eligible employee for the purposes of the 1976 Act on a day that was coincident with, or later than, his or her first day of membership; and
- (b) in relation to whom the Board has received a transfer value of a kind referred to in paragraph 8.1.1 (c), or is satisfied that the payment of such a transfer value will be made.

**Calculation of CSS transfer multiple**

**1.3.30.** Where a CSS transfer multiple is applicable to a person in accordance with rule 1.3.29, that multiple is a number calculated by using the formula:

$$\frac{\text{CSS transfer credit}}{\text{CSS average salary}},$$

**SCHEDULE—continued**

where:

**CSS transfer credit** is the sum of:

- (a) subject to rule 1.3.32, the amount of the person's accumulated contributions for the purposes of the 1976 Act immediately before his or her first day of membership less the amount of any contributions that had become payable by the person under that Act but had not been paid; and
- (b) subject to rules 1.3.32 and 1.3.33, an amount that is 2.5 times the amount of the person's accumulated basic contributions for the purposes of the 1976 Act immediately before his or her first day of membership; and
- (c) whichever of the following is applicable:
  - (i) in the case of a person whose first day of membership was 1 July 1990—the amount (if any) of the notional interim benefit under section 8A of the *Superannuation (Productivity Benefit) Act 1988*;
  - (ii) in the case of a person whose first day of membership was other than 1 July 1990—the amount (if any) of his or her accumulated employer contributions under the 1976 Act immediately before his or her first day of membership;
  - (iii) in the case of a person in relation to whom a transfer value had been paid to the Commissioner for Superannuation in accordance with section 128 of the 1976 Act on or after his or her first day of membership—the amount of that payment less the amount of any tax payable under the 1976 Act in respect of the payment;
  - (iv) in the case of a person in relation to whom an amount was paid to the Commissioner for Superannuation under section 110K, 110L or 110M of the 1976 Act on or after his or her first day of membership—that amount less the amount of any tax payable under the 1976 Act in respect of the payment; and
- (d) the amount immediately before his or her first day of membership in relation to non-contributory units held by the member under the 1922 Act on ceasing to be a contributor under that Act; and

**CSS average salary** is the amount of:

- (a) the average of the member's annual rates of salary under the 1976 Act on the 3 anniversaries of his or her birth preceding his or her first day of membership; or
- (b) where the period during which the member was an eligible employee for the purposes of the 1976 Act, or where the member had been an eligible employee on more than one occasion the period since last becoming an eligible employee,

**SCHEDULE—continued**

did not encompass 3 anniversaries of his or her birth, the average of the annual rates of salary at the anniversaries in the period commencing on his or her first day of service for the purposes of that Act and ending on the day immediately before his or her first day of membership plus his or her annual rate of salary on his or her first day of service for the purposes of that Act (if not an anniversary);

provided that:

- (c) where the member was in receipt of a partial invalidity pension under the 1976 Act on an anniversary of birth (or first day of service), the references in paragraph (a) or (b) to an annual rate of salary shall be read as a reference to the annual rate of salary that would have applied if the person had ceased to be an eligible employee on that day; and
- (d) the Board has discretion to use an alternative salary in circumstances where it considers that the average salary resulting from the application of paragraph (a) or (b) is not in accordance with the spirit of the Rules and would lead to inequitable treatment between members.

**1.3.31.** Where the Board has exercised its discretion under rule 1.3.30, the member shall be advised of the result of the exercise of the discretion and shall be provided with an opportunity to reconsider his or her decision to transfer to the scheme.

**1.3.32.** Where:

- (a) a CSS transfer multiple is applicable to a person; and
- (b) a transfer value had been paid to the Commissioner for Superannuation in accordance with section 128 of the 1976 Act in respect of the person prior to his or her first day of membership; and
- (c) the employee component of the transfer value for the purposes of paragraph 128 (2) (a) of that Act is not equal to two-sevenths of the transferred amount;

rule 1.3.30 has effect as if paragraphs (a) and (b) of the definition of **CSS transfer credit** had read:

- “(a) the amount that would have been the amount of the person’s accumulated contributions for the purposes of the 1976 Act immediately before his or her first day of membership less the amount of any contributions that had become payable by the person under that Act but had not been paid if, instead of the amount that was paid into the Superannuation Fund established under that Act in respect of him or her under paragraph 128 (2) (a) of the 1976 Act, an amount equal to two-sevenths of the amount paid to the Commissioner in accordance with

**SCHEDULE—continued**

section 128 of that Act had been paid into the Superannuation Fund in respect of him or her under that paragraph; and

- (b) an amount that is 2.5 times the amount that would have been the amount of the person's accumulated basic contributions for the purposes of the 1976 Act immediately before his or her first day of membership if, instead of the amount that was paid into the Superannuation Fund established under that Act in respect of him or her under paragraph 128 (2) (a) of the 1976 Act, an amount equal to two-sevenths of the amount paid to the Commissioner in accordance with section 128 of that Act had been paid into the Superannuation Fund in respect of him or her under that paragraph; and”.

**1.3.33. Where:**

- (a) a CSS transfer multiple is applicable to a person; and
- (b) the person, while an eligible employee for the purposes of the 1976 Act, had become entitled to a benefit under section 66 of that Act; and
- (c) the person had made an election under section 68 or 71 of that Act; and
- (d) the person had subsequently become an eligible employee for the purposes of that Act;

rule 1.3.30 has effect as if paragraph (b) of the definition of **CSS transfer credit** had read:

- “(b) an amount that is 2.5 times the amount that would have been the amount of the person's accumulated basic contributions for the purposes of the 1976 Act immediately before his or her first day of membership if he or she had not made an election under section 68 or 71 of that Act on last becoming entitled to a benefit under section 66 of that Act.”.

**Applicability of restoration multiple**

**1.3.34.** A restoration multiple applies to a person:

- (a) who immediately before his or her first day of membership was an invalidity pensioner; and
- (b) who on the date he or she last became an invalidity pensioner was not a maximum benefits member.

**Calculation of restoration multiple**

**1.3.35.** Where a restoration multiple is applicable to a person in accordance with rule 1.3.34, that multiple is the number that is the sum of:

- (a) where, on last becoming entitled to an invalidity pension:
  - (i) the person did not make an election under rule 4.3.4—  
the benefit factor that would have applied at the time he

**SCHEDULE—continued**

or she became so entitled if paragraph 1.3.3 (a) had not applied to him or her; or

- (ii) the person made an election under paragraph 4.3.4—his or her benefit factor at the time he or she became so entitled calculated in accordance with rule 1.3.36; and

(b) the multiple in relation to the person under rule 1.3.37.

**1.3.36.** Where a person on last becoming an invalidity pensioner elected to receive a lump sum benefit under paragraph 4.3.4, the person's benefit factor for the purpose of subparagraph 1.3.35 (a) (ii) shall be calculated as follows:

$$\mathbf{BF} \times \frac{\mathbf{(BA - LS)}}{\mathbf{BA}},$$

where:

**BF** is the amount of the person's benefit factor that would have applied to him or her on last becoming an invalidity pensioner if paragraph 1.3.3 (a) had not applied to him or her; and

**BA** is the amount of the person's benefit accrual on last becoming an invalidity pensioner; and

**LS** is the amount of the lump sum benefit received by the person under paragraph 4.3.5 (a) on last becoming an invalidity pensioner.

**1.3.37.** The multiple in relation to a person for the purposes of paragraph 1.3.35 (b) is equal to the prospective multiple that would have applied to him or her when he or she last became entitled to an invalidity pension if, for the purpose of paragraph 1.3.10 (b), the reference to "the day he or she would reach, or would have reached, the age of 60 years" had been a reference to "the day immediately before the day he or she would next become a member".

**Applicability of excess contribution multiple**

**1.3.38.** An excess contribution multiple applies to, or in respect of, a person:

- (a) who ceases to be a member; and
- (b) whose ongoing multiple under rule 1.3.4 on the person's last day of membership is calculated under paragraph 1.3.4 (b).

**Calculation of excess contribution multiple**

**1.3.39.** Where an excess contribution multiple is applicable to a person in accordance with rule 1.3.38, that multiple is a number that is the sum of the amounts, including negative amounts, calculated for each contribution due day applicable to paragraph 1.3.4 (b) in relation to the person by using the formula:

SCHEDULE—continued

Contribution Paid—Deemed Contribution Paid,  
Salary

where:

**Contribution Paid** is the amount of contribution paid, or payable, by the member in respect of a contribution due day; and

**Deemed Contribution Paid** is the amount of contribution assumed to be paid under paragraph 1.3.4 (b) by the member in respect of a contribution due day; and

**Salary** is:

- (a) in the case of a person to whom a partial invalidity pension was applicable on the anniversary of birth immediately preceding that contribution due day—the annual rate of contribution salary; and
- (b) in any other case—the annual rate of salary on the anniversary of birth immediately preceding the contribution due day.

**Applicability of unfunded transfer multiple**

**1.3.40.** Where a person, immediately before his or her first day of membership, is a remainder employee for the purposes of the *Superannuation (Productivity Benefit) Act 1988* but is not a fund employee for the purposes of that Act, an unfunded transfer multiple is applicable to him or her.

**Calculation of unfunded transfer multiple**

**1.3.41.** Where an unfunded transfer multiple applies to a person in accordance with rule 1.3.40, that multiple shall be calculated in accordance with rules 1.3.42 and 1.3.43.

**1.3.42.** Where an unfunded transfer multiple is applicable to a person, the relevant day for the calculation of the multiple is to be the earlier of:

- (a) the day 12 months after the person's first day of membership; and
- (b) his or her last day of membership.

**1.3.43.** The unfunded transfer multiple in respect of a person is the number calculated by using the formula:

$$\frac{\text{Productivity benefit}}{\text{Average salary}}$$

where:

**Productivity benefit** is the sum of:

- (a) the amount of the interim benefit that would have been payable under the *Superannuation (Productivity Benefit) Act 1988* on the day before the person's first day of membership if the person had not become a member of the Superannuation Scheme but

**SCHEDULE—continued**

had terminated his or her employment on that day and become entitled to a benefit under that Act; and

- (b) the interest (if any) up to the relevant day under rule 1.3.42 in respect of the amount in paragraph (a) in accordance with a determination or determinations by the Board as to rates of interest and the method of allocating interest to such amount; and

**Average salary** is the amount of the person's average salary on the relevant day under rule 1.3.42.

***Division 4—Maximum Benefit***

**Maximum benefit table**

**1.4.1.** For the purposes of rule 1.3.2, a person's maximum benefit on a particular day is, subject to rules 1.4.2, 1.4.3, 1.4.4, 1.4.7, 1.4.8, 1.4.9 and 1.4.10, such amount as, having regard to his or her average salary on that day, is applicable to the person in accordance with the following Table:

<i>Average Salary</i>	<i>Amount of Maximum Benefit</i>
less than \$25,000	\$200,000
\$25,000 or more but less than \$37,560	8 times amount of average salary
\$37,560 or more but less than \$69,750	\$75,120 plus 6 times amount of average salary
\$69,750 or more	\$284,370 plus 3 times amount of average salary

**Australian Federal Police adjustment payment**

**1.4.2.** Where a person is entitled to an adjustment payment in accordance with the *Australian Federal Police Act 1979*, the amount of his or her maximum benefit is the amount calculated under rule 1.4.1 less the amount of that adjustment payment.

**Maximum benefit on invalidity or death**

**1.4.3.** Where a person ceases to be a member because of invalidity retirement or death, and the amount of the person's average salary on his or her last day of membership is less than \$25,000, his or her maximum benefit is whichever is the greater of:

- (a) the amount of 8 times the amount of his or her average salary; and
- (b) the benefit accrual that would have applied to him or her if paragraph 1.3.3 (a) had been omitted in calculating his or her benefit factor;

**SCHEDULE—continued**

provided that in either case the maximum benefit shall not exceed \$200,000 less, if the person is entitled to an adjustment payment in accordance with the *Australian Federal Police Act 1979*, the amount of that payment.

**Maximum benefit for some former eligible employees**

**1.4.4.** Where, on the day an eligible employee for the purposes of the 1976 Act elected that he or she cease to be an eligible employee, the sum of:

- (a) the person's CSS transfer multiple; and
- (b) the person's ongoing multiple on that day;

when multiplied by the person's average salary on that day results in an amount that exceeds the maximum benefit that would be applicable to the person on that day if rule 1.4.1 were not subject to this rule, the person's maximum benefit shall be calculated in accordance with rule 1.4.5.

**1.4.5.** The maximum benefit on a particular day in respect of a person to whom rule 1.4.4 is applicable shall be the maximum benefit that would be applicable to the person if rule 1.4.1 were not subject to rule 1.4.4 multiplied by the factor calculated in accordance with rule 1.4.6.

**1.4.6.** The factor for the purpose of rule 1.4.5 in respect of a person to whom rule 1.4.4 is applicable shall be the ratio that:

- (a) the sum of:
  - (i) the person's CSS transfer multiple; and
  - (ii) the person's ongoing multiple;

on the day that he or she elected to cease to be an eligible employee for the purposes of the 1976 Act;

bears to:

- (b) the number that is the amount of the maximum benefit that would be applicable to the person on that day if rule 1.4.1 were not subject to rule 1.4.4 divided by his or her average salary on that day.

**Maximum benefit when preserved benefit exceeds normal maximum benefit**

**1.4.7.** Where:

- (a) a preserved benefit is applicable to a person immediately before his or her first day of membership; and
- (b) the amount of that benefit exceeds the maximum benefit that would be applicable to the person on his or her first day of membership if rule 1.4.1 were not subject to this rule;



**SCHEDULE—continued**

the Board shall determine the maximum benefit that shall be applicable to the person having regard to the circumstances of the case, the contributions (if any) paid by the person since his or her first day of membership and interest thereon, the principles underlying rules 1.4.4 to 1.4.6 and the need for equity between members.

**Maximum benefit for former invalidity pensioner**

**1.4.8.** Where a person:

- (a) was an invalidity pensioner immediately before his or her first day of membership; and
- (b) was a maximum benefits member on the date he or she last became an invalidity pensioner;

he or she will be deemed to be a maximum benefits member from his or her first day of membership for the purposes of rule 3.1.6 and his or her benefit accrual on a particular day will be calculated according to the formula:

$$MB \times \frac{(BA - LS)}{BA},$$

where:

**MB** is the amount that would be the member's maximum benefit under rule 1.4.1 if that rule were not subject to this rule; and

**BA** is the person's benefit accrual on last becoming an invalidity pensioner; and

**LS** is the lump sum benefit received by the person under paragraph 4.3.5 (a) on last becoming an invalidity pensioner.

**Alterations to table of maximum benefits**

**1.4.9.** The dollar amounts in the Table in rule 1.4.1 and the dollar amounts in rule 1.4.3 are to be amended with effect from 1 July each year, including 1 July 1990, by adjusting the dollar amounts in the Table to reflect the immediately preceding March-to-March movement in Average Weekly Ordinary Time Earnings in Australia, in a manner similar to the indexation of the salary ranges and benefits for the purposes of the reasonable benefit limits under the *Occupational Superannuation Standards Act 1987*.

**Unforeseen changes to maximum benefits**

**1.4.10.** Where the reasonable benefit limits under the *Occupational Superannuation Standards Act 1987* are altered other than as a result of indexation to reflect movements in Average Weekly Ordinary Time Earnings in Australia and the Table in rule 1.4.1, and rule 1.4.3, are amended as a result of the alteration to those reasonable benefits limits, the Board shall, for a member who is already a maximum benefits member, determine:

**SCHEDULE—continued**

- (a) the benefit accrual applicable to him or her as a result of those amendments; and
- (b) any further contributions to be paid by him or her.

**PART 2—SALARY**

***Division 1—Annual Rate of Salary***

**Definitions**

**2.1.1. In this Part:**

**“annual rate of basic salary”**, on a particular day in relation to a member who is a regular employee on that day, means the amount of basic salary that would be payable to the member if he or she worked for a year and received throughout that year the amount of basic salary applicable to him or her on that day and the hours applicable to his or her terms of employment on that day, provided that, where a person is receiving compensation payments in respect of hours not being worked, his or her terms of employment shall be deemed to include those hours;

**“annual rate of recognised allowances”**, on a particular day in relation to a member who is a regular employee on that day, means the amount of recognised allowance or allowances (if any) that would be payable to the member if he or she worked for a year and received throughout that year the amount of recognised allowance or allowances (if any) applicable to him or her on that day, provided that, where a person is receiving compensation payments in respect of hours not being worked, his or her terms of employment shall be deemed to include those hours;

**“annual rate of superannuation salary”**, on a particular day in relation to a member who is a regular employee on that day, means the sum of:

- (a) the annual rate of basic salary on that day in relation to the member; and
- (b) the annual rate of recognised allowances on that day in relation to the member;

**“annual rate of superannuation salary”**, on a particular day in relation to a member who is a casual employee on that day, means the amount of superannuation salary that would be applicable to the member:

- (a) if he or she worked full-time for a year; and
- (b) if he or she received throughout that year the hourly rate applicable to his or her duties on that day or, where the member had no duties on that day, the hourly rate applicable on that day to the duties that he or she next undertook when engaged in employment;

**SCHEDULE—continued**

**“basic salary”** means the amount as determined by the Board in accordance with any principles advised to the Board by the Minister and after having regard to relevant aspects of the determination of salary and annual rate of salary for the purposes of the 1976 Act and to amounts payable to a member in respect of the temporary performance of the duties of a position or office of higher classification than that usually held by the member;

**“recognised allowance”** means such allowance or amount, or part of allowance or amount, that the Board determines will be treated as a recognised allowance in accordance with any principles advised to the Board by the Minister and after having regard to the treatment of such allowances or amounts in the determination of salary and annual rate of salary under the 1976 Act;

**“superannuation salary”** means the sum of basic salary and any recognised allowance or allowances.

**Annual rate of salary for full-time employee**

**2.1.2.** Subject to rule 2.4.1, the annual rate of salary on a particular day for a member who is a permanent full-time or temporary full-time employee shall be the greater of:

- (a) the annual rate of superannuation salary applicable to the member on that day; and
- (b) the notional superannuation salary (if any) applicable to the member on that day under rule 2.1.6 or 2.1.7; and
- (c) the annual rate of CSS salary (if any) applicable to the member on that day under rule 2.1.11.

**Annual rate of salary for permanent part-time employee**

**2.1.3.** Subject to rule 2.4.1, the annual rate of salary on a particular day for a member who is a permanent part-time employee shall be the greater of:

- (a) the annual rate of superannuation salary that would have been applicable to the member on that day if he or she had been working full-time; and
- (b) the notional superannuation salary (if any) applicable to the member on that day under rule 2.1.6 or 2.1.7; and
- (c) the annual rate of CSS salary (if any) applicable to the member on that day under rule 2.1.11.

**Annual rate of salary for casual employee**

**2.1.4.** Subject to rule 2.4.1, the annual rate of salary on a particular day for a member who is a casual employee shall be the greater of:

**SCHEDULE—continued**

- (a) the annual rate of superannuation salary applicable to the member on that day; and
- (b) the annual rate of salary that was applicable to the member on the anniversary of his or her birth immediately preceding that day.

**Fortnightly rate of salary**

**2.1.5.** The fortnightly rate of salary applicable to a member on a particular day shall be one twenty-sixth of the annual rate of salary applicable to the member on that day.

**Applicability of notional superannuation salary**

**2.1.6.** Subject to rule 2.1.10, a notional superannuation salary shall be applicable to a member where:

- (a) he or she is not a casual employee; and
- (b) a reduction occurs in his or her hourly rate of superannuation salary in respect of which a partial invalidity pension is not payable;

and, in such a case, the annual rate of notional superannuation salary shall be determined in accordance with rule 2.1.8.

**2.1.7.** Subject to rule 2.1.10, a notional superannuation salary shall be applicable to a member where:

- (a) he or she is not a casual employee; and
- (b) a reduction occurs in his or her hourly rate of superannuation salary in respect of the whole or part of which a partial invalidity pension is payable;

and, in such a case, the annual rate of notional superannuation salary shall be determined in accordance with rule 2.1.9.

**Amount of annual rate of notional superannuation salary**

**2.1.8.** Where a notional superannuation salary is applicable to a member in accordance with rule 2.1.6, the notional superannuation salary applicable to a member on a particular day shall be the greater of:

- (a) the sum of:
  - (i) the annual rate of basic salary on that day applicable to the position held by the member immediately prior to the reduction; and
  - (ii) the amount of the annual rate of recognised allowance or allowances applicable to the member immediately before the reduction; and

**SCHEDULE—continued**

- (b) the notional superannuation salary (if any) calculated in accordance with a basis applicable under this rule or rule 2.1.9 immediately before the reduction in superannuation salary;

provided always that where a member is working part-time, the annual rate of basic salary and the annual rate of recognised allowances shall be the annual rates that would have been applicable to the member if he or she had been working full-time.

**2.1.9.** Where a notional superannuation salary is applicable to a member in accordance with rule 2.1.7, the notional superannuation salary applicable to a member on a particular day shall be the greater of:

- (a) the sum of:
- (i) the annual rate of basic salary on that day applicable to the position held by the member immediately prior to the reduction; and
  - (ii) the annual rate of recognised allowances on that day applicable to the recognised allowances applicable to the member immediately prior to the reduction; and
- (b) the notional superannuation salary (if any) calculated in accordance with a basis applicable under this rule or rule 2.1.8 immediately before the reduction in superannuation salary;

provided always that where a member is working part-time, the annual rate of basic salary and the annual rate of recognised allowances shall be the annual rates that would have been applicable to the member if he or she had been working full-time.

**Cessation of applicability of notional superannuation salary**

**2.1.10.** A notional superannuation salary shall cease to apply to a member when the annual rate of superannuation salary of the member, or if the member is a permanent part-time employee the annual rate of superannuation salary that would have applied if the member had been working full-time, first equals or exceeds his or her notional superannuation salary. This rule shall not operate to preclude a notional superannuation salary again becoming applicable to a member in accordance with rule 2.1.6 or 2.1.7.

**Applicability of CSS salary**

**2.1.11.** Subject to rule 2.1.13, a CSS salary shall be applicable to a member if:

- (a) the member elected to cease to be an eligible employee for the purposes of the 1976 Act on a day that was coincident with, or later than, his or her first day of membership; and

**SCHEDULE—continued**

- (b) on the anniversary of birth occurring on or after the day the person elected to cease to be an eligible employee:
- (i) his or her annual rate of salary for the purposes of that Act, or the annual rate of salary that would have been his or her annual rate of salary for the purposes of that Act if he or she had not elected to cease to be an eligible employee, was greater than his or her annual rate of superannuation salary; or
  - (ii) where a partial invalidity pension under section 77 or 78 of that Act was payable, or would have been payable if he or she had not elected to cease to be an eligible employee for the purposes of that Act, to him or her, the annual rate of salary that would have been applicable under that Act if that day had been the day on which he or she ceased to be an eligible employee under that Act was greater than his or her annual rate of superannuation salary.

**Amount of annual rate of CSS salary**

**2.1.12.** Where a CSS salary is applicable to a member under rule 2.1.11, the annual rate of CSS salary on a particular day shall be:

- (a) the amount of the annual rate of salary that would have applied to the member on that day under the 1976 Act if he or she had not ceased to be an eligible employee under that Act; or
- (b) where, on the day that is his or her first day of membership, a partial invalidity pension under section 77 or 78 of that Act was payable, or would have been payable if he or she had not elected to cease to be an eligible employee for the purposes of that Act, to him or her, the annual rate of salary that would have been applicable under that Act on the particular day if he or she had continued to be an eligible employee for the purposes of that Act and ceased to be an eligible employee on that day.

**Cessation of applicability of CSS salary**

**2.1.13.** Rule 2.1.11 shall cease to apply to a member from the first day when:

- (a) his or her annual rate of superannuation salary under paragraph 2.1.2 (a), 2.1.3 (a) or 2.1.4 (a) equals or exceeds his or her annual rate of CSS salary; or
- (b) his or her notional salary calculated in accordance with rule 2.1.8 or 2.1.9 equals or exceeds his or her annual rate of CSS salary;

whichever first occurs.

**SCHEDULE—continued**

***Division 2—Average Salary***

**Average salary**

**2.2.1.** Subject to rule 2.4.1, the average salary on a particular day of a member shall be:

- (a) the average of the annual rates of salary on the 3 anniversaries of the member's birth on or immediately before that day; or
- (b) where the member's period of membership does not encompass 3 anniversaries of the member's birth—the average of the annual rates of salary on the anniversaries in the period plus his or her annual rate of salary on his or her first day of membership (if not an anniversary);

provided that the Board have discretion to use an alternative salary in circumstances where it considers that the average salary resulting from the application of paragraph 2.2.1 (a) or (b) is not in accordance with the spirit of the Rules and would lead to inequitable treatment between members.

***Division 3—Contribution Salary***

**Amount of fortnightly contribution salary**

**2.3.1.** Subject to rules 2.3.2 and 2.4.2, the fortnightly contribution salary in respect of a contribution due day in relation to a member is:

- (a) where the member was a casual employee on that contribution due day—the superannuation salary received by him or her in respect of the fortnight to which that contribution due day relates; or
- (b) where the member had been a casual employee on the anniversary of his or her birth immediately preceding the contribution due day but paragraph (a) above is not applicable to him or her—the fortnightly contribution salary that would have been applicable to him or her under whichever of paragraphs (c), (d), (e) and (f) would have applied if:
  - (i) the date on which he or she first became a regular employee after that anniversary of birth had been the anniversary of birth immediately preceding the contribution due day; and
  - (ii) the member had not again become a casual employee; and
  - (iii) for the purpose of whichever of paragraphs (c), (d), (e) and (f) is applicable if subparagraphs (b)(i) and (ii) applied, the annual rate of salary for the purpose of that paragraph had been the annual rate of salary on the anniversary of birth immediately preceding the contribution due day; or

**SCHEDULE—continued**

(c) where:

- (i) the member was a regular employee on the contribution due day; and
- (ii) the member was a permanent full-time or temporary full-time employee on the anniversary of his or her birth immediately preceding the contribution due day; and
- (iii) a partial invalidity pension was not applicable to him or her on that anniversary of birth;

the fortnightly rate of salary in relation to him or her on that anniversary of birth; or

(d) subject to paragraph (g), where:

- (i) the member was a regular employee on the contribution due day; and
- (ii) the member was a permanent full-time or temporary full-time employee on the anniversary of his or her birth immediately preceding the contribution due day; and
- (iii) a partial invalidity pension was applicable to him or her on that anniversary of birth;

the fortnightly rate of salary that would have been applicable to him or her on the anniversary of birth immediately preceding that contribution due day if paragraphs 2.1.2 (b) and (c) had been omitted; or

(e) where:

- (i) the member was a regular employee on the contribution due day; and
- (ii) the member was a permanent part-time employee on the anniversary of his or her birth immediately preceding the contribution due day; and
- (iii) a partial invalidity pension was not applicable to him or her on that anniversary of birth;

the fortnightly rate of salary in relation to him or her on the anniversary of birth immediately preceding that contribution due day reduced in the ratio on that anniversary of birth that the part-time hours being worked bore to the full-time hours used for the purpose of determining the annual rate of superannuation salary under paragraph 2.1.3 (a); or

(f) subject to paragraph (g), where:

- (i) the member was a regular employee on the contribution due day; and
- (ii) the member was a permanent part-time employee on the anniversary of his or her birth immediately preceding the contribution due day; and
- (iii) a partial invalidity pension was applicable to him or her on that anniversary of birth;



**SCHEDULE—continued**

the fortnightly rate of salary that would have been applicable to him or her on the anniversary of birth immediately preceding that contribution due day if paragraphs 2.1.3 (b) and (c) had been omitted reduced in the ratio on that anniversary of birth that the part-time hours being worked, or to be worked, bore to the full-time hours used for the purpose of determining the annual rate of superannuation salary under paragraph 2.1.3 (a); or

(g) where:

- (i) the member was a regular employee on the contribution due day; and
- (ii) the member was a regular employee on the anniversary of his or her birth immediately preceding the contribution due day; and
- (iii) his or her annual rate of salary on that anniversary had been determined in accordance with paragraph 2.1.2 (b) or (c) or 2.1.3 (b) or (c); and
- (iv) a partial invalidity pension was applicable to him or her on that anniversary of birth; and
- (v) that partial invalidity pension became applicable to him or her on a day when his or her salary at the anniversary of his or her birth immediately preceding the day had been determined in accordance with paragraph 2.1.2 (b) or (c) or 2.1.3 (b) or (c);

an amount determined by the Board having regard to the principles in the preceding paragraphs of this rule underlying the determination of the amount of fortnightly contribution salary and the need for equitable treatment between members.

**Part-time hours not to be reduced where compensation payments are payable**

**2.3.2.** A reference in rule 2.3.1 to part-time hours worked or to be worked shall include the hours (if any) in respect of which compensation payments are payable.

**Annual rate of contribution salary**

**2.3.3.** Where on a particular contribution due day a member is a regular employee, the annual rate of contribution salary applicable to him or her on that day shall be 26 times the fortnightly contribution salary on that day.

**2.3.4.** Where on a particular contribution due day a member is a casual employee, the annual rate of contribution salary applicable to him or her on that day shall be the annual rate of salary applicable to him on the anniversary of birth on or immediately preceding that day.

**SCHEDULE—continued**

***Division 4—Miscellaneous***

**Annual salary under CSS may apply**

**2.4.1.** Subject to rule 2.4.4, where a person immediately before his or her first day of membership was an eligible employee for the purposes of the 1976 Act:

- (a) a reference in these Rules to the annual rate of salary, or the annual rate of salary that would have applied if the person had been working full-time, on the person's first day of membership (if not an anniversary of birth) shall be read as a reference to the annual rate of salary in relation to the person under the 1976 Act on the anniversary of birth immediately preceding the first day of membership; and
- (b) a reference in these Rules to the annual rate of salary, or the annual rate of salary that would have applied if the person had been working full-time, on an anniversary of birth that occurred before his or her first day of membership (if not an anniversary of birth) shall be read as a reference to the the annual rate of salary in relation to the person under the 1976 Act on that anniversary of birth; and
- (c) where the reference in paragraph 2.4.1 (a) or (b) to an annual rate of salary on an anniversary of birth relates to an anniversary of birth that occurred before a person's first day of service for the purposes of the 1976 Act, the reference shall be read as relating to the annual rate of salary on his or her first day of service; and
- (d) the reference in paragraph 2.2.1 (a) to annual rates of salary on the 3 anniversaries of the member's birth on or immediately before that day shall be read as including a reference to the annual rates of salary under the 1976 Act on anniversaries of the member's birth occurring before his or her first day of membership while the member was an eligible employee; and
- (e) the reference in paragraph 2.2.1 (b) to annual rates of salary on the anniversaries in the period shall be read as including a reference to the annual rates of salary under the 1976 Act on anniversaries of the member's birth occurring while the member was an eligible employee; and
- (f) where, for the purposes of paragraph 2.2.1 (b), the period of a person's membership and the period immediately before his or her first day of membership during which he or she was an eligible employee does not encompass 3 anniversaries of his or her birth, the reference in paragraph 2.2.1 (b) to his or her annual rate of salary on his or her first day of membership (if not an anniversary) shall be read as reference to his or her

**SCHEDULE—continued**

annual rate of salary on his or her first day of service for the purposes of the 1976 Act (if not an anniversary); provided that where, on an anniversary, the member was entitled to a partial invalidity pension under the 1976 Act, the reference to an annual rate of salary shall be read as a reference to the annual rate of salary that would have applied if the member had ceased to be an eligible employee on that anniversary.

**2.4.2.** Subject to rules 2.4.3 and 2.4.4, where a person immediately before his or her first day of membership was an eligible employee for the purposes of the 1976 Act:

- (a) a reference in these Rules to the annual rate of contribution salary on the person's first day of membership (if not an anniversary of birth) shall be read as a reference to the the annual rate of salary in relation to the person under the 1976 Act on the anniversary of birth immediately preceding the first day of membership; and
- (b) a reference in these Rules to the annual rate of contribution salary on an anniversary of birth that occurred before his or her first day of membership (if not an anniversary of birth) shall be read as a reference to the the annual rate of salary in relation to the person under the 1976 Act on the anniversary of birth immediately preceding the first day of membership; and
- (c) where the reference in paragraph 2.4.2 (a) or (b) to an annual rate of contribution salary on an anniversary of birth relates to an anniversary of birth that occurred before a person's first day of service for the purposes of the 1976 Act, the reference shall be read as a reference to the annual rate of salary on his or her first day of service;

and a reference to a fortnightly contribution salary on contribution day for the purposes of the 1976 Act shall be read as a reference to one twenty-sixth of the amount of the annual rate of contribution salary applicable to a person on the anniversary of birth immediately preceding that day.

**2.4.3.** Where a person immediately before his or her first day of membership was a partial contributor for the purposes of the 1976 Act, the reference in rule 2.4.2 to an annual rate of salary for the purposes of the 1976 Act shall be read as a reference to the amount that is the amount of the annual rate of salary for the purposes of that Act multiplied by the ratio of the amount of the person's contribution on that day under that Act to the amount that would have been his or her contribution under that Act if he or she had not been a partial contributor on that day.

**SCHEDULE—continued**

**2.4.4.** Where a person had been an eligible employee for the purposes of the 1976 Act on more than one occasion, only the annual rates of salary under that Act since last becoming an eligible employee are to be used for the purposes of the Rules.

**Board to determine salary in some circumstances**

**2.4.5.** Where, in a particular case, a member has suffered a reduction in salary and his or her former position, office or classification has been abolished, the Board may determine the annual rate of salary, annual rate of contribution salary and/or fortnightly contribution salary of the member.

**2.4.6.** Where a member to whom a partial invalidity pension is applicable becomes a casual employee, the Board shall determine the fortnightly contribution salary and annual rate of contribution salary of the member.

**PART 3—CONTRIBUTIONS**

*Division 1—Contributions by Members*

**Liability to pay contributions**

**3.1.1.** Except as provided in rule 3.1.6, 3.1.10, 3.1.13 or 3.1.17, a person's first fortnightly contribution is payable on the contribution day coincident with or next following his or her first day of membership, and subsequent contributions are payable on each succeeding contribution day during his or her period of membership.

**Rate of contributions**

**3.1.2.** Subject to rules 3.1.3, 3.1.4 and 3.1.5, the amount of the fortnightly contribution payable by a member on a contribution due day is an amount equal to a whole number percentage that is not less than 2 per cent, and not more than 10 per cent, of the fortnightly contribution salary applicable to the person. The member may elect which whole number percentage is to apply to him or her and, subject to rule 3.1.5, may elect to vary that percentage from time to time. Elections under this rule have effect from the date of the election.

**Failure to nominate contribution rate**

**3.1.3.** Subject to rule 3.1.4, where a person becomes a member and does not make an election under rule 3.1.2, he or she shall be deemed to have elected to pay contributions at the rate of 5 per cent of salary.

**3.1.4.** Where a person who, immediately before the day on which he or she elected to cease to be an eligible employee for the purposes of the 1976 Act, does not make an election under rule 3.1.2, he or she

**SCHEDULE—continued**

shall be deemed to have elected to pay contributions at the rate at which he or she contributed under the 1976 Act immediately before the day he or she elected to cease to be an eligible employee, except where that rate exceeded 10 per cent of his or her fortnightly rate of salary in which case he or she shall be deemed to have elected to pay contributions at the rate of 10 per cent of that salary.

**Minimum contribution rate while on compensation leave**

**3.1.5.** Where a person is on compensation leave, he or she shall contribute during that period of compensation leave at:

- (a) where, he or she contributed at a rate in excess of 5 per cent of salary on any one of the 4 contribution due days immediately before commencing that period of compensation leave—a rate of 5 per cent or more; or
- (b) where, he or she contributed at a rate or rates less than 5 per cent of salary on each of the 4 contribution due days immediately before commencing that period of compensation leave—a rate being no less than the highest rate of contribution on those contribution due days.

**Cessation of contributions**

**3.1.6.** Subject to rule 1.4.9, a member is not required or permitted, and shall be deemed not to have been required or permitted, to make contributions on any contribution day occurring after he or she became a maximum benefits member.

**Leave of absence without pay**

**3.1.7.** Except where rule 3.1.12 applies, this rule applies to a person who is, or at any time has been, a member and who, while a member, has been on leave of absence without pay for a period exceeding 6 fortnights, not being:

- (a) a period of leave of absence in respect of which the Board directs, in accordance with any principles advised to the Board by the Minister, that this rule does not apply; or
- (b) a period of leave of absence during which his or her liability to make contributions under these Rules is deferred by virtue of rule 3.1.17.

**3.1.8.** A direction by the Board for the purposes of rule 3.1.7 does not, unless expressly provided by the direction, apply to a period of leave that has been completed before the direction is given.

**3.1.9.** A direction by the Board for the purposes of rule 3.1.7 may be given subject to such conditions (if any) as are specified in the direction, including a condition that there shall be paid to the Commonwealth by or on behalf of the person on leave, or on leave of

**SCHEDULE—continued**

a kind to which the direction applies, an amount specified in, or calculated in accordance with, the direction.

**3.1.10.** A person to whom rule 3.1.7 applies is not required or permitted to make contributions on any contribution day occurring during the period of leave of absence without pay.

**3.1.11.** For the purposes of rule 3.1.7, a member who is on leave of absence without pay but has not been on leave of absence without pay for a period that exceeds 6 fortnights, but is expected to be on leave of absence without pay for a period exceeding 6 fortnights, shall, except as otherwise provided by these Rules, be deemed to have been on leave of absence without pay for a period exceeding 6 fortnights.

**3.1.12.** A member referred to in rule 3.1.11:

- (a) whose period of leave of absence without pay terminates before or on the expiration of the period of 6 fortnights; and
- (b) who, upon the termination of the period of leave, continues to be a member;

shall not be deemed to have been on leave of absence without pay for a period exceeding 6 fortnights.

**Maternity and parental leave**

**3.1.13.** Except as provided for in rule 3.1.14, a person who is, or at any time has been, a member and who, while a member, has been on leave of absence without pay or other unpaid leave in relation to the birth of a child of the member, other termination of the pregnancy of the member or the adoption of a child by the member is not required or permitted, and shall be deemed not to have been required or permitted, to make contributions on any contribution day occurring during the period, or periods, of leave of absence without pay or unpaid leave.

**3.1.14.** A person to whom rule 3.1.13 applies may elect to pay fortnightly contributions in relation to all or any of the contribution days occurring during the period, or periods, of leave of absence without pay or unpaid leave, provided that any such election is made on or before the particular contribution day, or contribution days. The payment of contributions may be deemed to be an election in respect of those contributions.

**3.1.15.** Where the person makes an election under rule 3.1.14 in relation to a particular contribution day, or contribution days, he or she is required to make the relevant contributions.

**SCHEDULE—continued**

**Payment of contributions where member on other leave of absence without pay or at less than full pay**

**3.1.16.** Where a member is on leave of absence, either without pay or with less than full pay other than is provided for in rule 3.1.14, the Board may, upon application in writing by or on behalf of the member, permit him or her to make payment of the contributions falling due during the absence in such instalments and at such times as the Board approves.

**Deferment of contributions of contributors under DFRDB Act**

**3.1.17.** Subject to rules 3.1.18 and 3.1.19, where a member is or becomes liable to contribute under the DFRDB Act, his or her liability to make contributions under these Rules is deferred until, for any reason (including death):

(a) he or she ceases (otherwise than by reason of the operation of section 18 of the DFRDB Act) to be liable to contribute under that Act; or

(b) he or she ceases to be a member;

whichever first occurs, but, upon his or her so ceasing to be liable or so ceasing to be a member, the amount of the deferred contributions shall be paid to the Board.

**3.1.18.** Rule 3.1.17 does not apply to a member who, immediately before becoming liable to contribute under the DFRDB Act, is entitled to retirement pay under that Act or pension under the *Defence Forces Retirement Benefits Act 1948* or that Act as amended and in force from time to time or under any other Act that relates to retirement benefits for members of the Defence Force and modifies or affects the provisions of the *Defence Forces Retirement Benefits Act 1948* or that Act as amended and in force from time to time.

**3.1.19.** Rule 3.1.17 does not apply, and shall be deemed never to have applied, to a member who, upon ceasing to be liable to contribute under the DFRDB Act, becomes entitled to retirement pay under section 23 of that Act.

***Division 2—Contributions by Employers***

**Liability to pay contributions**

**3.2.1.** A designated employer in relation to a member shall on each contribution due day on which the member is an employee of that designated employer pay to the Board fortnightly employer contributions in relation to the member.

SCHEDULE—continued

**Table for employer contributions**

3.2.2. The amount of the fortnightly employer contribution payable by a designated employer in relation to a member on a contribution due day shall be determined in accordance with rule 3.2.4, 3.2.5, 3.2.6 or 3.2.7 having regard to the fortnightly amounts in the following Table:

<i>Relevant rate of salary</i>	<i>Fortnightly amount</i>
Less than \$846	\$25.40
\$846 or more but less than \$1,300	The amount that is 3 per cent of the member's fortnightly rate of salary
\$1,300 or more but less than \$1,950	\$39.00
\$1,950 or more	The amount that is 2 per cent of the member's fortnightly rate of salary

**Alterations to table for employer contributions**

3.2.3. The Table in rule 3.2.2 shall be amended annually with effect from 1 July each year, including 1 July 1990, to reflect changes in general salary levels of members.

**Employer contribution for full-time employees**

3.2.4. Where:

- (a) on anniversary of a member's birth immediately preceding a contribution due day, he or she is a permanent full-time or temporary full-time employee; and
- (b) on the contribution due day, the member is a regular employee; the amount of the fortnightly employer contribution payable by a designated employer in relation to the member on the contribution due day is the fortnightly amount that, regarding the fortnightly rate of salary in relation to the member on the anniversary of his or her birth last preceding the contribution due day as being the relevant rate of salary for the purposes of the Table in rule 3.2.2, is applicable in accordance with the Table.

**Employer contribution for permanent part-time employees**

3.2.5. Where:

- (a) on anniversary of a member's birth immediately preceding a contribution due day, he or she is a permanent part-time employee; and
- (b) on the contribution due day, the member is a regular employee; the amount of the fortnightly employer contribution payable by a designated employer in relation to the member on the contribution due



**SCHEDULE—continued**

day is the fortnightly amount that, regarding the fortnightly rate of salary in relation to the member on the anniversary of his or her birth last preceding the contribution due day as being the relevant rate of salary for the purposes of the Table in rule 3.2.2, is applicable in accordance with the Table multiplied by the **Factor** applicable to the member on that contribution due day for the purposes of the formula in paragraph 1.3.4 (a).

**Employer contribution for casual employees**

**3.2.6.** Where, on a contribution due day, a member is a casual employee, the amount of the fortnightly employer contribution payable by a designated employer in relation to the member on the contribution due day is the amount that is calculated as follows:

(a) by regarding the relevant rate of salary for the purposes of the Table in rule 3.2.2 as the fortnightly rate of salary on:

(i) where the member has not ceased employment since the date of joining the employment of a designated employer, the later of:

(A) the date of commencement of that period of employment with the designated employer; and

(B) the anniversary of the birth of the member last preceding the contribution due day; or

(ii) where the member has previously been employed by the designated employer but the last such period of employment terminated more than 26 contribution days before the first contribution due day in the latest period of employment, the later of:

(A) the date of commencement of that period of employment with the designated employer; and

(B) the anniversary of the birth of the member last preceding the contribution due day; or

(iii) where the member has previously been employed by the designated employer but the last such period of employment terminated less than 27 contribution days before the first contribution due day in the latest period of employment, the later of:

(A) the date of commencement of the earliest period of employment with the designated employer in a recurring pattern of employment ending with the latest period of employment with the designated employer; and

(B) the anniversary of the birth of the member last preceding the contribution due day;

**SCHEDULE—continued**

where a recurring pattern of employment means any series of consecutive periods of employment with the designated employer in which there are not more than 26 contribution days between the end of one period and the first contribution due day of the next period;

- (b) multiplying the fortnightly amount from the Table in rule 3.2.2 that is applicable to that relevant rate of salary by the **Factor** that would be applicable to the member on that contribution due day for the purposes of the formula in paragraph 1.3.4 (a) if the fortnightly rate of salary for the purpose of calculating that **Factor** in accordance with paragraph 1.3.4 (a) were the relevant rate of salary.

**Employer contribution where member changes from casual to regular employee**

**3.2.7. Where:**

- (a) on the anniversary of a member's birth immediately preceding a contribution due day, he or she was a casual employee; and
- (b) on the contribution due day, the member was a regular employee;

the amount of the fortnightly employer contribution payable by a designated employer in relation to the member on the contribution due day is the amount that is calculated as follows:

- (c) by regarding the relevant rate of salary for the purposes of the Table in rule 3.2.2 as the fortnightly rate of salary on the anniversary of the member's birth immediately preceding the contribution due day;
- (d) multiplying the fortnightly amount from the Table in rule 3.2.2 that is applicable to that relevant rate of salary by the **Factor** applicable to the member on that contribution due day for the purposes of the formula in paragraph 1.3.4 (a).

***Division 3—Payment of Contributions***

**Payment of contributions**

**3.3.1.** Contributions payable under Division 1 or Division 2 of this Part by a member or the employer of a member shall be paid to the Board:

- (a) in the case of member contributions—by or on behalf of the member liable to pay the contributions; and
- (b) in the case of employer contributions—by the designated employer liable to pay the contributions.

**3.3.2** The Board shall pay all member and employer contributions received by it into the Fund.

**SCHEDULE—continued**

***Division 4—Premiums for Additional Death and Invalidity Cover***

**Member premium**

**3.4.1.** A member to whom additional death and invalidity cover is applicable under Part 10 shall, on each contribution day during the period that the cover is applicable to him or her, pay:

- (a) where the member has been assessed as a standard risk for the purposes of Part 10—one half of the amount of the fortnightly premium applicable to the cover; or
- (b) where the member has been assessed as other than a standard risk for the purpose of that Part, the sum of:
  - (i) one half the amount of the fortnightly premium that would have been applicable to the cover if the member had been assessed as a standard risk for the purpose of Part 10; and
  - (ii) the amount of any additional fortnightly premium applicable to the cover because the member had been assessed as other than a standard risk for the purpose of Part 10.

**Employer premium**

**3.4.2.** The designated employer of a member to whom additional death and invalidity cover is applicable under Part 10 shall, on each contribution day during the period that the cover is applicable to the member, pay:

- (a) where the member has been assessed as a standard risk for the purposes of Part 10—one half the amount of the fortnightly premium applicable to the cover; or
- (b) where the member has been assessed as other than a standard risk for the purposes of Part 10—one half the amount of the fortnightly premium that would have been applicable to the cover if the member had been assessed as a standard risk for the purposes of Part 10.

**Payment of premiums**

**3.4.3.** Premiums payable under rules 3.4.1 and 3.4.2 by a member and the designated employer of a member shall be paid to the Board and the Board shall pay the premiums to the relevant life office, provided that nothing in this rule shall prevent the Board from:

- (a) arranging for the premiums to be paid directly to the relevant life office by the designated employer; or
- (b) paying the premiums into the Fund and paying the premiums to the relevant life office from the Fund.

**SCHEDULE—continued**

**PART 4—MEMBERS' BENEFITS**

***Division 1—Age Retirement Benefit***

**Lump sum benefit on age retirement**

**4.1.1.** Subject to rules 4.1.5 and 4.4.5, a person who ceases to be a member on or after attaining his or her minimum retiring age, otherwise than because of invalidity retirement before attaining the age of 60 years or involuntary retirement or death, and who does not make an election under rule 4.1.2, is entitled to be paid his or her final benefit accrual as a lump sum.

**Other options on age retirement**

**4.1.2.** A person who is entitled to a benefit under rule 4.1.1 may elect that, instead of that benefit being paid to him or her, rule 4.1.3 apply to him or her.

**4.1.3.** Where a person makes an election under rule 4.1.2, he or she is entitled to whichever of the following is specified in the election:

- (a) to have applicable to him or her a preserved benefit of his or her final benefit accrual; or
- (b) to have:
  - (i) such amount (not less than one half), as is specified in the election, of his or her final benefit accrual converted into a pension payable to him or her; and
  - (ii) to have the remainder of the final benefit accrual paid to him or her as a lump sum.

**Basis for conversion of lump sum to pension on age retirement**

**4.1.4.** A person who is entitled under subparagraph 4.1.3 (b) (i) to have an amount of his or her final benefit accrual converted into a pension is entitled to pension at an annual rate calculated by dividing the amount of the final benefit accrual that is to be converted into a pension by a factor according to the person's age in years and days on his or her last day of membership interpolated from the following Table:

<i>Age of Person (Exact years)</i>	<i>Factor</i>
65	10.0
64	10.2
63	10.4
62	10.6
61	10.8
60	11.0

SCHEDULE—continued

<i>Age of Person (Exact years)</i>	<i>Factor</i>
59	11.2
58	11.4
57	11.6
56	11.8
55	12.0

and the factors for ages less than 55 shall be 12.0 increased by 0.2 for each whole year by which the age is less than 55 years.

**Phased-in restricted access to lump sum age retirement benefits**

**4.1.5. Where:**

- (a) during the period commencing on 1 July 1990 and ending on 30 June 1996, a person ceases to be a member before attaining the qualifying age for the financial year during which he or she ceased to be a member; and
- (b) the person would, but for this rule, be entitled to benefits under rule 4.1.1 or 4.1.3;

the person is not entitled to those benefits but, instead, there is applicable to the person a preserved benefit of his or her final benefit accrual except where he or she makes an election under rule 4.1.6.

**Options available where phased-in restricted access to lump sum age retirement benefits applies**

**4.1.6.** A person to whom a preserved benefit is applicable in accordance with rule 4.1.5 may elect that, instead of that benefit being applicable to him or her, rule 4.1.7 apply to him or her.

**4.1.7.** Where a person makes an election under rule 4.1.6, he or she is entitled to whichever of the following is specified in the election:

- (a) to:
  - (i) be paid a lump sum of an amount specified in the election (being an amount not more than the sum of his or her accumulated member contributions and accumulated employer contributions); and
  - (ii) have applicable to him or her a preserved benefit of his or her final benefit accrual less the amount of the lump sum in subparagraph 4.1.7 (a) (i);
- (b) to have:
  - (i) such amount (not less than the amount of his or her final unfunded benefit accrual), as is specified in the election,

**SCHEDULE—continued**

of his or her final benefit accrual converted into a pension;  
and

- (ii) the remainder of the final benefit accrual paid to him or her as a lump sum.

**4.1.8.** The annual rate of the pension in subparagraph 4.1.7 (b) (i) is to be calculated in the same way as a pension referred to in rule 4.1.4 is calculated under that rule.

***Division 2—Involuntary Retirement Benefit***

**Circumstances in which retirement involuntary**

**4.2.1.** A person shall be deemed to have retired involuntarily where, before attaining his or her maximum retiring age, he or she ceases to be a member because:

- (a) in the case of a person who has attained his or her minimum retiring age—he or she is retired, otherwise than at his or her own request; or
- (b) in the case of a person holding a Senior Executive Service office within the meaning of the *Public Service Act 1922*—the person retires pursuant to section 76R of that Act; or
- (c) the person is retired under section 76W of the *Public Service Act 1922* or the person's employment or appointment is terminated, otherwise than under that Act, on a ground similar to a ground specified in that section; or
- (d) in the case of the holder of a statutory office—the term of his or her appointment to that office has expired and, notwithstanding that he or she was eligible for re-appointment to that office and desired to be so re-appointed, he or she was not re-appointed; or
- (e) except in the case of a temporary employee—his or her position or office ceases to exist, whether by reason of its being abolished or otherwise, provided that where:
  - (i) a person ceases to be a member as a result of a sale or transfer of an organisation, business, service or asset, or the transfer of a function; and
  - (ii) before the person so ceases to be a member, he or she is offered equivalent employment by or with the purchaser or transferee;

this paragraph does not apply to the person unless he or she, whether before or after ceasing to be a member, accepts the offer; or

- (f) he or she is retired under section 76D of the *Public Service Act 1922* or his or her employment or appointment is terminated,

**SCHEDULE—continued**

otherwise than under that Act, on a ground similar to a ground that is specified in that section; or

- (g) the person is retired under subsection 76F(1B) or section 76FA of the *Public Service Act 1922*; or
- (h) the person is retired under section 76L of the *Public Service Act 1922* or the person's employment is terminated, otherwise than under that Act, on a ground similar to a ground that is specified in that section; or
- (j) the person retires under section 38G of the *Australian Federal Police Act 1979*;

and the person does not cease to be a member because of invalidity retirement.

**Lump sum benefit on involuntary retirement on or after minimum retiring age**

**4.2.2. Where:**

- (a) a person is deemed to have retired involuntarily on or after reaching his or her minimum retiring age; and
- (b) he or she does not cease to be a member as a result of a sale or transfer of an organisation, business, service or asset, or the transfer of a function; and
- (c) he or she does not make an election under rule 4.2.3;

the person is entitled to be paid his or her final benefit accrual as a lump sum.

**Other options in lieu of lump sum benefit on involuntary retirement after minimum retirement age**

**4.2.3.** A person who is entitled to a lump sum benefit under rule 4.2.2 may elect that, instead of that benefit being paid to him or her, rule 4.2.4 apply to him or her.

**4.2.4.** Where a person makes an election under rule 4.2.3, he or she is entitled to whichever of the following is specified in the election:

- (a) to have applicable to him or her a preserved benefit of his or her final benefit accrual; or
- (b) to have:
  - (i) such amount (not less than one half), as is specified in the election, of his or her final benefit accrual converted into a pension; and
  - (ii) the remainder of the final benefit accrual paid to him or her as a lump sum.

SCHEDULE—continued

**Basis for conversion of lump sum to pension**

4.2.5. A person who is entitled under subparagraph 4.2.4 (b) (i) to have an amount of his or her final benefit accrual to be converted to a pension is entitled to pension at an annual rate calculated by dividing the amount of the final benefit accrual that is to be converted into a pension by a factor according to the person's age in years and days on his or her last day of membership interpolated from the following Table:

<i>Age of Person (Exact years)</i>	<i>Factor</i>
65	10.0
64	10.2
63	10.4
62	10.6
61	10.8
60	11.0
59	11.2
58	11.4
57	11.6
56	11.8
55	12.0

and the factors for ages less than 55 shall be 12.0 increased by 0.2 for each whole year by which the age is less than 55 years.

**Lump sum benefit not available on involuntary retirement on or after minimum retiring age in some circumstances**

4.2.6. Where:

- (a) a person is deemed to have retired involuntarily on or after attaining his or her minimum retiring age; and
- (b) he or she ceases to be a member as a result of a sale or transfer of an organisation, business, service or asset, or the transfer of a function; and
- (c) he or she does not make an election under rule 4.2.7;

there is applicable to the person a preserved benefit of his or her final benefit accrual.

**Other options in lieu of preserved benefit on involuntary retirement on or after minimum retirement age**

4.2.7. A person to whom a preserved benefit is applicable in accordance with rule 4.2.6 may elect that, instead of that benefit being applicable to him or her, rule 4.2.10 applies to him or her.



**SCHEDULE—continued**

**Preserved benefit on involuntary retirement before minimum retiring age**

**4.2.8. Where:**

- (a) a person ceases to be a member because of involuntary retirement before attaining his or her minimum retiring age; and
- (b) the person does not make an election under rule 4.2.9 or 4.2.12 and does not elect, in accordance with Part 8, that a transfer value be payable in relation to him or her,

there is applicable to the person a preserved benefit of his or her final benefit accrual.

**Other options on involuntary retirement before minimum retirement age**

**4.2.9.** A person to whom a preserved benefit is applicable in accordance with rule 4.2.8 and who has not made an election under rule 4.2.12 may elect that, instead of that benefit being applicable to him or her, rule 4.2.10 applies to him or her.

**4.2.10.** Where a person makes an election under rule 4.2.7 or 4.2.9, he or she is entitled to whichever of the following is specified in the election:

- (a) to have his or her final benefit accrual paid by the Board to a preservation fund, or used to purchase a deferred annuity, specified in the election;
- (b) to:
  - (i) be paid a lump sum of such amount (not more than his or her accumulated member contributions) as is specified in the election; and
  - (ii) to have applicable to him or her a preserved benefit of his or her final benefit accrual less the amount of the lump sum in subparagraph 4.2.10 (b) (i);
- (c) to:
  - (i) be paid a lump sum of such amount (not more than his or her accumulated member contributions) as is specified in the election; and
  - (ii) to have his or her final benefit accrual, less the amount of the lump sum in subparagraph 4.2.10 (c) (i), paid to a preservation fund, or used to purchase a deferred annuity, specified in the election;
- (d) to:
  - (i) be paid a lump sum of such amount (not more than his or her accumulated member contributions) as is specified in the election; and

**SCHEDULE—continued**

- (ii) to have his or her final benefit accrual, less the amount of the lump sum in subparagraph 4.2.10 (d) (i), converted into a pension.

**4.2.11.** A person who has made an election under rule 4.2.7 or 4.2.9 to have an amount of his or her final benefit accrual converted into a pension is entitled to pension at an annual rate calculated in the same way as set out in rule 4.2.5 for a pension under subparagraph 4.2.4 (b) (i).

**Lump sum option on involuntary retirement before minimum retirement age until 30 June 2000**

**4.2.12.** Subject to rule 4.2.14, a person:

- (a) who ceases to be a member on or after 1 July 1990 and before 1 July 2000; and
- (b) to whom a preserved benefit is applicable in accordance with rule 4.2.8; and
- (c) who does not make an election under rule 4.2.9;

may elect that, instead of that benefit being applicable to him or her, rule 4.2.13 apply to him or her.

**4.2.13.** When a person makes an election under rule 4.2.12, he or she is entitled to:

- (a) where the amount of his or her accumulated employer contributions is \$500 or more:
  - (i) payment of the amount of his or her accumulated employer contributions to a preservation fund, or used to purchase a deferred annuity, specified in the election; and
  - (ii) payment to him or her of a lump sum equal to the amount of his or her final benefit accrual less the amount of the payment under subparagraph 4.2.13 (a) (i); or
- (b) in any other case, payment of a lump sum of his or her final benefit accrual.

**Full lump sum option not available where person continues employment**

**4.2.14.** Where:

- (a) a person is deemed to have retired involuntarily under paragraph 4.2.1 (e); and
- (b) he or she ceases to be a member as a result of a sale or transfer of an organisation, business, service or asset, or the transfer of a function;

he or she is not entitled to make an election under rule 4.2.12.

**SCHEDULE—continued**

***Division 3—Invalidity Retirement Benefit***

**Benefits on invalidity after age 60 to be age retirement benefits**

**4.3.1.** A person who ceases to be a member because of invalidity retirement on or after attaining the age of 60 years is entitled to benefits in accordance with Division 1 of Part 4.

**Invalidity benefits for limited benefits members**

**4.3.2.** A person who is a limited benefits member and who ceases to be a member because of invalidity retirement before attaining the age of 60 years is entitled to be paid a lump sum benefit of his or her final benefit accrual.

**Pension benefit on invalidity before age 60**

**4.3.3.** A person who is not a limited benefits member and who ceases to be a member because of invalidity retirement before attaining the age of 60 years, and who does not make an election under rule 4.3.4, is entitled to be paid a pension, the annual rate of which is to be calculated by dividing his or her final benefit accrual by 11.

**Option of lump sum of member contributions and interest on invalidity before age 60**

**4.3.4.** A person who is entitled to a pension in accordance with rule 4.3.3 may elect that, instead of that pension being paid to him or her, rule 4.3.5 apply to him or her.

**4.3.5.** A person who makes an election under rule 4.3.4 is entitled to:

- (a) a lump sum benefit of such amount (not more than his or her accumulated member contributions) as is specified in the election; and
- (b) a pension, the annual rate of which is to be calculated by dividing his or her final benefit accrual less the amount of the lump sum benefit in paragraph 4.3.5 (a), by 11.

***Division 4—Cessation as Member not Otherwise Entitled to Benefit under Rules***

**Preserved benefit on cessation after less than 26 contribution due days**

**4.4.1.** Subject to rule 4.4.5, where:

- (a) a person ceases to be a member before attaining his or her minimum retiring age otherwise than by reason of death; and
- (b) the person is not otherwise entitled to benefits under these Rules, other than under Division 6 of this Part, as a result of the cessation; and
- (c) the person does not make an election under rule 4.4.2; and

**SCHEDULE—continued**

- (d) the person does not elect, in accordance with Part 8, that a transfer value be payable in relation to him or her; and
- (e) the sum of:
  - (i) the number of contribution due days in respect of the person's ongoing multiple; and
  - (ii) the number of contribution due days in respect of a CSS transfer multiple (if any) applicable to the person; and
  - (iii) the number of contribution due days in respect of a preserved multiple (if any) applicable to the person; and
  - (iv) the number of contribution due days in respect of a restoration multiple (if any) applicable to the person;is less than 26;

there is applicable to the person a preserved benefit of his or her accumulated member contributions and his or her accumulated employer contributions.

**Other options on cessation after less than 26 contribution due days**

**4.4.2.** A person to whom a preserved benefit is applicable in accordance with rule 4.4.1 may elect that, instead of that benefit being applicable to him or her, either:

- (a) where his or her accumulated employer contributions are less than \$500—he or she be paid his or her accumulated member contributions and his or her accumulated employer contributions as a lump sum; or
- (b) where his or her accumulated employer contributions are not less than \$500:
  - (i) he or she be paid his or her accumulated member contributions; and
  - (ii) his or her accumulated employer contributions be paid to a preservation fund, or used to purchase a deferred annuity, of his or her choice.

**Preserved benefit on cessation after not less than 26 contribution due days**

**4.4.3.** Subject to rule 4.4.5, where:

- (a) a person ceases to be a member before attaining his or her minimum retiring age otherwise than by reason of death; and
- (b) the person is not otherwise entitled to benefits under these Rules, other than under Division 6 of this Part, as a result of the cessation; and
- (c) the person does not make an election under rule 4.4.4; and
- (d) the person does not elect, in accordance with Part 8, that a transfer value be payable in relation to him or her; and

**SCHEDULE—continued**

(e) the sum of:

- (i) the number of contribution due days in respect of the person's ongoing multiple; and
- (ii) the number of contribution due days in respect of a CSS transfer multiple (if any) applicable to the person; and
- (iii) the number of contribution due days in respect of a preserved multiple (if any) applicable to the person; and
- (iv) the number of contribution due days in respect of a restoration multiple (if any) applicable to the person;

is not less than 26;

there is applicable to the person a preserved benefit of the amount calculated by using the formula:

$$\frac{\text{PB} \times \text{CDD}}{104} + \text{AMC} + \text{AEC};$$

where:

**PB** is the person's final benefit accrual less the sum of:

- (a) the amount of his or her accumulated member contributions; and
- (b) the amount of his or her accumulated employer contributions; and

**CDD** is the number which is the lesser of:

- (a) the sum in paragraph 4.4.3 (d); and
- (b) 104; and

**AMC** is the amount of his or her accumulated member contributions less the amount of any payment made under rule 4.6.5; and

**AEC** is the amount of his or her accumulated employer contributions.

**Other options on cessation after not less than 26 contribution due days**

**4.4.4.** A person to whom a preserved benefit is applicable in accordance with rule 4.4.3 may elect that, instead of that benefit being applicable:

- (a) he or she be paid a lump sum of his or her accumulated member contributions less any amount payable under rule 4.6.5; and
- (b) there be applicable to him or her a preserved benefit of the amount in rule 4.4.3 less the amount of the lump sum in paragraph 4.4.4 (a).

**Casual employees not to cease to be a member only because of cessation of employment**

**4.4.5.** For the purposes of this Part, a person who is a casual employee shall be deemed to have ceased to be a member because he or she has ceased employment with the Commonwealth or an approved authority, when:

**SCHEDULE—continued**

- (a) he or she has not made contributions for more than 26 consecutive contribution days (excluding any period when he or she is absent on leave without pay and not permitted to make contributions); or
- (b) he or she certifies in a form approved and accepted by the Board that he or she has no plans to be re-employed by the Commonwealth or an approved authority within 26 fortnights of last ceasing to be so employed; or
- (c) he or she has reached the maximum retiring age under his or her terms and conditions of employment.

**4.4.6.** A casual employee who is deemed to have ceased to be a member under rule 4.4.5, shall be deemed to have ceased to be a member from the day he or she last ceased to be employed by the Commonwealth or an approved authority.

***Division 5—Partial Invalidity Pension***

**Entitlement to partial invalidity pension where invalidity pensioner again becomes member**

**4.5.1.** Subject to rules 4.5.5 and 4.5.13, where:

- (a) a person to whom an invalidity pension is payable, or would have been payable if not suspended, again becomes a member; and
- (b) on the relevant day applicable to the person last becoming an invalidity pensioner, he or she was not a casual employee; and
- (c) the person's annual rate of superannuation salary applicable to the duties of his or her usual position or office on his or her first day of membership is less than the annual rate of superannuation salary that would have been payable if on the relevant day applicable to his or her last becoming an invalidity pensioner:
  - (i) (A) where he or she was engaged in performing the duties of his or her usual position or office on that day—he or she had not retired on invalidity grounds but had continued performing those duties; or
  - (B) where he or she was engaged in the temporary performance of the duties of a position or office of higher classification than that usually held, and the Board would have determined that amounts payable to the member on the relevant day in respect of the temporary performance of the duties of the position or office of higher classification were not to be basic salary under rule 2.1.1—he or she had not retired on

**SCHEDULE—continued**

invalidity grounds but had continued to perform the duties of the usual position or office; or

(C) where he or she was engaged in the temporary performance of the duties of a position or office of higher classification than that usually held by the member, and the Board would have determined that amounts payable to the member on the relevant day in respect of the temporary performance of the duties of the position or office of higher classification were to be basic salary under rule 2.1.1—he or she had not retired on invalidity grounds but had continued to perform the duties of that higher position or office; and

(ii) where there is more than one increment point (or salary point howsoever called) in the salary range for the duties or office under whichever of sub-subparagraph (A), (B) or (C) is applicable, he or she had remained at the increment point he or she was on immediately prior to retirement; and

(iii) the superannuation salary for the duties of the position or office under whichever of sub-subparagraph (A), (B) or (C) is applicable included only those allowances that were recognised allowances immediately prior to retirement; and

(d) the reduction in annual rate of superannuation salary in paragraph (c) is the result of either:

(i) the person resuming employment at his or her former position or level but working reduced hours; or

(ii) the person resuming employment at a lower position or level and working the same hours; or

(iii) the person resuming employment at a lower position or level and working reduced hours; and

(e) the Board is satisfied that the decrease is of a permanent nature and can properly be regarded as attributable to physical or mental incapacity;

he or she is entitled to a partial invalidity pension at an annual rate calculated by the Board in accordance with rule 4.5.7.

**4.5.2.** Subject to rules 4.5.5 and 4.5.13, where a person to whom an invalidity pension is payable, or would be payable if not suspended, again becomes an employee and is not entitled to a partial invalidity pension under rule 4.5.1 because:

(a) the person fails to meet the conditions of paragraph 4.5.1 (c) and 4.5.1 (d), but he or she is:

(i) (A) working reduced hours; or

**SCHEDULE—continued**

- (B) has resumed in a lower position or level; and
- (ii) the Board is satisfied that the reduced hours or lower position or level can properly be regarded as attributable to physical or mental incapacity; and/or
- (b) the Board is not satisfied that the whole of the decrease is of a permanent nature and can properly be regarded as attributable to physical or mental incapacity;

the Board, having regard to the principles in rule 4.5.1 and the need for equity between members, may decide that the person is entitled to a partial invalidity pension calculated by the Board in accordance with rule 4.5.18.

**Entitlement to partial invalidity pension where member's salary decreases for health reasons**

**4.5.3.** Subject to rules 4.5.5, 4.5.6 and 4.5.13, where:

- (a) a person is not a limited benefits member; and
- (b) he or she is not a casual employee; and
- (c) he or she has not reached his or her maximum retiring age; and
- (d) the annual rate of superannuation salary of the person decreases because:
  - (i) the person continues in his or her position or level but works reduced hours; or
  - (ii) the person changes employment to a lower position or level and works the same hours; or
  - (iii) the person changes employment to a lower position or level and works reduced hours: and
- (e) the Board is satisfied that the decrease is of a permanent nature and can properly be regarded as attributable to physical or mental incapacity;

he or she is entitled to a partial invalidity pension at an annual rate calculated by the Board in accordance with rule 4.5.7.

**4.5.4.** Subject to rules 4.5.5, 4.5.6 and 4.5.13, where a person suffers a reduction in annual rate of superannuation salary and is not entitled to a partial invalidity pension under rule 4.5.3 because:

- (a) the person fails to meet the conditions of paragraph 4.5.3 (d), but he or she:
  - (i) (A) is working reduced hours; or
  - (B) has changed employment to a lower position or level; and
- (ii) the Board is satisfied that the reduced hours or change to a lower position or level can properly be regarded as attributable to physical or mental incapacity; and/or



**SCHEDULE—continued**

- (b) the Board is not satisfied that the whole of the decrease is of a permanent nature and can properly be regarded as attributable to physical or mental incapacity;

the Board, having regard to the principles in rule 4.5.3 and the need for equity between members, may decide that the person is entitled to a partial invalidity pension calculated by the Board in accordance with rule 4.5.18.

**Pension not payable for compensible injuries**

**4.5.5.** A partial invalidity pension is not payable where the reduction in salary is the result of a compensible condition in respect of which compensation payments are or will be made.

**Non-disclosure of information**

**4.5.6.** Where, on becoming a member, a person has failed to disclose medical or other condition or conditions which if the Board had known about it or them could have resulted in:

- (a) the Board reasonably forming the opinion pursuant to rule 1.2.2 that the person was not of sufficiently sound health to carry out all the duties of his or her position, without taking excessive sick leave, for not less than three years; and  
(b) the member being treated as a limited benefits member;

the person shall not be entitled to a partial invalidity pension in respect of any reduction in the annual rate of superannuation salary occurring in the period ending three years after his or her first day of membership.

**Calculation of annual rate of partial invalidity pension**

**4.5.7.** Subject to rule 4.5.10 and 4.5.18, where a person is entitled to partial invalidity pension under rule 4.5.1 or 4.5.3, the annual rate of partial invalidity pension shall be calculated in accordance with the following formula:

$$\text{Proportion} \times \text{Difference};$$

where:

**Proportion** is:

- (a) in the case of person to whom an invalidity pension was payable, or would have been payable if not suspended, immediately before he or she became entitled to a partial invalidity pension under rule 4.5.1—the number that is the amount of the annual rate of invalidity pension payable on the day he or she last became an invalidity pensioner divided by his or her average salary immediately before he or she became entitled to that pension; or  
(b) in the case of a person who, on the day before his or her salary was reduced, had reached the age of 60 years or more—the number that is an amount equal to the annual rate of pension

**SCHEDULE—continued**

to which the person would have been entitled if, on that day, he or she had retired on invalidity grounds and had elected under rule 4.1.2 to convert the whole of his or her final benefit accrual to a pension, divided by his or her average salary immediately before he or she would have become entitled to that pension; or

- (c) in the case of a person who, on the day before his or her salary was reduced, had not reached the age of 60 years—the number that is an amount equal to the annual rate of pension that would have become payable to the person under rule 4.3.3 if, on that day, he or she had retired on invalidity grounds and he or she did not make an election under rule 4.3.4, divided by his or her average salary immediately before he or she would have become entitled to that pension; and

**Difference** is an amount determined by the Board pursuant to rule 4.5.8.

**4.5.8.** Subject to rule 4.5.10, **Difference** for the purpose of rule 4.5.7 shall be the amount on the day a person first becomes entitled to a partial invalidity pension under rule 4.5.1 or 4.5.3 which is:

- (a) where a person is entitled to a partial invalidity pension under rule 4.5.1—the amount by which the annual rate of superannuation salary under whichever of subsubparagraph 4.5.1 (c) (i) (A), (B) or (C) is applicable to the member exceeds the person's annual rate of superannuation salary applicable to the duties of his or her office on his or her first day of membership;
- (b) where a person is entitled to a partial invalidity pension under rule 4.5.3 and:
  - (i) on the day immediately before the day upon which the person suffers a reduction in salary, he or she was engaged in performing the duties of his or her usual position or office on that day—the amount by which the annual rate of superannuation salary on that day exceeds the annual rate of superannuation salary for the duties of his or her usual position after such reduction in superannuation salary; or
  - (ii) on the day immediately before the day upon which the person suffers a reduction in salary, he or she was engaged in the temporary performance of the duties of a position or office of higher classification than that usually held and the Board determines that amounts payable to the member on that day in respect of the temporary performance of the duties of the position or office of higher classification were not to be basic salary under rule 2.1.1—the amount by which the annual rate of

**SCHEDULE—continued**

superannuation salary on that day for the duties of his or her usual position exceeds the annual rate of superannuation salary for the duties of his or her usual position after such reduction in superannuation salary; or

- (iii) on the day immediately before the day upon which the person suffers a reduction in salary, he or she was engaged in the temporary performance of the duties of a position or office of higher classification than that usually held and the Board determines that amounts payable to the member on that day in respect of the temporary performance of the duties of the position or office of higher classification were to be basic salary under rule 2.1.1—the amount by which the annual rate of superannuation salary on that day for the duties of the position or office of higher classification exceeds the annual rate of superannuation salary for the duties of his or her usual position after such reduction in superannuation salary.

**Payment of partial invalidity pension**

**4.5.9.** Partial invalidity payments shall be made on contribution days and the Board may make arrangements with employers for such payments to be made.

**Subsequent reduction in salary for health reasons**

**4.5.10.** Where the annual rate of superannuation salary of a person who is entitled to a partial invalidity pension under rule 4.5.1 or 4.5.3 again decreases under such circumstances that the Board is satisfied that the decrease can properly be regarded as attributable to physical or mental incapacity, the amount of the person's partial invalidity pension shall be determined by the Board having regard to:

- (a) the need for equity between members; and
- (b) the principles underlying the formula in rule 4.5.7; and
- (c) the need to recalculate the value of proportion in the formula in rule 4.5.7; and
- (d) the need to aggregate the total reduction in salary that has occurred using updated values of any reductions that had previously occurred; and
- (e) where the person is, or has been, a permanent part-time employee, the proportion of full-time hours worked before each reduction.

**SCHEDULE—continued**

**Adjustment of partial invalidity pension**

**4.5.11.** Subject to rules 4.5.10, 4.5.12, 4.5.13 and 4.5.15, partial invalidity pensions shall be adjusted at such times as the Board determines.

**Suspension of partial invalidity pension**

**4.5.12.** Where a person to whom a partial invalidity pension is payable changes employment to a period of leave without pay, not being a period of sick leave without pay, the Board at its discretion may suspend the payment of partial invalidity pension until he or she returns from that period of leave without pay.

**Cessation of partial invalidity pension**

**4.5.13.** Subject to rules 4.5.14 and 4.5.15, partial invalidity pension payments in relation to a person shall cease on a contribution day specified by the Board being a day on or after the date by which the Board:

- (a) required the person to commence or to continue a program of rehabilitation and he or she did not commence or continue that program; or
- (b) required the person to provide medical or other evidence as to his or her state of health and/or ability to resume former duties and he or she did not provide such information.

**4.5.14.** Where rule 4.5.13 would apply but the Board is satisfied that there was good and sufficient reason for his or her non-compliance with the Board's requirement, the Board may set a further date and that rule shall not apply.

**4.5.15.** Where rule 4.5.13 applies but the member has satisfied the Board that he or she will comply with all future requirements of the Board, partial invalidity payments shall become payable to the person from the date the Board is so satisfied or such other date as the Board determines.

**Cancellation of partial invalidity pension**

**4.5.16.** A person's entitlement to partial invalidity pension is cancelled upon:

- (a) the person's annual rate of superannuation salary becoming equal to or greater than the annual rate of superannuation salary applicable to the duties of the position or office before invalidity retirement or reduction in salary, whichever is applicable; or
- (b) the person ceasing to be a member;

whichever first occurs, provided that, where the entitlement to a partial invalidity pension arose under rule 4.5.2 or 4.5.4, any comparison for

**SCHEDULE—continued**

the purposes of paragraph (a) shall be made on a basis that fairly reflects, or fairly can be substituted for, the basis under which the entitlement arose.

**Provisions relating to former eligible employees**

**4.5.17.** For the purposes of these Rules, where a person immediately before his or her first day of membership was an eligible employee under the 1976 Act:

- (a) any partial invalidity pension payable under that Act shall be deemed to be a partial invalidity pension; and
- (b) should a reduction in the annual rate of superannuation salary occur after the person's first day of membership, the Board shall have regard to the basis of calculation of the partial invalidity pension under that Act in calculating the amount of the partial invalidity pension that is to apply as a result of that reduction; and
- (c) in adjusting partial invalidity pensions under rule 4.5.11, the Board shall have regard to the basis of calculation, and adjustment, of the partial invalidity pension under that Act; and
- (d) any amounts of partial invalidity pension payable under that Act during the period commencing on the date of the person's first day of membership and ending on the day the person elected to cease to be an eligible employee for the purposes of that Act shall be deemed to be payments of partial invalidity pension under the scheme.

**Board to determine amount of partial invalidity pension in some circumstances**

**4.5.18.** Where:

- (a) a person is entitled to a partial invalidity pension under rule 4.5.2; or
- (b) a person is entitled to a partial invalidity pension under rule 4.5.4;

the Board, having regard to the principles in this Division and the need for equity between members, may determine the amount of partial invalidity pension payable to a member.

***Division 6—Refund of Excess Contributions***

**When excess contribution multiple is included in benefit factor**

**4.6.1.** Where:

- (a) an excess contribution multiple is applicable to a person; and
- (b) a transfer value is payable in respect of the person by virtue of an election made under rule 8.2.9;

**SCHEDULE—continued**

the excess contribution multiple shall be included in the person's benefit factor.

**4.6.2. Where:**

- (a) an excess contribution multiple is applicable to a person, not being a person to whom rule 4.6.1 applies; and
- (b) the person is not a maximum benefits member; and
- (c) the person has terminated his or her membership by reason of retirement on or after his or her minimum retiring age, invalidity retirement, death or involuntary retirement; and
- (d) the addition of the excess contribution multiple to the benefit factor would not result in the amount obtained by multiplying the benefit factor by the person's average salary on that day being more than the maximum benefit applicable to the person under rule 1.4.1;

the excess contribution multiple shall be included in the person's benefit factor.

**When excess contribution multiple is partially included in benefit factor**

**4.6.3. Where:**

- (a) an excess contribution multiple is applicable to a person, not being a person to whom rule 4.6.1 applies; and
- (b) the conditions in paragraphs 4.6.2 (b) and (c) are fulfilled; but
- (c) the addition of the excess contribution multiple to the benefit factor would result in the amount obtained by multiplying the benefit factor by the person's average salary on that day being more than the maximum benefit applicable to the person under rule 1.4.1;

the excess contribution multiple shall be included in the person's benefit factor only to the extent that the benefit factor so obtained would result in the amount obtained by multiplying the benefit factor by the person's average salary on that day would be equal to the maximum benefit applicable to the person under rule 1.4.1 and 4.6.5 shall be applicable to the person.

**When excess contribution multiple is excluded from benefit factor**

**4.6.4. Where:**

- (a) an excess contribution multiple is applicable to a person, not being a person to whom rule 4.6.1 applies; but
- (b) either or both of the conditions in paragraphs 4.6.2 (b) and (c) is or are not fulfilled;

the excess contribution multiple shall not be included in the benefit factor and rule 4.6.5 shall be applicable to the person.

**SCHEDULE—continued**

**Refund of excess contributions**

**4.6.5.** Where the whole or part of the excess contribution multiple has not been included in the benefit factor, there shall be payable to, or in respect of, the person a lump sum benefit equal to the amount obtained by multiplying the amount of the excess contribution multiple not included in the benefit factor by the person's average salary on that day.

**Refund of excess contributions to be deducted from accumulated member contributions**

**4.6.6.** Where an amount is payable under rule 4.6.5 to, or in respect of, a person, in respect of a particular day, the amount of the accumulated member contributions applicable to the member, or included, or to be included, in a preserved benefit applicable to the member, on that day shall be reduced by the amount of that payment.

**Trustees to decide beneficiaries of refund of excess contributions when member dies in service**

**4.6.7.** Where an amount becomes payable under rule 4.6.5 on the death of a person, it shall be paid to a person or persons to whom the Board may pay the other benefits payable under the Superannuation Scheme in respect of the deceased person and, where there are two or more such persons, the Board, at its discretion, may apportion the amount between them, and where the Board will be paying benefits in respect of the deceased person in accordance with rule 5.2.8, the Board may pay the amount in accordance with that rule.

**PART 5—SPOUSES' AND CHILDREN'S BENEFITS**

*Division 1—Death of a Pensioner*

**Applicability of reversionary pension**

**5.1.1.** Where a retirement pensioner dies and is survived by a spouse or spouses, an eligible child or children or a partially dependent child or children, a reversionary pension is applicable in relation to the deceased pensioner.

**Annual rate of reversionary pension**

**5.1.2.** The annual rate of the reversionary pension that is applicable in relation to a deceased pensioner in accordance with rule 5.1.1 is:

- (a) where the deceased pensioner is survived by a spouse—subject to rule 5.3.1, the lesser of:
  - (i) an annual rate that is a percentage of the annual rate of pension payable to the deceased pensioner immediately before his or her death, being the percentage applicable

**SCHEDULE—continued**

to the number of dependants of the deceased pensioner other than that spouse in accordance with the following Table:

<i>No. of other dependants</i>	<i>Percentage of pensioner's pension</i>
0	67%
1	78%
2	89%
3 or more	100%

for the purpose of which, dependants of the deceased pensioner other than that spouse are to include all eligible children and all partially dependent children of the deceased pensioner and any other spouse or spouses of the deceased pensioner; and

- (ii) an annual rate which is the sum of:
  - (A) the annual rate that would have been applicable under subparagraph 5.1.2 (a) (i) where dependants of the deceased pensioner other than that spouse did not include any partially dependent children; and
  - (B) the amount of any regular maintenance payments being made, or required to be made by order of a Court, by the deceased pensioner to partially dependent children immediately before his or her death; or

- (b) where the deceased pensioner is not survived by a spouse but is survived by an eligible child or children, a partially dependent child or children, or both—the lesser of:

- (i) an annual rate that is a percentage of the annual rate of pension payable to the deceased pensioner immediately before his or her death, being the percentage applicable to the number of dependants of the deceased pensioner in accordance with the following Table:

<i>No. of dependants</i>	<i>Percentage of pensioner's pension</i>
1	45%
2	80%
3	90%
4 or more	100%

for the purposes of which, dependants of the deceased



**SCHEDULE—continued**

pensioner are to include all eligible children and partially dependent children of the deceased pensioner; and

- (ii) an annual rate which is the sum of:
  - (A) the annual rate that would have been applicable under subparagraph 5.1.2 (b) (i) where, for the purposes of the Table, dependants of the deceased pensioner did not include any partially dependent children; and
  - (B) the amount of any regular maintenance payments being made, or required to be made by order of a Court, by the deceased pensioner immediately before his or her death to partially dependent children.

**Rate of pension when deceased pensioner is survived only by a spouse**

**5.1.3.** Where a deceased retirement pensioner is survived by a spouse and in relation to that pensioner there is:

- (a) no other spouse; and
- (b) no partially dependent child or children; and
- (c) no eligible child who is not an associated child or no eligible children who are not associated children;

a reversionary pension at a rate determined under paragraph 5.1.2 (a) shall be payable to the spouse.

**Rate of pension when deceased pensioner is survived only by eligible children**

**5.1.4.** Where a deceased retirement pensioner is survived by an eligible child or children and in relation to that pensioner there is:

- (a) no spouse; and
- (b) no partially dependent child or children;

a reversionary pension shall be payable at a rate determined under paragraph 5.1.2 (b) to, or for the benefit of, the eligible child or eligible children.

**Rate of pension when deceased pensioner is survived only by partially dependent children**

**5.1.5.** Where a deceased retirement pensioner is survived by a partially dependent child or children and in relation to that pensioner there is:

- (a) no spouse; and
- (b) no eligible child or children;

a reversionary pension shall be payable at a rate determined under rule 5.1.2 (b) to, or for the benefit of, the partially dependent child or children.

**SCHEDULE—continued**

**Rate of pension when deceased pensioner is survived by more than one class of dependant**

**5.1.6.** Where a deceased retirement pensioner is survived by more than one spouse, eligible children who are not associated children in relation to a spouse and who ordinarily are not living together, partially dependent children who ordinarily are not living together, or one or more persons from at least two of the following classes of persons in relation to that pensioner:

- (a) a spouse; and
- (b) an eligible child who is not an associated child in relation to a spouse; and
- (c) a partially dependent child;

the annual rates of pension payable to, or for the benefit of, such persons shall be determined by the Board subject only to the limitations that:

- (d) the sum of the annual rates so determined shall not exceed the annual rate of the reversionary pension in relation to the deceased pensioner; and
- (e) subject to rule 5.3.1, the annual rate of pension for a spouse shall not exceed 67 per cent of the annual rate of pension payable to the pensioner immediately before his or her death, or such higher percentage that would be applicable in accordance with the Table in subparagraph 5.1.2 (a) (i) if the number of other dependants for the purposes of the Table equalled the number of associated children in relation to the spouse; and
- (f) the annual rate of pension for an eligible child who is not a associated child in relation to a spouse shall not exceed 45 per cent of the annual rate of pension payable to the pensioner immediately before his or her death, or where there is more than one such child, the annual rate of pension for those eligible children shall not exceed such higher percentage that would be applicable in accordance with the Table in subparagraph 5.1.2 (b) (i) if the number of dependants for the purposes of the Table equalled the number of such eligible children; and
- (g) the annual rate of pension for a partially dependent child shall not exceed the annual rate of the regular maintenance payments being made, or required to be made by order of a Court, in relation to the partially dependent child, by the pensioner immediately before his or her death.

***Division 2—Death of a Member***

**Applicability of reversionary pension**

**5.2.1.** Where a member who is not a limited benefits member dies and is survived by:

- (a) a spouse or spouses; or

**SCHEDULE—continued**

- (b) a spouse or spouses and an eligible child or children, a partially dependent child or children, or both; or
- (c) an eligible child or children, a partially dependent child or children, or both;

a reversionary pension is applicable in relation to the deceased member.

**Annual rate of reversionary pension**

**5.2.2.** The annual rate of the reversionary pension that is applicable to a deceased member in accordance with rule 5.2.1 is:

- (a) where the deceased member had not reached the age of 60 years at the date of his or her death—a rate equal to the annual rate of reversionary pension in relation to that deceased member if he or she had not died as a member but on the date of his or her death had retired on invalidity grounds, had become entitled to a pension under rule 4.3.3 and, immediately after, had died as a retirement pensioner; or
- (b) where the deceased member had reached the age of 60 years at the date of his or her death—a rate equal to the annual rate of reversionary pension in relation to that deceased member if he or she had not died as a member but on the date of his or her death had retired on age grounds, had elected under rule 4.1.2 to convert the whole of his or her final benefit accrual to a pension and, immediately after, had died as a retirement pensioner.

**Rates of spouses' and children's pensions**

**5.2.3.** Where a member dies:

- (a) a spouse who does not make an election under rule 5.2.4; or
- (b) an eligible child who is not an associated child in relation to the spouse; or
- (c) a partially dependent child of the deceased member;

is entitled to pension at an annual rate determined by the Board in the same way as under Division 1 of this Part for a deceased retirement pensioner, provided that:

- (d) rule 5.3.1 shall not apply; and
- (e) the annual rate of the reversionary pension for the purposes of rule 5.1.2 is to be equal to the annual rate of the reversionary pension applicable in respect of the deceased member under rule 5.2.2.

**Spouse's lump sum benefit**

**5.2.4.** A spouse who is entitled to pension under rule 5.2.3 may elect that, instead of being paid that pension, rule 5.2.5 apply to him or her.

**SCHEDULE—continued**

**5.2.5.** Where a spouse makes an election under rule 5.2.4, he or she is entitled to whichever of the following is specified in the election:

- (a) to be paid a lump sum benefit of an amount calculated by using the formula:

$$\text{TCA} \times \frac{\text{SPE}}{\text{ASPE}};$$

or,

- (b) to be paid:

- (i) an annual rate of pension specified in the election (being an amount not less than half of the amount of his or her entitlement under rule 5.2.3); and  
(ii) a lump sum benefit of an amount calculated by using the formula:

$$\text{TCA} \times \frac{(\text{SPE} - \text{SEP})}{\text{ASPE}};$$

where:

**TCA** is the amount of the total commutation amount, being the deceased member's final benefit accrual less an amount determined by the Board, after consideration of actuarial advice, to be the capital value of pensions payable in relation to any eligible children (other than associated children of that, or any other, spouse) or partially dependent children of the deceased member; and

**SPE** is the amount of the annual rate of the spouse's pension entitlement determined pursuant to rule 5.2.3; and

**ASPE** is the aggregate of the amounts of the annual rates of spouse's pension entitlements in relation to the deceased member; and

**SEP** is the amount of the annual rate of the spouse's pension specified in the election under rule 5.2.4 for the purposes of subparagraph 5.2.5 (b) (i).

**Balance of benefit**

**5.2.6.** Where a member, including a limited benefits member, dies and is not survived by a spouse or spouses, an eligible child or children or a partially dependent child or children, the amount of his or her final benefit accrual shall be payable by the Board under rule 5.2.8.

**5.2.7.** Where a member dies and is not survived by a spouse but is survived by an eligible child or children, a partially dependent child or children, or both, the amount of his or her final benefit accrual less an amount that the Board, after considering actuarial advice, determines to be the capital value of the pensions payable in relation to that eligible child or children and/or that partially dependent child or children shall be payable by the Board under rule 5.2.8.

**SCHEDULE—continued**

**5.2.8.** Where an amount is payable under rule 5.2.6 or 5.2.7:

- (a) if the deceased member had notified the Board in writing that:
  - (i) he or she had a person or persons dependent or partially dependent on him or her who would not be eligible to receive benefits as a spouse, eligible child or partially dependent child; and
  - (ii) he or she had made provision for such person or persons in his or her will;

the Board, at its discretion, may pay to the person or persons such proportion (if any) of the amount of the deceased member's final benefit accrual as it considers appropriate, subject only to the aggregate of such payments and the capital value of the pensions (if any) determined pursuant rule 5.2.7 not exceeding the amount of the final benefit accrual; and

- (b) the Board shall pay to the deceased member's personal representatives the amount (if any) by which the amount of the deceased member's final benefit accrual exceeds the sum of the amount paid under paragraph 5.2.8 (a) and the capital value of the pensions (if any) determined pursuant rule 5.2.7.

**Limited benefits member**

**5.2.9.** Subject to rule 5.2.6, where a person who is a limited benefits member dies, a lump sum benefit of his or her final benefit accrual is payable to the person or persons to whom benefits would have been payable under rule 5.1.3, 5.1.4, 5.1.5 or 5.1.6 if the deceased person had not died as a limited benefits member but had died as a retirement pensioner, and where there are two or more such persons, the Board shall apportion the amount of the lump sum between them.

***Division 3—Other Provisions***

**Rate of pension payable to a surviving spouse for six fortnights after the death of a pensioner**

**5.3.1.** Notwithstanding anything else in this Part, where a retirement pensioner dies and is survived by a spouse, spouses, spouse and associated child or children or spouses and associated child or children:

- (a) subject to paragraph 5.3.1 (c), the annual rate of reversionary pension applicable under paragraph 5.1.2 (a) shall be 100 per cent of the annual rate of pension that would have been payable to the deceased pensioner if he or she had not died; and
- (b) the additional amount (if any) payable in accordance with this rule because paragraph 5.1.2 (a) is subject to this rule shall be payable to the spouse or, where there are two or more spouses, to the spouses in the proportions determined by the Board under rule 5.1.6; and

**SCHEDULE—continued**

- (c) the additional amount referred to in paragraph 5.3.1 (b) (if any) shall be payable until the earlier of:
  - (i) the date of death of the spouse; and
  - (ii) the seventh pension pay day after the date of death of the pensioner; and
- (d) the references in paragraph 5.1.6 (e) to percentages shall be read as 100 per cent while the additional amount referred to in paragraph 5.3.1 (b) is payable; and
- (e) the additional amount referred to in paragraph 5.3.1 (b) (if any) shall be excluded from the annual rates of pension for the purposes of rules 5.3.2 to 5.3.6 inclusive; and
- (f) where:
  - (i) an amount purporting to be an instalment of pension to a retirement pensioner paid in respect of the period from the date of death of the retirement pensioner until the day referred to in paragraph 5.3.1 (c) is paid to an account with a bank, credit union or building society (in this rule called the “financial institution”); and
  - (ii) the financial institution pays an amount not exceeding the amount so paid to the spouse from that account;

the Board may make arrangements under which the amount so paid to the spouse may be offset against any amount of pension payable to the spouse in accordance with rule 5.1.3 or 5.1.6, as amended by this rule.

**Adjustments to pension when spouse dies**

**5.3.2.** Subject to rules 5.3.6 and 5.3.1, where a pension is payable to a spouse in relation to whom there is an associated child or associated children, and the spouse dies, the annual rate of pension payable in relation to the associated child or children is:

- (a) where the pension was payable to a spouse in relation to whom there was one associated child— $45/78$ ths of the annual rate of that pension; or
- (b) where the pension was payable to a spouse in relation to whom there were 2 associated children— $80/89$ ths of the annual rate of that pension; or
- (c) where the pension was payable to a spouse in relation to whom there were 3 associated children— $90/100$ ths of annual rate of that pension; or
- (d) where the pension was payable to a spouse in relation to whom there were 4 or more associated children—the annual rate of that pension.

**SCHEDULE—continued**

**Adjustments to pension when a child ceases to be an eligible child**

**5.3.3.** Subject to rules 5.3.6 and 5.3.1, where a pension is payable to a spouse in relation to whom there is an associated child or children, and that child, or one of those children, ceases to be an eligible child, the annual rate of pension payable to the spouse is:

- (a) where the pension was payable to a spouse in relation to whom there was one associated child— $\frac{67}{78}$ ths of the annual rate of that pension; or
- (b) where the pension was payable to a spouse in relation to whom there were 2 associated children— $\frac{78}{89}$ ths of the annual rate of that pension; or
- (c) where the pension was payable to a spouse in relation to whom there were 3 associated children— $\frac{89}{100}$ ths of annual rate of that pension; or
- (d) where the pension was payable to a spouse in relation to whom there were 4 or more associated children—the annual rate of that pension.

**5.3.4.** Subject to rule 5.3.6, where a pension is being paid in relation to an eligible child or eligible children, not being an associated child or children in relation to a spouse, and that child, or one of those children, ceases to be an eligible child, the annual rate of pension payable in relation to the remaining eligible children (if any) is:

- (a) where the pension was payable in relation to one eligible child—nil; or
- (b) where the pension was payable in relation to 2 eligible children— $\frac{45}{80}$  of the annual rate of that pension; or
- (c) where the pension was payable in relation to 3 eligible children— $\frac{80}{90}$  of the annual rate of that pension; or
- (d) where the pension was payable in relation to 4 eligible children— $\frac{90}{100}$  of the annual rate of that pension; or
- (e) where the pension was payable in relation to 5 or more eligible children—the annual rate of that pension.

**Adjustments to pension when a partially dependent child ceases to be partially dependent**

**5.3.5.** Subject to rule 5.3.6, where a pension is payable in relation to partially dependent children of a deceased member or deceased retirement pensioner and one of those children ceases to be a partially dependent child, the annual rate of pension payable shall be reduced by:

- (a) where there was a clear apportionment of the pension between the children—the annual rate of the pension that was payable

**SCHEDULE—continued**

to the child who has ceased to be a partially dependent child;  
or

- (b) where there was no clear apportionment of the pension between the children—an amount determined by the Board.

**Adjustments to pensions allocated between classes of dependants**

**5.3.6.** Where the Board has determined annual rates of pension under rule 5.1.6, either directly or pursuant to rule 5.2.3, the Board shall determine the reduction in the annual rate of pension that is to be made in the circumstances described in rules 5.3.2 to 5.3.5 inclusive.

**Adjustments to pensions when additional dependants apply**

**5.3.7.** Where, after the Board has determined an annual rate, or rates, of pension in accordance with rule 5.1.3, 5.1.4, 5.1.5 or 5.1.6, or the annual rate of a pension has been established or adjusted in accordance with this Division, a further spouse or spouses, eligible child or children or partially dependent child or children are discovered or a person again becomes an eligible child or a partially dependent child, the Board shall determine the annual rate or rates of pension to be payable.

**5.3.8.** The Board shall have power to adjust the allocation of a reversionary pension where it considers special circumstances warrant such a change.

**Final benefit payable (if any) when a pensioner, other than an invalidity pensioner dies**

**5.3.9.** Subject to rule 6.3.1, where no further benefits are payable to a spouse, or in relation to an eligible child or children or a partially dependent child or children of a deceased retirement pensioner other than a deceased invalidity pensioner or member, there is payable to his or her personal representatives or to such person or persons as the Board determines, the amount, if any, by which the sum of:

- (a) his or her accumulated member contributions; and  
(b) his or her accumulated employer contributions;

exceeds the total amount of benefits paid to, or in relation to, the deceased pensioner or member since his or her last day of membership.

**Final benefit payable (if any) when an invalidity pensioner dies**

**5.3.10.** Subject to rule 6.3.1, where no further benefits are payable to a spouse, or in relation to an eligible child or children or a partially dependent child or children of a deceased invalidity pensioner, there is payable to his or her personal representatives or to such person or persons as the Board determines, the amount, if any, by which:



**SCHEDULE—continued**

- (a) the amount of that would have been the invalidity pensioner's final benefit accrual if paragraphs 1.3.3 (a) and (b) did not apply;
- exceeds:
- (b) the total amount of benefits paid to, or in relation to, the deceased invalidity pensioner since his or her last day of membership.

**PART 6—PRESERVED BENEFITS**

*Division 1—General*

**Circumstances in which preserved benefits become payable**

**6.1.1.** Subject to rules 6.1.3, 6.2.1 and 6.2.3, a preserved benefit that is applicable to a person in accordance with these Rules becomes payable on the earliest of the following dates:

- (a) the date on which the person attains the age of 65 years; and
  - (b) if the person, by notice in writing to the Board, selects a date for the payment of the preserved benefit, being a date not earlier than:
    - (i) the date on which the person attains the age that would have been the person's minimum retiring age if the person had not ceased to be a member and had continued to occupy the position held by the person immediately before so ceasing; and
    - (ii) the date on which the notice is given; and
    - (iii) where the amount of the unfunded preserved benefit is to be paid as a lump sum, or partly as a lump sum and partly as a pension, the date on which the person reaches the qualifying age for the financial year in which the date falls;
- the date so selected; and
- (c) where the Board has decided that by reason of the person's physical or mental incapacity, the member has become unlikely ever to be able to work again in a job for which the person is reasonably qualified by education, training or experience or for which the person could reasonably be qualified after retraining—the date on which the Board so decided; and
  - (d) the date of the person's death; and
  - (e) where the person intends to leave Australia permanently—the date the Board is satisfied that such intention will be carried into effect; and
  - (f) where the Insurance and Superannuation Commissioner has approved the payment of a benefit in other circumstances, whichever is the later of:

**SCHEDULE—continued**

- (i) the date of the approval; and
- (ii) the date such circumstances applied to the person.

**Amount of preserved benefit**

**6.1.2.** The amount of the preserved benefit applicable to a person on a particular day is an amount equal to the sum of:

- (a) the amount (if any) on that day of the person's accumulated member contributions included in the preserved benefit; and
- (b) the amount (if any) on that day of the person's accumulated employer contributions included in the preserved benefit; and
- (c) the amount on that day of the person's unfunded preserved benefit.

**Member to have access to accumulated member contributions**

**6.1.3.** Where a preserved benefit is applicable to a person and the preserved benefit includes the whole or part of the accumulated member contributions on his or her last day of membership, he or she, at any time, may elect in writing to the Board that, instead of that preserved benefit being applicable, rule 6.1.4 apply to him or her.

**6.1.4.** Where a person makes an election under rule 6.1.3 he or she is entitled:

- (a) to a lump sum benefit of the amount of the accumulated member contributions included in the preserved benefit; and
- (b) to have applicable to him or her a preserved benefit of the amount of the preserved benefit that was applicable less the amount of the payment under paragraph 6.1.4 (a).

**Lump sum benefit where accumulated member contributions preserved**

**6.1.5.** Subject to rules 6.1.6 and 6.2.3, where:

- (a) a preserved benefit becomes payable to a person by virtue of paragraph 6.1.1 (a), (b), (c), (e) or (f); and
- (b) the person, either is not entitled to make an election under rule 6.1.6 or, if so entitled, has not made such an election;

the person is entitled to be paid a lump sum benefit of the amount of the preserved benefit applicable to him or her.

**Pension option in certain cases when preserved benefit payable**

**6.1.6.** Where:

- (a) the lump sum of the amount of the preserved benefit applicable to a person is payable under rule 6.1.5 other than by virtue of paragraph 6.1.1 (e); and
- (b) the full amount of the person's accumulated member contributions on his or her last day of membership, other than

**SCHEDULE—continued**

any part of his or her accumulated member contributions paid under rule 4.6.5, is included in his or her preserved benefit; the person may elect that, instead of the lump sum benefit being payable to him or her, rule 6.1.7 apply to him or her.

**6.1.7.** Where a person makes an election under rule 6.1.6 he or she is entitled:

(a) where:

- (i) the preserved benefit became payable to the person by virtue of paragraph 6.1.1 (a), (b) or (f), to have such amount (not less than one-half of the lump sum benefit), as is specified in the election, of the lump sum benefit converted into a pension payable to him or her; or
- (ii) where the preserved benefit became payable to the person by virtue of paragraph 6.1.1 (c), to have such amount (not less than the sum of the amount of the unfunded preserved benefit and accumulated employer contribution), as is specified in the election, of the lump sum benefit converted into a pension payable to him or her; and

(b) to a lump sum benefit equal to that part (if any) of the amount of the lump sum benefit that is not to be converted into a pension.

**Amount of pension benefit**

**6.1.8.** A person who is entitled under paragraph 6.1.7 (a) to have an amount of preserved benefit converted into a pension is entitled to a pension at an annual rate calculated by dividing that amount of preserved benefit by a factor according to the person's age in years and days on the day the preserved benefit becomes payable interpolated by the Board from the following Table:

<i>Age of Person (Exact years)</i>	<i>Factor</i>
65	10.0
64	10.2
63	10.4
62	10.6
61	10.8
60	11.0
59	11.2
58	11.4
57	11.6
56	11.8

SCHEDULE—continued

<i>Age of Person (Exact years)</i>	<i>Factor</i>
55	12.0

and the factors for ages less than 55 shall be 12.0 increased by 0.2 for each whole year by which the age is less than 55 years.

provided that where the preserved benefit became payable by virtue of paragraph 6.1.1 (c), the number 11 shall be used if the factor for the person's age on the day the preserved benefit became payable is less than 11.

**Preserved benefit payable on death**

**6.1.9.** Subject to rule 6.1.12, where a preserved benefit becomes payable by virtue of paragraph 6.1.1 (d), a lump sum equal to the amount of the preserved benefit applicable to the deceased person is payable.

**Persons to whom preserved benefit is payable on death**

**6.1.10.** The lump sum benefit in rule 6.1.9 is payable to the person or persons to whom benefits would have been payable under rule 5.1.3, 5.1.4, 5.1.5 or 5.1.6 if the deceased person had not died as a person to whom a preserved benefit was applicable but had died as a retirement pensioner, and where there are two or more such persons, the Board may apportion the amount of the lump sum between them.

**6.1.11.** Where a lump sum benefit is payable under rule 6.1.9 and the deceased person is not survived by a spouse or spouses, an eligible child or children or a partially dependent child or children:

- (a) if the deceased person had notified the Board in writing that:
  - (i) he or she had a person or persons dependent or partially dependent on him or her who would not be eligible to receive benefits as a spouse, eligible child or partially dependent child; and
  - (ii) he or she had made provision for such person or persons in his or her will;

the Board, at its discretion, may pay to the person or persons such proportion (if any) of the amount of the deceased person's preserved benefit it considers appropriate, subject only to the aggregate of such payments not exceeding the amount of the benefit payable; and

- (b) the Board shall pay to the deceased member's personal representatives the amount (if any) by which the amount of the

**SCHEDULE—continued**

deceased person's preserved benefit exceeds the amount paid under paragraph 6.1.11 (a).

**Pension option for surviving spouse if preserved benefit with full accumulated member contributions becomes payable on death**

**6.1.12. Where:**

- (a) a preserved benefit becomes payable by virtue of paragraph 6.1.1 (d); and
- (b) the full amount of the deceased person's accumulated member contributions on his or her last day of membership, other than any part of his or her accumulated member contributions paid under rule 4.6.5, was included in that preserved benefit; and
- (c) a lump sum of the amount of the preserved benefit is payable to a spouse or spouse and associated children applicable to the deceased person;

the spouse may elect that, instead of the lump sum benefit being payable to him or her, rule 6.1.13 shall apply to him or her.

**6.1.13. Where a spouse makes an election under rule 6.1.12, he or she is entitled to:**

- (a) to have such amount (not less than one-half of the lump sum benefit), as is specified in the election, of the lump sum benefit converted into a pension payable to him or her; and
- (b) to a lump sum benefit equal to that part of the amount (if any) of the lump sum benefit that is not to be converted into a pension.

**6.1.14. A spouse who is entitled under paragraph 6.1.13 (a) to have part, or the whole of, of a lump sum benefit converted into a pension is entitled to a pension the annual rate of which is the rate that would have been payable if:**

- (a) the person to whom the preserved benefit was applicable had not died but on the date of his or her death had been able to exercise the option under rule 6.1.6 and had exercised that option; and
- (b) the date for the payment of the preserved benefit had been the date of the person's death; and
- (c) the amount of the preserved benefit to be converted to pension specified in the election under rule 6.1.6 had been equal to the amount to be converted to pension specified by the spouse in the election under rule 6.1.13; and
- (d) the factor for converting the amount of lump sum specified in the election to a pension had been the greater of:
  - (i) the number 11; and

**SCHEDULE—continued**

- (ii) the factor from the Table in rule 6.1.8 for the person's age in years and days at the date of his or her death; and
- (e) the person to whom the preserved benefit was applicable had then immediately died; and
- (f) rule 5.3.1 did not apply.

**Cessation of application of preserved benefit**

**6.1.15.** A preserved benefit ceases to be applicable to a person upon the preserved benefit becoming payable, or upon the person again becoming a member.

***Division 2—Transitional Provisions***

**Person to have access to accumulated employer contributions if benefits preserved before qualifying age for lump sums reached**

**6.2.1.** Where a preserved benefit that is applicable to a person under rule 4.1.5 or subparagraph 4.1.7 (a) (ii) includes the whole or part of the accumulated employer contributions on his or her last day of membership, the person, at any time, may elect in writing to the Board that instead of that preserved benefit being applicable, rule 6.2.2 apply to him or her.

**6.2.2.** Where a person makes an election under rule 6.2.1, he or she is entitled to:

- (a) a lump sum benefit of the sum of the amount of the person's accumulated employer contributions included in the preserved benefit and the amount of the accumulated member contributions (if any) included in the preserved benefit; and
- (b) to have applicable to him or her a preserved benefit of the amount of the preserved benefit that was applicable less the amount of the payment under paragraph 6.2.2 (a).

**Pension option if benefits preserved before qualifying age for lump sums reached**

**6.2.3.** Where a preserved benefit is applicable to a person under rule 4.1.5, subparagraph 4.1.7 (a) (ii) or paragraph 6.2.2 (b), the person is entitled at any time to elect to:

- (a) by notice in writing to the Board, select a date for the payment of the preserved benefit, being a date:
  - (i) not later than the date on which the person reaches the age of 65 years; and
  - (ii) not earlier than the date on which the person reaches the age that would have been the person's minimum retiring age if the person had not ceased to be a member and

**SCHEDULE—continued**

had continued to occupy the position held by the person immediately before so ceasing; and

- (iii) not earlier than the date on which the notice is given; and
- (b) have such amount of the preserved benefit as is specified in the election (being an amount not less than the amount of the unfunded preserved benefit at the date of the election) to be converted into a pension; and
- (c) receive a lump sum benefit equal to that part of the amount of the amount of the preserved benefit (if any) that is not to be converted into a pension.

**6.2.4.** A person who is entitled under paragraph 6.2.3 (b) to have part of a lump sum benefit converted into a pension is entitled to a pension at an annual rate calculated from the amount of the lump sum to be converted into a pension in a manner similar to that used in rule 6.1.8.

**Pension option for surviving spouse in certain cases when preserved benefit which does not include full accumulated member contributions becomes payable on death**

**6.2.5.** Where:

- (a) a preserved benefit becomes payable by virtue of paragraph 6.1.1 (d); and
- (b) the full amount of the deceased person's accumulated member contributions on his or her last day of membership, other than any part of his or her accumulated member contributions paid under rule 4.6.5, was not included in that preserved benefit; and
- (c) a lump sum of the amount of the preserved benefit is payable to a spouse or spouse and associated children applicable to the deceased person;

the spouse may elect that, instead of the lump sum benefit being payable to him or her, rule 6.2.6 shall apply to him or her.

**6.2.6.** Where a spouse makes an election under rule 6.2.5, he or she is entitled to:

- (a) to have such amount (not less than the amount of the unfunded preserved benefit), as is specified in the election, of the lump sum benefit converted into a pension payable to him or her; and
- (b) to a lump sum benefit equal to that part of the amount (if any) of the lump sum benefit that is not to be converted into a pension.

**SCHEDULE—continued**

**6.2.7.** A spouse who is entitled under paragraph 6.2.6 (a) to have part, or the whole, of a lump sum benefit converted into a pension is entitled to a pension the annual rate of which is the rate that would have been payable if:

- (a) the person to whom the preserved benefit was applicable had not died but on the date of his or her death had been able to exercise the option under rule 6.1.6 and had exercised that option; and
- (b) the date for the payment of the preserved benefit had been the date of the person's death; and
- (c) the amount of the preserved benefit to be converted to pension specified in the election under rule 6.1.6 had been equal to the amount to be converted to pension specified by the spouse in the election under rule 6.2.5; and
- (d) the factor for converting the amount of lump sum specified in the election to a pension had been the greater of:
  - (i) the number 11; and
  - (ii) the factor from the Table in rule 6.1.8 for the person's age in years and days at the date of his or her death; and
- (e) the person to whom the preserved benefit was applicable had then immediately died; and
- (f) rule 5.3.1 did not apply.

***Division 3—Other Provisions***

**Final benefit payable (if any) when a pensioner to whom a preserved benefit was applicable dies**

**6.3.1.** Where:

- (a)
  - (i) a person to whom a preserved benefit was applicable has elected under rule 6.1.6 or 6.2.3 that part or the whole of the preserved benefit be converted to a pension; or
  - (ii) the surviving spouse of a person to whom a preserved benefit was applicable has elected under rule 6.1.12 or 6.2.5 that part or the whole of the preserved benefit be converted to a pension; and
- (b) no further benefits are payable to a spouse, or in relation to an eligible child or children or a partially dependent child or children of a deceased retirement pensioner;

there is payable to his or her personal representatives or to such person or persons as the Board determines, the amount, if any, by which the sum of:

- (c) the accumulated member contributions included in the preserved benefit at the date it became payable under rule 6.1.5 or 6.1.9; and



**SCHEDULE—continued**

- (d) his or her accumulated employer contributions included in the preserved benefit at the date it became payable under rule 6.1.5 or 6.1.9;

exceeds the total amount of benefits paid to, or in relation to, the person to whom the preserved benefit was applicable since the preserved benefit became payable under rule 6.1.5 or 6.1.9.

**PART 7—PENSION AND UNFUNDED PRESERVED BENEFIT INCREASES**

**Interpretation**

7.1.1. In this Part, unless the contrary intention appears:

“**prescribed year**” means the year commencing on 1 July 1991 or a subsequent year; and

“**Statistician**” means the Australian Statistician.

7.1.2. Subject to rule 7.1.3, if at any time, whether before or after the commencement of these Rules, the Statistician has published or publishes in respect of a particular March quarter an all groups consumer price index number for the weighted average of the 8 capital cities in substitution for an index number previously published by him or her in respect of that quarter, the publication of the later index number shall be disregarded for the purposes of this Part.

7.1.3. If at any time, whether before or after the commencement of these Rules, the Statistician has changed or changes the reference base for the Consumer Price Index, then, for the purposes of the application of this Part after the change took place or takes place, regard shall be had only to index numbers published in terms of the new reference base.

7.1.4. If the prescribed percentage for the purposes of rule 7.1.6 is or includes a fraction of one tenth of 1 per centum:

- (a) where that fraction is less than one half of one tenth—that fraction shall be disregarded; and
- (b) where that fraction is not less than one half of one tenth— that fraction shall be treated as one tenth.

**Increases in pensions and unfunded preserved benefits**

7.1.5. Subject to this Part, if the all groups consumer price index number for the weighted average of the 8 capital cities published by the Statistician in respect of the March quarter of the year immediately preceding a prescribed year exceeds the highest all groups consumer price index number for the weighted average of the 8 capital cities published by the Statistician in respect of the March quarter in any

**SCHEDULE—continued**

earlier year, not being a year earlier than the year that commenced on 1 July 1989, then:

- (a) a person who was in receipt of a pension immediately before the commencement of that prescribed year is entitled to an increase in the rate at which the pension was payable immediately before the commencement of that prescribed year; and
- (b) where, immediately before the commencement of that prescribed year, a preserved benefit is applicable to a person, or has become payable in respect of a deceased person but has not been paid, there shall be an increase in the amount of the unfunded preserved benefit in relation to that person immediately before the commencement of that year.

**7.1.6.** The increase provided for by rule 7.1.5 in the rate at which a pension was payable to a person, or in the amount of the unfunded preserved benefit in relation to a person, immediately before the commencement of a prescribed year, is the prescribed percentage of that rate or amount where the prescribed percentage in relation to a prescribed year is the percentage that represents **A—B** expressed as a percentage of **B**, where:

**A** is the all groups consumer price index number for the weighted average of the 8 capital cities published by the Statistician in respect of the March quarter of the year immediately preceding the prescribed year; and

**B** is the highest all groups consumer price index number for the weighted average of the 8 capital cities published by the Statistician in respect of the March quarter of any year earlier than the year immediately preceding the prescribed year but not being earlier than the year that commenced on 1 July 1989.

**7.1.7.** Where, by reason of the death on 30 June in the year immediately preceding a prescribed year of a person in receipt of a pension, a pension becomes payable on the following day to another person, that other person shall be entitled to such an increase in the rate of that pension as he or she would have been entitled to had the pension become payable to him or her on that 30 June.

**Adjustment of increase in certain circumstances**

**7.1.8.** Where a pension became payable, or a preserved benefit became applicable, during the year immediately preceding the relevant prescribed year, the amount of the increase in the pension, or in the amount of the unfunded preserved benefit, is to be a proportion determined by the Board of the increase in rule 7.1.6.

**SCHEDULE—continued**

**Further increase in unfunded preserved benefit**

**7.1.9.** Where a preserved benefit became payable or was converted to pension during the most recent prescribed year, that part of the preserved benefit that is an unfunded preserved benefit shall be increased to the extent determined by the Board, consistent with the principle of rule 7.1.6.

**Date of effect of increases**

**7.1.10.** An increase payable by virtue of this Part in the rate of a pension that was, or is under rule 7.1.7, to be treated as having been payable to a person on 30 June in a year applies in relation to the instalment of pension falling due on the first pension pay day occurring after that day and in relation to all subsequent instalments.

**7.1.11.** An increase in the amount of an unfunded preserved benefit, as provided for in this Part, applies with effect from:

- (a) in the case of an increase under rule 7.1.9—the date the preserved benefit became payable; and
- (b) in any other case—1 July of the prescribed year.

**Increases in accumulated unfunded employer contributions**

**7.1.12.** Where:

- (a) a preserved benefit is applicable to a person; and
  - (b) the preserved benefit includes the whole or part of the accumulated unfunded employer contributions on the person's last day of membership; and
  - (c) the person has not made an election under rule 6.2.2;
- on any day after a person's last day of membership, the amount of his or her accumulated unfunded employer contributions included in the preserved benefit shall be the sum of:
- (d) the amount of the person's unfunded accumulated employer contributions on his or her last day of membership that was included in the preserved benefit; and
  - (e) the amount of any interest in respect of the amount in paragraph (d) in accordance with a determination or determinations by the Board as to rates of interest and the method of allocating interest to such amount.

**PART 8—TRANSFER VALUES**

***Division 1—Inwards Transfer Values***

**Reference to transfer value**

**8.1.1.** In this Division, a reference to a transfer value in relation to a member is a reference to:

- (a) an eligible termination payment applicable to the member other than a payment under the 1976 Act; or

**SCHEDULE—continued**

- (b) an amount payable to, or in relation to, the member:
  - (i) under a superannuation scheme applicable to employment in which the member was employed before becoming a member; and
  - (ii) on the termination of that employment otherwise than on the ground of invalidity or physical or mental incapacity to perform the duties of that employment; other than a payment under the 1976 Act; or
- (c) a payment under the 1976 Act in relation to a member who elected to cease to be an eligible employee for the purposes of the 1976 Act on a date coincident with or later than his or her first day of membership.

**Period for acceptance of transfer value**

**8.1.2.** The Board shall accept payment of a transfer value from, or in relation to, a member where the transfer value is received within 3 months, or such longer period as the Board allows, after:

- (a) where the transfer value is in relation to membership of a superannuation scheme relating to employment in which the member was employed during a period of leave without pay to which rule 3.1.7 applied—the first contribution due day in relation to the member after the end of the period of leave without pay; or
- (b) where the transfer value is of a kind referred to in paragraph 8.1.1 (c) and:
  - (i) the person's first day of membership is 1 July 1990—30 June 1991; or
  - (ii) the person's first day of membership is not 1 July 1990—the date of his or her election to cease to be an eligible employee; or
- (c) in any other case—the member's first day of membership.

**Transfer values to be paid into Fund**

**8.1.3.** Where the Board has accepted payment of a transfer value of a kind referred to in paragraph 8.1.1 (a) or (b) from, or in relation to, a member, the transfer value is to be paid into the Fund and a transfer multiple is to be applicable to the member in accordance with rule 1.3.25.

**8.1.4.** Where the Board has received payment of a transfer value of the kind referred to in paragraph 8.1.1 (c) in relation to a member, the transfer value is to be paid into the Fund and on such receipt, or when the Board is satisfied that such a payment will be made, a CSS transfer multiple is to be applicable to the member in accordance with rule 1.3.29.

**SCHEDULE—continued**

***Division 2—Outwards transfer values***

**Public employment**

**8.2.1.** In accordance with any principles advised by the Minister, the Board may, by instrument under its hand published in the *Gazette*, declare employment, whether within or outside Australia, by a person, or by persons included in a class of persons, specified in the instrument to be public employment for the purposes of this Division.

**8.2.2.** A declaration under rule 8.2.1 shall come into force on the day on which the instrument of declaration is published in the *Gazette* or, where applicable, on an earlier day specified in the instrument.

**8.2.3.** A declaration may be made under rule 8.2.1 specifying employment by the Government of the United Kingdom of Great Britain and Northern Ireland or by a body corporate established for a public purpose by a law in force in the United Kingdom of Great Britain and Northern Ireland to be public employment for the purposes of this Division, but a person shall not be taken, for the purposes of this Division, to have been employed in public employment by reason of his or her having been employed in employment by that Government or by such a body unless his or her salary, immediately before his or her last day of service, was fixed and payable in sterling.

**8.2.4.** Where any public employment in which a person is employed terminates and, within 3 months after the date of the termination, he or she again becomes employed in public employment, he or she shall, for the purposes of this Division, be deemed not to have ceased, by reason of the termination, to be employed in public employment but, in ascertaining the period in which he or she has been employed in public employment, any period between the termination of a period in which he or she was employed in public employment and the commencement of a further period in which he or she was employed in public employment shall not be treated as itself being a period in which he or she was employed in public employment.

**Eligible superannuation schemes**

**8.2.5.** In accordance with any principles advised by the Minister, the Board may, by instrument under its hand published in the *Gazette*, declare a superannuation scheme that is applicable to persons employed in public employment to be an eligible superannuation scheme for the purposes of this Division.

**8.2.6.** A declaration under rule 8.2.5 shall come into force on the day on which the instrument of declaration is published in the *Gazette* or, where applicable, an earlier day specified in the instrument.

**SCHEDULE—continued**

**Amount of transfer value**

**8.2.7.** The amount of a transfer value payable under this Division is:

- (a) where the transfer value is payable by virtue of an election made under rule 8.2.9—the amount of the person's final benefit accrual; or
- (b) where the transfer value is payable by virtue of an election made under rule 8.2.14:
  - (i) if the relevant preserved benefit relates to a period, or periods, of membership during which there were 104 or more contribution due days—the amount of the preserved benefit applicable to the person immediately before the date of payment of the transfer value; or
  - (ii) if the relevant preserved benefit relates to a period, or periods, of membership during which there were at least 26 but less than 104 contribution due days—an amount calculated by using the formula:

$$\frac{104 \times \mathbf{PB}}{\mathbf{CDD}} + \mathbf{AMC} + \mathbf{AEC};$$

where:

**PB** is the amount of the preserved benefit that was applicable to the person immediately before the date of payment of the transfer value less the sum of:

- (A) the amount (if any) of his or her accumulated employer contributions included in the preserved benefit; and
- (B) the amount (if any) of his or her accumulated member contributions included in the preserved benefit; and

**CDD** is the number of contribution due days during the period, or periods, of membership to which the preserved benefit relates; and

**AMC** is the amount (if any) of the person's accumulated member contributions included in the preserved benefit; and

**AEC** is the amount (if any) of the person's accumulated employer contributions included in the preserved benefit; and

- (iii) where the preserved benefit that was applicable to the person relates to a period, or periods, of membership of less than 26 contribution due days—the amount of the preserved benefit is the amount of the preserved benefit

**SCHEDULE—continued**

that would have been applicable to the member if, on the day he or she last ceased to be a member:

- (A) he or she had been entitled to a benefit under rule 4.4.3; and
- (B) CDD for the purposes of the formula in rule 1.3.21 on that cessation had been the number 104; and
- (C) he or she had not made an election under rule 4.4.4.

**Contributors under DFRDB Act**

**8.2.8.** Where a transfer value becomes payable in accordance with this Division to, or in respect of, a person who has ceased to be a member and to whom rule 3.1.17 applied and:

- (a) at the time when he or she ceased to be a member, he or she had not ceased to be an eligible member of the Defence Force as defined by sub-section 3 (1) of the DFRDB Act; or
- (b) at the time when the transfer value becomes payable, a transfer value also becomes payable in respect of him or her under Division 3 of Part IX of that Act;

then, any period during which his or her liability to pay member contributions under these Rules was deferred under rule 3.1.17 shall be disregarded in determining the first-mentioned transfer value and he or she is not required or permitted to pay the amount of those deferred contributions.

**Election for transfer value by terminating member**

**8.2.9.** A person who ceases to be a member otherwise than by reason of death or in circumstances to which rule 4.1.1, rule 4.2.2 or Division 3 of Part 4 applies may, not earlier than one month before, and not later than 21 days after, he or she ceases to be a member, elect, by notice in writing to the Board, that this Division apply in relation to him or her.

**8.2.10.** Subject to rule 8.2.11, an election under rule 8.2.9 has no effect unless the person who made the election gives notice in writing to the Board within 21 days, or within such further period as the Board allows, after the expiration of a period of 3 months after his or her last day of membership stating whether he or she has become a member of a superannuation scheme applicable to his or her employment and, if so, specifying the scheme concerned.

**8.2.11.** Rule 8.2.10 does not apply if the person who made the election dies before the expiration of the period for the giving of a notice by him or her under that rule and without having given such notice.

**SCHEDULE—continued**

**Circumstances in which transfer value payable**

**8.2.12.** Subject to this Division, where:

- (a) a person makes an election under rule 8.2.9; and
- (b) gives a notice to the Board in accordance with rule 8.2.10; and
- (c) the superannuation scheme specified in the notice is an eligible superannuation scheme;

the Board shall pay a transfer value in respect of the person to the administrators of that scheme.

**8.2.13.** Rule 8.2.12 does not apply in relation to a person unless the administrators of the superannuation scheme agree to accept the transfer value.

**Election for transfer value by person to whom a preserved benefit is applicable**

**8.2.14.** Where:

- (a) a preserved benefit that includes the full amount of a person's accumulated member contributions on his or her last day of membership less any part of his or her accumulated member contributions paid under rule 4.6.5 is applicable to the person; and
- (b) the person is or becomes a member of an eligible superannuation scheme;

the person may elect by notice in writing given to the Board, that, instead of that preserved benefit being applicable, a transfer value in respect of the person be paid to the administrators of that scheme.

**8.2.15.** Subject to rules 8.2.16, 8.2.17 and 8.2.20, where a person to whom a preserved benefit is applicable and who is, or becomes, a member of an eligible superannuation scheme elects under rule 8.2.14 for the payment of a transfer value, the Board shall pay a transfer value in respect of the person to the administrators of that scheme.

**8.2.16.** A transfer value is not payable under rule 8.2.15 if, at any time after the preserved benefit first became applicable, the preserved benefit has become payable.

**8.2.17.** A transfer value is not payable under rule 8.2.15 to the administrators of an eligible superannuation scheme unless the administrators agree to accept the transfer value.

**8.2.18.** Where a transfer value is paid under rule 8.2.15 instead of a preserved benefit being applicable in relation to a person, that preserved benefit ceases to be applicable in relation to that person.



**SCHEDULE—continued**

**Certain former members not entitled to payment of transfer value**

**8.2.19. Where:**

- (a) a person makes an election under rule 8.2.9 or 8.2.14; and
- (b) a transfer value does not become payable in relation to the person in accordance with this Division;

these Rules have effect as if the election had not been made.

**8.2.20.** Where an approved authority or other body sets up a separate superannuation scheme and permits its employees who are members of the Superannuation Scheme to elect to cease to be members and join the separate scheme, the Board may make it a condition of the separate scheme being declared an eligible superannuation scheme for the purposes of this Division that such members are not entitled to elect that this Division apply to them or to elect that a transfer value be paid to them in lieu of a preserved benefit being applicable to them. The Board may make such arrangements for the transfer of assets from the Fund to the administrators of the separate scheme as are approved by the Minister.

**PART 9—MISCELLANEOUS PROVISIONS**

***Division 1—General Provisions in Relation to Elections and Benefits***

**Provisions relating to elections under Rules**

**9.1.1.** A person who becomes, or is about to become, entitled to benefits under Part 4, and to make an election in relation to the nature of the benefits, may make that election not later than 3 months after becoming, but not earlier than 3 months before, he or she becomes entitled to the benefits.

**9.1.2.** Where an election under these Rules is made by a person after the expiration of the period allowed for the making of the election, and the Board is satisfied that, in all the circumstances of the case, it is desirable that the election be recognised, the Board may direct that the election be treated as if it had been made within the period allowed.

**9.1.3.** If a person who is entitled to make an election under these Rules is, by reason of a physical or mental incapacity, unable to make that election, the Board may allow such other person as it thinks appropriate to make the election on behalf of the first-mentioned person within such period as the Board allows.

**9.1.4. Where:**

- (a) an election under Part 4, 5, 6 or 8 is made by the person entitled to make the election or, in accordance with rule 9.1.3, by another person on behalf of the first-mentioned person; and

**SCHEDULE—continued**

- (b) the person who made the election makes an application to the Board not later than 3 months after the day on which the election is made, or within such further period as the Board, in special circumstances, allows, requesting that the Board cancel the election; and
- (c) the Board, having regard to such matters as it considers relevant, is satisfied that the election should be cancelled;

the Board may direct that the election shall be cancelled and these Rules then have effect as if the election had not been made.

**9.1.5.** Where a person who is, or has been, a member is entitled to make an election under Part 4, 5, 6 or 8 dies without making such an election:

- (a) if the person is survived by a spouse—the spouse may make such an election within 21 days after the date of the death of the person; or
- (b) if the person is not survived by a spouse, or is survived by a spouse but the spouse dies without making such an election, but the person is survived by an eligible child or eligible children—such an election may be made within that period by such person as the Board permits;

and, in that case, these Rules have effect as if the election had been made by the first-mentioned person but, rule 8.2.10 does not apply in the case of an election under rule 8.2.9.

**Payment of benefit otherwise than to person entitled**

**9.1.6.** The Board may pay the amount or part of the amount of a payment of benefit to a person other than the person entitled to the payment where the person entitled to the payment is insane or undergoing imprisonment, or for any other reason which the Board thinks proper.

**Instalments of pensions**

**9.1.7.** Pensions shall be paid in fortnightly instalments on pension pay days, a fortnightly instalment being one twenty-sixth of the annual amount of the pension.

**Benefits in respect of certain contributors under DFRDB Act**

**9.1.8.** Where:

- (a) the liability of a member to make contributions under these Rules has been deferred by virtue of rule 3.1.16; and
- (b) before he or she has ceased to be liable to contribute under the DFRDB Act, he or she dies or is discharged from the Defence Force on the ground of invalidity or of physical or mental incapacity to perform his or her duties;

**SCHEDULE—continued**

the Board, having regard to the principle that benefits should not be payable under these Rules and the DFRDB Act in relation to the same period, shall determine whether a benefit should be paid under the Rules in relation to the deceased person or to the person and, if so, the nature and level of that benefit.

**9.1.9.** The Board may withhold payment of the whole, or a part, of a benefit in relation to a person where that person does not provide, or arrange to be provided, to the Board information required by the Board in connection with the determination of the person's entitlement to benefits under this Deed and Rules or the determination of the level of those benefits.

**Benefits in unusual or exceptional circumstances**

**9.1.10.** Where, in a particular case, the Board is of the opinion that:

- (a) the operation of these Rules, other than this rule, produces a result that is not in the spirit of the Rules; and
- (b) the circumstances of the case are unusual or exceptional;

the Board may, in that case, having regard to the circumstances of the case, the principles in these Rules and the need for equity between members:

- (c) determine the amount of any multiple applicable to a member; and/or
- (d) determine the annual rate of salary, the annual rate of contribution salary and/or fortnightly contribution salary of a member; and/or
- (e) permit a member to contribute below 2 per cent of salary or to contribute in excess of 10 per cent of salary, or to contribute in excess of 5 per cent of salary in respect of any, or the whole, of the first 260 contribution due days without an excess contribution multiple later becoming applicable to the member, and, where a member is so permitted to contribute, the ongoing multiple for that member shall be calculated with regard to those contributions subject to any adjustment made by the Board; and/or
- (f) determine the amount of partial invalidity pension payable; and/or
- (g) determine the amount of pre-assessment payment payable to a member; and/or
- (h) pay such benefits to such persons as it considers appropriate.

**Cancellation of invalidity pension**

**9.1.11.** Upon a person to whom invalidity pension is payable again becoming a member, his or her entitlement to that pension is cancelled.

SCHEDULE—continued

**Funded and unfunded components of benefits**

9.1.12. Subject to any requirements of the *Income Tax Assessment Act 1936*, the Board, at its discretion, may determine the composition of the funding and financing arrangements in relation to a payment to a person that does not represent the person's full entitlement under the Superannuation Scheme. The Board also may make such determinations in relation to types of payment or classes of persons. The Board may revoke, vary or confirm such determinations at any time.

**Administrative arrangements**

9.1.13. The Board may determine the administrative detail or details (if any) that is or are necessary or desirable to enable it to administer these Rules. The Board may revoke, vary or confirm any such determination at any time.

***Division 2—Certain Persons Re-appointed or Re-employed***

**Certain persons re-appointed or re-employed**

9.2.1. Any period during which a person to whom:

- (a) section 63F, 63G, 66B, 87K, 87M, 87P or 87Q of the *Public Service Act 1922* applies, or has applied; or
- (b) where the *Public Service Act 1922* does not apply to the person—similar provisions to those in paragraph 9.2.1 (a) apply, or have applied;

would have continued to be a member if his or her appointment or employment had not been terminated is to be taken for the purposes of these Rules to be a period during the whole of which the person was absent on leave of absence without pay and, where the period does not exceed 12 weeks, the period is, for the purposes of rule 3.1.7, to be taken to be a period exceeding 12 weeks.

9.2.2. Any benefit that becomes, or became, payable to a person referred to in rule 9.2.1 because of the termination of the person's appointment or employment to which the action referred to in that rule relates is to be deemed not to have been so payable, and the amount of any benefit so paid shall be repaid to the Board.

***Division 3—Candidates at Parliamentary Elections***

**Persons to whom this Division applies**

9.3.1. This Division applies to a person if:

- (a) the person has ceased to be a member because he or she has voluntarily terminated his or her appointment or employment to become a candidate for election to a House of the Parliament of the Commonwealth or a State or of the Legislative Assembly of the Australian Capital Territory or of the Northern Territory

**SCHEDULE—continued**

or a legislative or advisory body for another Territory prescribed for the purposes of section 47C of the *Public Service Act 1922*; and

- (b) the termination took effect not earlier than 6 months before nominations for the election closed.

**Death or physical or mental incapacity of person**

**9.3.2.** Where a person to whom this Division applies:

- (a) dies or; or
- (b) in the opinion of the Board, becomes physically or mentally incapacitated to the extent that he or she would have been retired on invalidity grounds if he or she had remained a member;

he or she shall, where considered appropriate by the Board in accordance with any principles advised to the Board by the Minister, be deemed not to have ceased to be a member but to have died or retired on invalidity grounds while a member at a time determined by the Board.

**Re-employment of person**

**9.3.3.** Where:

- (a) a person to whom this Division applies was a candidate at the election but failed to be elected; and
- (b) the person becomes a permanent employee, a temporary employee or the holder of a statutory office by virtue of an application for employment or appointment made by him or her within the period of 2 months after the day of the declaration of the result of the election;

he or she shall be deemed not to have ceased to be a member.

**Repayment of benefits**

**9.3.4.** Where a person to whom this Division applies is deemed not to have ceased to be a member by reason of the termination of his or her appointment or employment for the purpose referred to in rule 9.3.1:

- (a) any benefit that became payable to him or her under these Rules upon termination shall be deemed not to have been payable; and
- (b) the amount of any benefit so paid shall be repaid by him or her to the Board before the expiration of 2 months after the day of the declaration of the result of the election or within such further period as the Board allows.

**Annual rate of salary of person**

**9.3.5.** Where a person to whom this Division applies is deemed under rule 9.3.2 or 9.3.3 not to have ceased to be a member, then, at any time after that termination that is relevant for the purposes of the

**SCHEDULE—continued**

application of these Rules in relation to him or her, he or she shall be deemed, for the purposes of these Rules to have been in receipt of salary at an annual rate of such amount as, in the opinion of Board, would have been his or her annual rate of salary at that time if he or she had not terminated his or her appointment or employment.

***Division 4—Reduction of Invalidity Pensions because of Earnings***

**Definitions for Division**

**9.4.1.** In this Division:

**“earnings rate”**, in relation to an invalidity pensioner, means the amount per annum last estimated by the Board under rule 9.4.4 as the annual rate of the personal earnings of the pensioner;

**“invalidity pensioner”** means a person to whom invalidity pension is payable and who has not reached the age of 65 years;

**“personal earnings”**, in relation to an invalidity pensioner, means salary, wages, fees or other amounts received by the pensioner for services rendered, or work performed, by the pensioner, and includes:

- (a) remuneration paid to the pensioner as the director of a company; and
- (b) commission received by the pensioner for canvassing, collecting or similar activities;

**“prescribed maximum rate”** means:

- (a) before the operation of rule 9.4.2—\$23,597 per annum increased by the relevant percentage of that rate; or
- (b) after the operation of that rule—the rate that is the prescribed maximum rate by virtue of that rule;

**“prescribed percentage”**, in relation to a prescribed year, means the prescribed percentage in relation to that year for the purposes of Part 7;

**“prescribed year”** means a prescribed year within the meaning of Part 7, other than a year commencing before 1 July 1991;

**“relevant maximum rate”**, in relation to an invalidity pensioner, means:

- (a) the prescribed maximum rate; or
- (b) 75 per cent of the amount per annum that the Board, having regard to any changes in the rates of remuneration that have occurred since the pensioner ceased to be a member and any other matters that the Board considers relevant, determines would have been the annual rate of salary of the pensioner if the pensioner had not ceased to be a member and had continued to occupy the position held immediately before so ceasing;

whichever is the greater;

**“relevant pension rate”**, in relation to an invalidity pensioner, means:

**SCHEDULE—continued**

- (a) where the pensioner did not make an election under rule 4.3.5—the annual rate of the invalidity pension of the pensioner; or
- (b) where the pensioner made such an election—the rate that would have been the annual rate of that pension if the pensioner had not made the election;

**“relevant percentage”** means the percentage that represents **A—B** expressed as a percentage of **B**, where:

**A** is the only, or earliest, all groups consumer price index number for the weighted average of the 8 capital cities published by the Australian Statistician in respect of the March quarter of 1991; and

**B** is the only, or earliest, all groups consumer price index number for the weighted average of the 8 capital cities published by the Australian Statistician in respect of the June quarter of 1990.

**9.4.2.** Where rates at which invalidity pensions were payable immediately before the commencement of a prescribed year are increased in accordance with Part 7, the rate that, immediately before that commencement, was (because of paragraph (a) of the definition of “prescribed maximum rate” or the previous operation of this rule) the prescribed maximum rate is increased, with effect from that commencement, by the prescribed percentage, in relation to that prescribed year, of that rate.

**Invalidity pensioner to provide information**

**9.4.3.** The Board may require an invalidity pensioner to give in writing to the Board within such period as is specified by the Board, being a period that ends before the person attains the age of 65 years:

- (a) such information as is required by the Board with respect to any employment (whether as an employee or on the person’s own account) in which the person has been engaged during such period as is specified by the Board; or
- (b) particulars of the person’s personal earnings, within the meaning of this Division, and an estimate of the amount of those earnings that the person expects to receive in the next 12 months.

**9.4.4.** Where an invalidity pensioner or a person acting on behalf of the pensioner gives the Board particulars of the pensioner’s personal earnings and an estimate of those earnings for the next 12 months (whether under rule 9.4.3 or otherwise), the Board shall estimate the amount per annum that is the annual rate of the personal earnings of the pensioner.

**Reduction of pension**

**9.4.5.** Subject to rules 9.4.6 and 9.4.7 but notwithstanding any other provision of those Rules, during any period during which the sum of the relevant pension rate of an invalidity pensioner and the earnings

**SCHEDULE—continued**

rate of the pensioner exceeds the relevant maximum rate for the pensioner, then:

- (a) where the lesser of the excess or of that earnings rate is less than the annual rate of the invalidity pension of the pensioner—the amount of the fortnightly instalments of that pension shall be ascertained as if the annual rate of the pension were reduced by the lesser of the excess or of that earnings rate; or
- (b) where the lesser of the excess or of that earnings rate is equal to or exceeds the annual rate of that pension—the pension is suspended.

**9.4.6.** If, after making a calculation for the purposes of rule 9.4.5, the Board ascertains that an invalidity pensioner has been, or is being, paid instalments of invalidity pension, that, by virtue of that rule, should not have been, or be, paid or the amount of which should have been, or be, lower, then, notwithstanding that rule, those instalments shall be taken to have been, or be, lawfully paid.

**9.4.7.** If, after making a calculation for the purposes of rule 9.4.5, the Board ascertains that an invalidity pensioner has, because of a previous calculation for those purposes, not been paid instalments of invalidity pension that should have been paid or been paid instalments of invalidity pension the amount of which should have been higher, that invalidity pensioner is not entitled to be paid, but may be paid, the amount of those instalments or of the balance of those instalments, as the case may be.

**Invalidity pensioner to provide estimates of earnings**

**9.4.8.** Where an invalidity pensioner begins to receive personal earnings, the pensioner, or a person acting on behalf of the pensioner, shall give the Board particulars in writing of these personal earnings and an estimate of the amount of the personal earnings that the pensioner expects to receive in the next 12 months.

**9.4.9.** Where:

- (a) an estimate of the personal earnings of an invalidity pensioner has been given to the Board under these Rules; and
- (b) the pensioner or a person acting on behalf of the pensioner revises that estimate;

the pensioner or the person acting on behalf of the pensioner shall give to the Board particulars in writing of the personal earnings of the pensioner and an estimate of those earnings for the next 12 months.

**Reduction or suspension of pension to be disregarded**

**9.4.10.** In ascertaining, for the purposes of these Rules, the annual rate of an invalidity pension or rate at which an invalidity pension is payable, any reduction or suspension under this Division shall be



**SCHEDULE—continued**

disregarded but nothing in this rule or in any other provision of these Rules shall be taken to imply that a person is entitled to be paid an amount not paid because of such a reduction or suspension.

**Suspension of pension**

**9.4.11.** Where a person fails to comply with a requirement of the Board under rule 9.4.3 to give information and the Board is not satisfied that there was a reasonable excuse for the failure, the Board may, by notice in writing given to the person, suspend the person's invalidity pension with effect from such day as the Board determines, being a day not earlier than the day next following the expiration of that period during which the person was required to give the information.

**9.4.12.** Where a person's pension is suspended under rule 9.4.11 and the person complies with the requirement of the Board under rule 9.4.3, the Board shall revoke the suspension from such date as the Board determines.

**Cancellation of invalidity pension where pension suspended for 12 months**

**9.4.13.** Where:

- (a) a person's invalidity pension is suspended under rule 9.4.11; and
  - (b) immediately before the suspension, the person had not attained the age of 64 years; and
  - (c) the suspension continues for a period of 12 months;
- the Board may, by notice in writing given to the person, cancel the person's entitlement to invalidity pension.

***Division 5—Non-disclosure of Information in Connection with Medical Examination***

**Non-disclosure of information in connection with medical examination**

**9.5.1.** Rule 9.5.2 applies to a person who:

- (a) is a member:
  - (i) who has not reached the age of 60 years; and
  - (ii) whose period of membership is less than 3 years; and
  - (iii) who is not a limited benefits member; or
- (b) is a person:
  - (i) who has been a member; and
  - (ii) who last ceased to be a member because of invalidity retirement before reaching the age of 60 years; and
  - (iii) whose period of membership was less than 3 years; and
  - (iv) who, on his or her last day of membership, was not a limited benefits contributor.

**SCHEDULE—continued**

**9.5.2. Where the Board:**

- (a) becomes aware that a person to whom this rule applies by virtue of rule 9.5.1 failed to give information that he or she was required to give, or gave false or misleading information, in connection with a medical examination or test he or she was required to undergo for the purposes of Division 2 of Part 1; and
- (b) is of the opinion that, had the person not failed to give that information or had not given that false or misleading information, he or she would have been treated as a limited benefits member under Division 2 of Part 1;

these Rules apply:

- (c) in the case of a person referred to in paragraph 9.5.1 (a)—as if he or she were a limited benefits contributor during the period of 3 years commencing on his or her first day of membership; and
- (d) in the case of a person referred to in paragraph 9.5.1 (b)—as if he or she had been a limited benefits member on his or her last day of membership and the Board shall adjust the benefit entitlement of, or in respect of, the person accordingly and recover from the person any payments made in excess of the adjusted entitlement.

**PART 10—ADDITIONAL DEATH AND INVALIDITY COVER**

**Board to effect policies**

**10.1.1.** The Board shall effect with a life office or life offices a policy or policies in its name to provide additional death and invalidity cover for certain members.

**10.1.2.** Any policy effected pursuant to rule 10.1.1 shall be on such terms and conditions as may be agreed between the life office and the Board.

**More than one policy**

**10.1.3.** Where the Board has effected more than one policy under which to provide additional death and invalidity cover, the Board, at its discretion, may permit members electing for such cover to nominate the policy under which the cover is to be provided.

**Additional death and invalidity cover**

**10.1.4.** A member may, at any time before reaching the age of 60 years:

- (a) elect to have additional death and invalidity cover applicable to him or her; and

**SCHEDULE—continued**

- (b) having made an election under paragraph 10.1.4 (a), may later elect to vary the amount of such cover that is applicable to him or her;

subject to the amount of the cover applicable to the member not exceeding the maximum amount provided for in rule 10.1.6.

**Cessation of additional death and invalidity cover**

**10.1.5.** Additional death and invalidity cover ceases to apply to a person upon whichever is the earliest of:

- (a) the day the person reaches the age of 60 years; and
- (b) the day on which the person elects that the cover cease to apply to him or her; and
- (c) where the person ceases to make payments under rule 3.4.1—a date determined by the Board.

**Maximum amount of additional cover**

**10.1.6.** Subject to rules 10.1.7 and 10.1.8, the maximum amount of additional death and invalidity cover applicable to a member shall be in accordance with the following Table:

<i>Age of Member When Cover First Taken (years)</i>	<i>Amount of Additional Cover (per cent of average salary)</i>
Less than 40	220
Not less than 40 but less than 50	165
50 or more	110

**10.1.7.** A member is not permitted to elect for an amount of additional cover that would result in his or her benefit accrual, assuming the member will be entitled to an additional cover multiple in accordance with rule 1.3.19, exceeding the member's maximum benefit under rule 1.4.1.

**Further election for additional cover**

**10.1.8.** Where, since a member's first day of membership, he or she has elected that additional death and invalidity cover cease to apply to him or her and later elects that such cover apply, his or her age at the date of the most recent election shall be used for the purpose of the Table in rule 10.1.6.

**SCHEDULE—continued**

**Variations to amount of additional cover**

**10.1.9.** A variation in the amount of additional death and invalidity cover applicable to a member shall take effect from an anniversary of the member's birth or at such other time as provided for in the policy, unless the Board determines otherwise.

**Medical evidence for additional cover**

**10.1.10.** A member shall undergo such medical examination or examinations, and provide such information, as is required by the relevant life office in connection with an election by the member to have additional death and invalidity cover apply to him or her or to vary the amount of the additional death and invalidity cover that is applicable to him or her.

**Member to be advised of premiums**

**10.1.11.** At the time of first providing additional death and invalidity cover for a member and at each anniversary of the member's birth, or such other times provided for in the policy, the life office shall advise the Board, which shall arrange for the member to be advised, of:

- (a) where the member had been assessed as a standard risk—the amount of premium for the amount of additional death and invalidity cover applicable to the member; or
- (b) where the member had been assessed as other than a standard risk:
  - (i) the amount of premium for the amount of additional death and invalidity cover applicable to the member if the member had been assessed as a standard risk; and
  - (ii) the amount of extra premium payable because the member was not a standard risk;

and for the purposes of this Division “assessed by a life office as a standard risk” shall mean that the cover for the person so assessed is to be provided at the rate applied by the life office to persons who do not suffer from any physical or mental incapacity or condition and/or do not engage in any hazardous occupation or pursuit.

**Claims for additional cover**

**10.1.12.** Where a member to whom additional death invalidity cover is applicable, dies or ceases to be a member because of invalidity retirement, the Board shall make a claim on the relevant life office under the policy under which that cover is provided.

**10.1.13.** Any amount paid to the Board by a life office as a result of a claim under rule 10.1.12 shall be paid by the Board into the Fund and treated as an employer contribution in relation to the member.

**SCHEDULE—continued**

**PART 11—REVIEW OF DECISIONS**

***Division 1—Preliminary***

**Interpretation**

**11.1.1.** In this Part, unless the contrary intention appears:

“**Committee**” means a Reconsideration Advisory Committee established under rule 11.2.1;

“**decision**” includes:

- (a) making, suspending, revoking or refusing to make an order or determination; and
- (b) giving, suspending, revoking or refusing to give a certificate, direction, approval, consent or permission; and
- (c) issuing, suspending, revoking or refusing to issue an authority or other instrument; and
- (d) imposing a condition or restriction; and
- (e) making a declaration, demand or requirement; and
- (f) retaining, or refusing to deliver up, an article; and
- (g) doing or refusing to do any other act or thing;

under the Rules.

***Division 2—Reconsideration Advisory Committees***

**Establishment of Reconsideration Advisory Committees**

**11.2.1.** The Board shall establish a Reconsideration Advisory Committee or Committees to examine decisions to be reconsidered.

**Composition of committees**

**11.2.2.** Committees may comprise such number of persons having such qualifications as the Board determines and may include one or more Trustees.

**Regulation of affairs of committees**

**11.2.3.** Subject to any directions by the Board, a Committee may regulate its affairs as the Committee sees fit.

**Duties of committees**

**11.2.4.** The duties of a Committee are:

- (a) to examine decisions to be reconsidered; and
- (b) to gather such evidence as it sees necessary to reconsider a decision; and
- (c) to make recommendations to the Board on the reconsideration of decisions.

**SCHEDULE—continued**

***Division 3—Review of Decisions made by Delegates***

**Request for reconsideration**

**11.3.1.** A person affected by a decision made by a delegate of the Board may apply to the Board for reconsideration of the decision.

**Form of request**

**11.3.2.** A request for reconsideration shall be made in writing addressed to the Board, setting out particulars of the decision to be reconsidered or may be in any other form acceptable to the Board.

**Referral to committee**

**11.3.3.** The Board may refer a request for reconsideration to a Committee.

**Board to reconsider decisions**

**11.3.4.** The Board shall consider any report or reports of the Committee and such other matters as the Board considers relevant and may affirm the decision under reconsideration, vary the decision, substitute another decision for the decision or set the decision aside, as the Board see fit.

**Transmission of results of reconsideration**

**11.3.5.** The Board shall transmit the result of its reconsideration with a statement of reasons to the person concerned.

***Division 4—Review of Decisions made by the Board***

**Request for reconsideration**

**11.4.1.** A person affected by a decision made by the Board including a decision of the Board under Division 3 may request the Board to reconsider that decision and the Board shall reconsider the decision following payment by the person of the fee prescribed under the 1990 Act.

**Form of request**

**11.4.2.** A request for reconsideration shall be made in writing addressed to the Board, setting out particulars of the decision to be reconsidered and shall specify the grounds for the request.

**New evidence**

**11.4.3.** The person shall provide with his or her application any new evidence, being evidence not previously known to the Board, that supports the grounds cited under rule 11.4.2.

**SCHEDULE—continued**

**Insufficient or no evidence provided**

**11.4.4.** Where no new evidence is provided to the Board, or any new evidence provided does not, in the opinion of the Board, support the grounds for the request under rule 11.4.2, the Board shall not proceed to deal with the request for reconsideration and the Board may refund to the person the fee paid under the 1990 Act. The Board may subsequently deal with the request once sufficient new evidence is provided.

**Referral to committee**

**11.4.5.** The Board may refer a request for reconsideration to a Committee.

**Board to reconsider decisions**

**11.4.6.** The Board shall consider any report or reports of the Committee and any other matters it considers relevant and may affirm the decision under reconsideration, vary the decision, substitute another decision for the decision or set the decision aside, as the Board sees fit and the Board may refund to the person the fee paid under the 1990 Act.

**Transmission of results of reconsideration**

**11.4.7.** The Board shall transmit the result of its reconsideration with a statement of reasons to the person concerned.

*Division 5—Reconsideration of Decisions on the Board's own Motion*

**Powers of Board**

**11.5.1.** The Board shall have the power, on its own motion, to reconsider, vary, set aside or substitute any decision made by the Board or by a delegate of the Board.

**PART 12—INVALIDITY RETIREMENT PROCESS**

*Division 1—Medical Assessment*

**Engagement of assessment panels**

**12.1.1.** The Board shall engage a panel or panels of persons to assist it to reach decisions whether or not to approve invalidity retirement for members who have not reached the age of 60 years.

**12.1.2.** The Board shall select panel members from persons with expertise in the assessment of invalidity claims in, or for, private sector superannuation schemes.

**SCHEDULE—continued**

**Medical evidence to be provided to assessment panels**

**12.1.3.** The Board shall furnish an assessment panel with such medical and other evidence as the Board considers necessary and may require a person to undergo a medical examination or examinations and to provide such information as the panel requires.

**Assessment panels may seek advice**

**12.1.4.** An assessment panel may seek advice from any medical practitioner or specialist in connection with any case that has been referred to it by the Board.

**Panels to make recommendations to Board**

**12.1.5.** Where the medical reports of a person have been referred to the panel, the panel shall make recommendations with reasons to the Board:

- (a) whether he or she is totally and permanently incapacitated; and
- (b) on any other matters that the panel considers relevant or the Board may require.

**12.1.6.** The panel is required to make a recommendation to the Board no later than 2 years after:

- (a) in the case of a person on sick leave—the date he or she commenced the period of sick leave (with or without pay) because of the condition in relation to which the Board was asked to approve the invalidity retirement of the person; or
- (b) in the case of a person on compensation leave—the date the Board was asked to approve the invalidity retirement of the person.

**Assessment process**

**12.1.7.** The Board, before deciding whether or not to approve the invalidity retirement of a person, shall, subject to rule 12.1.8:

- (a) where the certificate is requested because a compensable condition which has been referred to Comcare makes it likely that a person is totally and permanently incapacitated, ascertain whether Comcare recommends invalidity retirement for him or her; and
- (b) require him or her to undergo a medical examination by a Commonwealth Medical Officer or other approved medical practitioner within 6 months, or such other period as the Board approves, after commencing the period of sick leave or compensation leave immediately preceding the request; and
- (c) forward the report of that examination, together with any other medical evidence considered by the Board to be relevant, to the panel for assessment.



**SCHEDULE—continued**

**Board to make decision on invalidity retirement**

**12.1.8.** After receiving the recommendation of the panel as to whether or not a person is totally and permanently incapacitated, the Board after having regard to:

- (a) that advice; and
- (b) the practicality of:
  - (i) the person's employer being able to provide a job for which he or she would be reasonably qualified or reasonably could be qualified after retraining; and/or
  - (ii) the person obtaining such a job with a different employer;

shall decide whether or not to approve the invalidity retirement of the person.

**12.1.9.** Where the Board, after consideration of any report or reports of a medical practitioner or practitioners submitted with the request to approve the invalidity retirement of a person and any other matters that the Board considers relevant, decides that the person's physical or mental condition is such that there is no reasonable doubt that he or she is totally and permanently incapacitated, the Board may decide to approve the invalidity retirement of the person, without recourse to the process in rules 12.1.7 and 12.1.8.

**Board's decision to be advised to member and employer**

**12.1.10.** The Board' decision under rule 12.1.8 or 12.1.9 shall be communicated to:

- (a) the employer of the person concerned; and
- (b) the person concerned;

together with a statement of the reasons for the decision and a copy of the recommendation made by the panel (if any).

***Division 2—Pre-assessment Payments***

**Entitlement to pre-assessment payments**

**12.2.1.** Subject to rule 12.2.2, where a person, who is not a limited benefits member, has been off work for a continuous period of 28 or more days because of a serious, but non-compensable, condition, the Board may pay him or her pre-assessment payments. Pre-assessment payments are not payable to, or in respect of, a person on compensation leave.

**12.2.2.** Before deciding whether or not to make any pre-assessment payments to a person, the Board shall obtain from a Commonwealth Medical Officer or other approved medical practitioner who has examined the person in respect of the condition referred to in rule 12.2.1 in relation to the period off work referred to in that rule, a

**SCHEDULE—continued**

report on whether or not there is a likelihood that he or she will be totally and permanently incapacitated and:

- (a) if, after considering the report, the Board decides that there is little likelihood that the person will be unable ever to work again in a job for which he or she is or could after retraining be reasonably qualified, the Board shall notify the person that it will not be making pre-assessment payments to him or her; or
- (b) if, after considering the report, the Board decides that there is a real likelihood that the person will be totally and permanently incapacitated, the Board shall make pre-assessment payments to him or her.

**Period during which pre-assessment payments to be made**

**12.2.3.** Where paragraph 12.2.2 (b) applies, the Board shall make pre-assessment payments at the rates specified in rule 12.2.5 commencing on the first contribution day after whichever is the earlier of:

- (a) the date a person has been off work for a continuous period of six months; and
- (b) the date when he or she has no sick leave credits (full pay or half pay) applicable to him or her.

**12.2.4.** Pre-assessment payments in relation to a person shall cease on a contribution day specified by the Board being a contribution day after whichever is the earliest of:

- (a) the date on which the Board notifies the employer of the person and person whether or not the Board has approved the invalidity retirement of the person; and
- (b) the date of the person's return to work; and
- (c) the date of the death of the person; and
- (d) the date by which the Board required the person to commence or continue a program of rehabilitation and he or she did not commence or continue that program; and
- (e) the date by which the Board required a person to undergo a medical examination and/or provide such medical evidence as the Board required and the person did not undergo that examination or provide that evidence;

provided that where paragraph 12.2.4 (d) or (e) would apply but the Board is satisfied that there was good and sufficient reason for his or her non-compliance with the Board's requirement, the Board may set a further date and that paragraph shall not apply, and provided further that where paragraph 12.2.4 (d) or 12.2.4 (e) applies but the member has satisfied the Board that he or she will comply with all future requirements of the Board, pre-assessment payments shall become

**SCHEDULE—continued**

payable to the person with effect from the date the Board is so satisfied or such other date as the Board determines.

**Rates of payment**

**12.2.5.** Pre-assessment payments shall be made at the following fortnightly rates:

- (a) on any contribution day during the 6 months commencing on the first day of sick leave when a member is in receipt of sick leave pay (full pay or half pay)—an amount of zero;
- (b) on any contribution day during the six months commencing on the first day of sick leave when a member is not in receipt of sick leave pay (full pay or half pay)—the amount (if any) by which the amount applicable to the member under rule 12.2.6 exceeds the sum of:
  - (i) the fortnightly amount of partial invalidity pension (if any) payable; and
  - (ii) the fortnightly amount of any compensation payments payable in relation to a condition other than the condition to which the sick leave relates;
- (c) on any contribution day occurring after the date six months after the first day of sick leave—the greater of:
  - (i) the amount (if any) by which the fortnightly amount that would be payable had the member retired as an invalid on the date six months after the first day of sick leave and he or she had not exercised the option under rule 4.3.4 exceeds the sum of:
    - (A) the fortnightly amount (if any) of sick leave pay; and
    - (B) the fortnightly amount (if any) of partial invalidity pension payable; and
    - (C) the fortnightly amount (if any) of compensation payments in relation to a condition other than the condition to which the sick leave relates; and
  - (ii) the amount (if any) by which the amount applicable to the member under rule 12.2.6 exceeds the sum of:
    - (A) the fortnightly amount (if any) of sick leave pay; and
    - (B) the fortnightly amount (if any) of partial invalidity pension payable; and
    - (C) the fortnightly amount (if any) of compensation payments payable in relation to a condition other than the condition to which the sick leave relates;

**SCHEDULE—continued**

where “first day of sick leave” means the first day of the period of sick leave immediately preceding the commencement of the pre-assessment payments.

**12.2.6.** The amount applicable to a member for the purposes of paragraph 12.2.5 (b) or subparagraph 12.2.5 (c) (ii) is:

- (a) where the member was a permanent full-time or temporary full-time employee on the first day of sick leave—50 per cent of the fortnightly rate of salary applicable to the person; or
- (b) where the member was a permanent part-time employee on the first day of sick leave—50 per cent of the fortnightly rate of salary applicable to the person multiplied by the number that would have been the **Factor** for the purposes of subparagraph 1.3.10 (d) (ii) had the person retired as an invalidity pensioner on his or her first day of sick leave; or
- (c) in any other case—50 per cent of the fortnightly rate of salary multiplied by the ratio that the prospective multiple that would have applied to the member on his or her first day of sick leave had he or she retired as an invalidity pensioner on that day bears to the prospective multiple that would have applied to the member on his or her first day of sick leave had he or she been a permanent full-time employee on that day and retired as an invalidity pensioner on that day;

where “first day of sick leave” means the first day of the period of sick leave immediately preceding the commencement of the pre-assessment payments.

**Payment of pre-assessment payments**

**12.2.7.** Pre-assessment payments shall be made on contribution days and the Board shall deduct from the payment, the member contributions and member premiums (if any) required to be made by a person under Part 3.

***Division 3—Program of Rehabilitation***

**Program of rehabilitation**

**12.3.1.** Where the Board receives a report under rule 12.2.2 that, although there is a likelihood of the person becoming totally and permanently incapacitated, a program of rehabilitation may prevent that total and permanent incapacity, the Board may consult with Comcare with a view to implementing such a program. If the Board considers that the cost of a program of rehabilitation is likely to be cost-effective in reducing the likelihood of the person’s invalidity retirement, it may arrange for, and meet the cost of, such a program.

*Superannuation No. 38, 1990*

*[Minister's second reading speech made in—  
House of Representatives on 16 May 1990  
Senate on 28 May 1990]*