

FIRST AMENDING DEED TO THE
DEED
TO ESTABLISH AN OCCUPATIONAL
SUPERANNUATION SCHEME FOR COMMONWEALTH
EMPLOYEES AND CERTAIN OTHER PERSONS

Pursuant To

SECTION 5 OF THE
SUPERANNUATION ACT 1990

Australian Government
Solicitor
Robert Garran Offices
BARTON ACT 2600

THIS DEED is made on 21st JUNE 1990 by
THE COMMONWEALTH OF AUSTRALIA (in this Deed called "the
Commonwealth").

WHEREAS the Commonwealth Minister of State for Finance, for
and on behalf of the Commonwealth, pursuant to section 4 of
the Superannuation Act 1990, established by Deed (in this Deed
called "the Trust Deed") an occupational superannuation scheme
(in this Deed called "the Superannuation Scheme") in order to
provide benefits for certain of its employees and for certain
other persons;

AND WHEREAS section 5 of the Superannuation Act 1990 provides
that the Minister may, by signed instrument, amend the Trust
Deed.

NOW THIS DEED WITNESSES that the Trust Deed and the Rules for
the administration of the Superannuation Scheme set out in the
Schedule to the Trust Deed are amended as follows:

1. The Trust Deed is amended by:
 - (a) re-lettering paragraph (b) of subclause 3(1) as paragraph (c);
 - (b) re-lettering paragraph (c) of subclause 3(1) as paragraph (d); and
 - (c) inserting a new paragraph (b) in subclause 3(1) after paragraph (a) of that subclause as follows:

"(b) to provide members and potential members of the Superannuation Scheme with information about their benefits or potential benefits and the options available to them;"

2. The Rules are amended as follows:

2.1 There is added to Division 2 of Part 1 of the Rules after rule 1.2.4, rule 1.2.5 as follows:

"1.2.5 Where a person is:

- (a) an eligible employee for the purposes of the 1976 Act at 30 June 1990 and continues to be an eligible employee until his or her first day of membership; or
- (b) receiving an invalidity pension under the 1976 Act on 30 June 1990 and continues to receive that pension until his or her first day of membership;

the Board shall not require the person to undergo any medical examination or test and shall not treat the person as a limited benefits member."

2.2 The Table in Rule 1.4.1 is amended by replacing:

- (a) "\$37,560" wherever occurring with "\$39,970";
- (b) "\$75,120" with "\$79,940";
- (c) "\$69,750" wherever occurring with "\$74,220"; and
- (d) "\$284,370" with "\$302,600".

2.3 Rule 1.4.9 is amended by deleting ", including 1 July 1990,".

2.4 Rule 2.2.1 is amended by replacing "rule 2.4.1" with "rules 2.2.2 and 2.4.1".

2.5 There is added to Division 2 of Part 2 after Rule 2.2.1, rule 2.2.2 as follows:

"2.2.2 Where a person's last day of membership is a day immediately before an anniversary of his or her birth, for the purposes of calculating the average salary of the person on that day pursuant to rule 2.2.1:

- (a) the person will be deemed to have ceased to be a member on the anniversary of birth immediately following his or her last day of membership; and
- (b) the annual rate of salary on the person's last day of membership shall be deemed to be the annual rate of salary on the anniversary of his or her birth immediately following his or her last day of membership."

2.6 Rule 3.1.6 is amended by replacing "1.4.9" with "1.4.10".

2.7 The Table in Rule 3.2.2 is amended by replacing:

- (a) "\$846" wherever occurring with "\$880";
- (b) "\$25.40" with "\$26.40";
- (c) "\$1,300" wherever occurring with "\$1,418";
- (d) "\$1,950" wherever occurring with "\$2,127"; and
- (e) "\$39.00" with "\$42.54".

2.8 Rule 3.2.3 is amended by deleting ", including 1 July 1990,".

- 2.9 Rule 4.1.5 is amended by replacing "Where:" with "Except where a person ceases to be a member on or after attaining his or her maximum retiring age, where:".
- 2.10 Rule 4.3.3 is amended by replacing "A person" with "Subject to rule 4.3.6, a person".
- 2.11 Paragraph (b) of rule 4.3.5 is amended by replacing "a pension" with "subject to rule 4.3.6, a pension".
- 2.12 There is added to Division 3 of Part 4 of the rules after rule 4.3.5, rule 4.3.6 as follows:
- "4.3.6 Where a person who ceases to be a member because of invalidity retirement has his or her date of invalidity retirement backdated by his or her employer to a date preceding the date on which pre-assessment payments cease to be applicable to him or her in accordance with paragraph 12.2.4(a), the amount of invalidity pension payable in respect of a pension pay day immediately preceding a contribution day in respect of which a pre-assessment payment was made, being a contribution day occurring after the date of invalidity retirement of the member, shall be reduced by the lesser of:
- (a) the amount of the instalment of invalidity pension payable in respect of that pension pay day; and
 - (b) the amount of the pre-assessment payment payable in respect of the immediately following contribution day."
- 2.13 Rule 4.4.3 is amended by replacing "4.4.3(d)" in paragraph (a) of the definition of CDD with "4.4.3(e)".

2.14 There is added to Part 4 of the rules a new Division as follows:

"Division 7 - Interest on Benefits

Interest for late payment of lump sum benefit

4.7.1 Subject to this Division, where the Board considers that the payment as a lump sum of a benefit, a preserved benefit, part of a benefit or part of a preserved benefit (in this rule called "the relevant lump sum") has been, or will be, delayed by circumstances which were, or are, outside the control of the person to, or in respect of, whom the benefit is payable, the Board may add interest to the relevant lump sum.

4.7.2 Where:

- (a) a person, other than a person to whom rule 4.3.1 or 4.3.2 applies, ceases to be a member because of invalidity retirement; and
- (b) the person has elected under rule 4.3.4 that rule 4.3.5 apply to him or her; and
- (c) the date of the persons' cessation of employment is earlier than the date on which the Board certified to the person's employer that invalidity benefits would be payable if the person was so retired;

the Board may add interest to the amount of the lump sum benefit specified in the election under rule 4.3.4.

Interest for late commencement of pension payments

4.7.3 The Board may pay an amount of interest in respect of the late commencement of pension payments to a person where:

- (a) it considers that the commencement of the pension payments has been delayed by circumstances which were outside the control of the person to whom the pension is payable; and
- (b) the amount of interest payable would be a material amount.

Board to determine arrangements for interest

4.7.4 The Board may determine arrangements for interest to be added pursuant to rules 4.7.1, 4.7.2 and 4.7.3 and such arrangements may include the rate or rates of interest and the method of allocating interest.

General

4.7.5 Nothing in this Division shall prevent the Board from determining arrangements which provide for the interest that is to be added to a benefit being in respect of a period ending on a date expected to be the date of payment of the benefit.

4.7.6 Any interest payable in accordance with this Division shall form part of the member's or former member's benefit for the purposes of the Rules other than:

- (a) the rules in this Division; and
- (b) the rules in Division 4 of Part 1."

2.15 Rule 9.1.4 is amended by replacing "the Board may direct that the election be cancelled and these Rules then have effect as if the election had not been made." with "the Board may direct that the election be cancelled on the fulfilment by the person who requested the cancellation of the election of any requirement imposed on him or her pursuant to rule 9.1.5A, and, where such election is cancelled, these Rules have effect as if the election had not been made but any adjustment to benefits provided for in rule 9.1.5A applied."

2.16 There are added to Division 1 of Part 9 of the Rules after rule 9.1.5, rules 9.1.5A and 9.1.5B as follows:

"Repayment and adjustment of benefits when an election is cancelled

9.1.5A Where a person makes a request to the Board that the Board cancel an election:

(a) where, if this rule did not operate, the effect of the cancellation of the election would be to cancel a lump sum payment or part of a lump sum payment (in this rule called "the relevant lump sum amount") and make payable instalments of pension or an increase in instalments of pension (in this rule called "the relevant instalment of pension"), the Board, as a condition of cancelling the election:

(i) shall require the person to repay by a date specified by the Board the relevant lump sum amount together with such interest (if any) thereon as the Board determines having regard to the provisions of subparagraph (ii); and

(ii) shall pay the relevant instalment of pension only from the pension pay day next following the date of repayment of the relevant lump sum amount and interest (if any) thereon; or

(b) in any other case, the Board may:

(i) impose such conditions as to the repayment of benefits that have been paid as it considers appropriate; or

(ii) require the amount of the benefits that have been paid to be offset against the amount of the benefits that would become payable on the cancellation of the election.

Repayment and adjustment of benefits when an election is made after a benefit is received

9.1.5B Where a person makes an election after a benefit has been paid and/or payment of instalments of pensions have commenced and:

(a) the effect of the election is to cancel a lump sum payment or part of a lump sum payment (in this rule called "the relevant lump sum amount") and make payable instalments of pension or an increase in instalments of pension (in this rule called "the relevant instalment of pension"), the Board:

(i) shall require the person to repay by a date specified by the Board the relevant lump sum amount together with such interest (if any) thereon as the Board determines having regard to the provisions of subparagraph (ii); and

(ii) shall pay the relevant instalment of pension only from the pension pay day next following the date of repayment of the relevant lump sum amount and interest (if any) thereon; or

(b) in any other case, the Board may:

(i) impose such conditions as to the repayment of benefits that have been paid as it considers appropriate; or

(ii) require the amount of the benefits that have been paid to be offset against the amount of the benefits that would become payable on the cancellation of the election."

2.17 Rule 10.1.9 is amended by adding "Subject to rules 10.1.6 and 10.1.7, a member may elect to vary the amount of additional cover applicable to him or her." as the first sentence in the rule.

2.18 There is added to Division 4 of Part 11 of the Rules after rule 11.4.4, rule 11.4.4A as follows:

"Board to refer new evidence concerning invalidity retirement to assessment panel

11.4.4A Where:

(a) a request has been made to the Board for reconsideration of a decision concerning the approval or otherwise of the invalidity retirement of a person (in this rule called "the original decision"); and

- (b) the Board is satisfied that the new evidence provided in accordance with rule 11.4.3 supports the grounds for the request for reconsideration; and
- (c) in making the original decision, the Board considered a recommendation or recommendations made by an assessment panel pursuant to rule 12.1.5;

the Board shall furnish the new evidence, together with the other evidence considered by the Board to be relevant, to the assessment panel and the assessment panel shall make recommendations with reasons to the Board within a time specified by the Board:

- (d) whether the person is totally and permanently incapacitated; and
- (e) on any other matters that the panel considers relevant or the Board may require.

2.19 Rule 11.4.5 is deleted and the following rule 11.4.5 inserted in its place.

"11.4.5 The Board shall refer a request for reconsideration of a decision it has made to a Committee and shall provide that Committee with all relevant evidence and information including any recommendation made pursuant to rule 11.4.4A, provided always that where the Board, in its consideration of the new evidence provided in accordance with rule 11.4.3 and/or the recommendation or recommendations made pursuant to rule 11.4.4A, is of the opinion that, on reconsideration of the decision, it will decide in favour of the person seeking reconsideration, it may so decide without referring the request for reconsideration to a Committee."

3. This Deed has effect from 1 July 1990.

IN WITNESS whereof the Honourable Ralph Willis, Minister for Finance, has hereunto set the name of The Commonwealth of Australia and affixed his own seal the day and the year first above written.

SIGNED, SEALED AND DELIVERED)

by the Honourable RALPH WILLIS,)
Minister for Finance, for and on)
behalf of THE COMMONWEALTH OF)
AUSTRALIA, in the presence of:)

..... JUDITH SLATER)
(name))

..... 12 EILDON PLACE DUFFY)
(address))

..... MINISTERIAL ADVISOR)
(description))

