

## PART 11 - ADDITIONAL ACCUMULATIONS

### Division 1

#### Transfers into the PSS Scheme

##### Amounts that may be transferred

11.1.1 A **member** may transfer:

- (a) an amount payable to, or in respect of, him/her by another occupational superannuation scheme, other than an amount payable because of physical or mental incapacity to perform his/her duties; or
- (b) the amount of any **eligible termination payment** payable to, or in respect of him/her; or
- (c) an amount payable to, or in respect of, him/her in accordance with the *Superannuation Guarantee (Administration) Act 1992*;

into the **PSS scheme** as a **transfer amount**, provided payment is received by the **Board** within six months, or such further period as the Board allows, of the later of:

- (A) the person becoming a **member**; or
- (B) the amount becoming payable on cessation of the employment to which the payment relates.

##### Payments to be paid into the PSS Fund

11.1.2 The **Board** must pay any **transfer amount** except amounts received after the six months or the further period referred to in Rule 11.1.1.

##### Accumulation of transfer amount and preserved amount

11.1.3 Interest (if any) on a **transfer amount** paid into the **PSS Fund** accumulates in accordance with a determination or determinations by the **Board** as to rates of interest and method of allocation. The **transfer amount** plus accumulated interest is called the Accumulated Transfer Amount.

11.1.4 Interest (if any) on an Accumulated Transfer Amount preserved in the **PSS scheme** on cessation of membership accumulates in accordance with a determination or determinations by the **Board** as to rates of interest and method of allocation..

## Division 2

### Transfer Amounts - Benefits where transfer amount paid in after 31 December 1995

#### Benefit entitlement on cessation

##### 11.2.1 A member who:

- (a) transferred a **transfer amount** into the **PSS scheme** after 31 December 1995, the entitlement to which did not arise from employment during a period of leave of absence without pay that commenced on or before that date (*see Rule 11.3.4*); and
- (b) ceases to be a **member**, but not by reason of death;

is entitled to:

- (i) payment or transfer of the Accumulated Transfer Amount under the same conditions, in the same manner and, where relevant, to the same extent as permitted by the **SIS Act** (with the balance being preserved in the **PSS scheme** or rolled over) as the member's **final benefit accrual** is payable or transferable under Part 6, except that the Accumulated Transfer Amount cannot be converted to a pension; or
- (ii) preserve the Accumulated Transfer Amount in the **PSS scheme**; or
- (iii) **roll-over** the Accumulated Transfer Amount.

unless the **member** ceased membership on electing to have the *Judges' Pensions Act 1968* apply (*see Rule 11.2.3*).

**11.2.2** On the death of a **member** who transferred a **transfer amount** into the **PSS scheme** after 31 December 1995, the entitlement to which did not arise from employment during a period of leave of absence without pay that commenced on or before that date (*see Rule 11.3.4*), the Accumulated Transfer Amount is payable under the same conditions and to the same person or persons, and, where relevant, in the same proportions as are payable to those persons, as the deceased member's **death benefit accrual** is payable under Part 7. The Accumulated Transfer Amount cannot be taken as a reversionary pension.

#### Judges' Pensions Act

**11.2.3** A **member** who transferred a **transfer amount** into the **PSS scheme** after 31 December 1995, the entitlement to which did not arise from employment during a period of leave of absence without pay that commenced on or before that date, and who ceases membership on electing to have the *Judges' Pensions Act 1968* apply is entitled to:

- (a) preserve the Accumulated Transfer Amount in the **PSS scheme** if he/she preserves other benefits in the **PSS scheme**; or

- (b) **roll-over** the Accumulated Transfer Amount.

**Payment of preserved accumulated transfer amount**

**11.2.4** An Accumulated Transfer Amount, or part of such Accumulated Transfer Amount, that has been preserved in the **PSS scheme**, as further accumulated until payment, is payable to the same person or persons under the same conditions as apply to, and on the same date as, a **preserved benefit** under Part 8.

## Division 3

### Transfer Amounts - Benefits where transfer amount paid in before 1 January 1996

#### Benefit entitlement on cessation

11.3.1 On cessation of membership, a **member** who transferred a **transfer amount** into the **PSS scheme** before 1 January 1996 (*see also Rule 11.3.4*) is, in respect of that **transfer amount**, entitled, unless the **member** ceased membership on electing to have the *Judges' Pensions Act 1968* apply (*see Rule 11.3.3*), to whichever is the greater of his/her:

- (a) Accumulated Transfer Amount; or
- (b) Transfer Multiple Amount calculated by the formula:

$$\frac{\text{FAS} \times (\text{TA} - \text{IT})}{\text{AS}}$$

where:

FAS is the member's **final average salary**; and

TA is the:

- (i) if the **transfer amount** was received by the **Board** before 2 February 1994, the **transfer amount** plus interest, if any, accumulated to the day 12 months after the **transfer amount** was received; or
- (ii) if the **transfer amount** was received by the **Board** after 1 February 1994:
  - (A) the **transfer amount** paid into the **PSS Fund** by the **Board**; or
  - (B) if the **Board** decides to use a later date under paragraph (ii)(B) of the definition of AS that follows, the amount equal to the total of the **transfer amount** paid into the **PSS Fund** by the **Board** and any interest accrued on that **transfer amount** to that later date; and

IT is the income tax payable by the **PSS Fund**, if any, in respect of the **transfer amount**; and

AS is the member's **average salary** on:

- (i) if the **transfer amount** was received by the **Board** before 2 February 1994, the day 12 months after the **transfer amount** was received; or

- (ii) if the **transfer amount** was received by the **Board** after 1 February 1994:
  - (A) the date of receipt of the **transfer amount**; or
  - (B) any later date decided by the **Board** as necessary to promote equitable treatment between members, but not a date later than 12 months after the date the **transfer amount** was received.

**11.3.2** A **member** who is entitled to an Accumulated Transfer Amount under Rule 11.3.1 may choose instead an entitlement to his/her Transfer Multiple Amount calculated under that Rule if he/she converts all or part of that Transfer Multiple Amount to additional pension under Rule 11.3.5.

### Judges' Pensions Act

**11.3.3** A **member** who transferred a **transfer amount** into the **PSS scheme** before 1 January 1996 and who ceases membership on electing to have the *Judges' Pensions Act 1968* apply is entitled to:

- (a) preserve in the **PSS scheme**:
  - (i) the Accumulated Transfer Amount; and
  - (ii) the amount (if any) by which the Transfer Multiple Amount exceeds the Accumulated Transfer Amount;

if he /she preserves other benefits in the **PSS scheme**; or

- (b) **roll-over** the Accumulated Transfer Amount.

### Member on leave without pay on 31 December 1995, etc

**11.3.4** A **member** is taken for the purposes of this Division to have transferred a **transfer amount** into the **PSS scheme** before 1 January 1996 if he/she:

- (a) was on leave of absence without pay on 31 December 1995 and, on return from that leave of absence without pay, transferred into the **PSS scheme** a **transfer amount**, the entitlement to which arose from employment during the period of leave of absence without pay; or
- (b) transferred into the **PSS scheme** after 31 December 1995 a **transfer amount** to which his/her entitlement arose from employment during a period of leave of absence without pay that ceased on or before that date; or
- (c) transferred into the **PSS scheme** after 31 December 1995 a **transfer amount** to which his/her entitlement arose from employment that ceased before that date.

### Pension benefits

**11.3.5** A **member** may convert all or part of his/her Transfer Multiple Amount to additional pension (see Rule 11.3.6) if he/she:

- (a) is entitled to convert at least half of his/her **final benefit accrual** to **pension** under the conditions set out in Part 6; and
- (b) is entitled to, or chooses under Rule 11.3.2 an entitlement to, a Transfer Multiple Amount;

provided that at least half of the sum of the **final benefit accrual** and the Transfer Multiple Amount is converted.

**11.3.6** The additional pension is calculated by dividing the part of the Transfer Multiple Amount to be converted to pension by the pension conversion factor determined from the Table - *Pension Conversion Factors* in Rule 9.2.1. Any part of the member's Transfer Multiple Amount that is not converted to additional pension is payable as a lump sum.

### Lump sum benefits

**11.3.7** On cessation of membership a **member** who:

- (a) transferred a **transfer amount** into the **PSS scheme** before 1 January 1996; and
- (b) does not cease membership on **invalidity retirement** before age 60, or death; and
- (c) is not entitled to, or does not, convert some or all of his/her Transfer Multiple Amount to a **pension** under Rule 11.3.5;

is entitled to:

- (i) payment of whichever is the greater of his/her Accumulated Transfer Amount or his/her Transfer Multiple Amount under the same conditions, in the same manner (other than as a pension) and, where relevant, to the same extent as permitted by the **SIS Act** (with any balance being preserved in the **PSS scheme** or rolled over), as the member's **final benefit accrual** is payable under Part 6; or
- (ii) preserve in the **PSS scheme** the Accumulated Transfer Amount, together with the amount (if any) by which the Transfer Multiple Amount exceeds the Accumulated Transfer Amount; or
- (iii) **roll-over** the Accumulated Transfer Amount.

**Invalidity benefits**

11.3.8 A member who:

- (a) transferred a **transfer amount** into the **PSS scheme** before 1 January 1996; and
- (b) ceases to be a **member** by reason of **invalidity retirement** before age 60 and was not a **limited benefits member**; and
- (c) chooses under the conditions set out in Part 6 to take the whole of his/her **invalidity benefit accrual** as a **pension**, or to be paid a lump sum of some or all of his/her **accumulated member contributions** and to convert the balance of his/her **invalidity benefit accrual** into a **pension**;

is entitled:

- (i) if he/she chooses to take his/her **invalidity benefit accrual** as a **pension** - to additional pension, calculated by dividing his/her Transfer Multiple Amount by 11 ; or
- (ii) if he/she chooses to be paid a lump sum of some or all of his/her **accumulated member contributions** - to choose to be paid a lump sum of some or all of that part of his/her Transfer Multiple Amount that represents member contributions and interest and to convert the balance of the Transfer Multiple Amount that was not paid as a lump sum into additional pension, calculated by dividing the balance of the Transfer Multiple Amount by 11.

11.3.9 A member who:

- (a) transferred a **transfer amount** into the **PSS scheme** before 1 January 1996; and
- (b) ceases to be a **member** by reason of **invalidity retirement** before age 60 and was a **limited benefits member** on cessation of membership;

is entitled to:

- (i) payment of whichever is the greater of his/her Accumulated Transfer Amount or his/her Transfer Multiple Amount; or
- (ii) **roll-over** the Accumulated Transfer Amount.

**Maximum benefits**

11.3.10 A member who:

- (a) transferred a **transfer amount** into the **PSS scheme** before 1 January 1996; and
- (b) chooses under Rule 11.3.5 or Rule 11.3.8 to convert all or part of his/her Transfer Multiple Amount to additional **pension**;

is taken to have become a **maximum benefits member** on the first **contribution due day** during his/her **period of membership** on which the amount in respect of the year in which the **contribution due day** falls, as shown opposite the member's **average salary**:

- (i) in the Table *Maximum Benefits* in Rule 5.6.1 (as amended by determination of the Board under Rule 5.6.5 from time to time) applicable in that year; or
- (ii) in the relevant Table in Division 7 of Part 5 (as amended by determination of the Board under Rule 5.7.7 from time to time) applicable in that year, if the **member** has received, or is entitled to receive, an adjustment payment under the *Australian Federal Police Act 1979*;

is equalled or exceeded by the amount calculated by the following formula:

$$( \text{BAM} \times \text{AS} ) + ( \text{TM} \times \text{AS} )$$

where:

BAM	is the Benefit Accrual Multiple ( <i>see Divisions 2 and 3 of Part 5</i> ) plus, if membership ceased on <b>invalidity retirement</b> before age 60, the Invalidation Multiple ( <i>see Divisions 4 and 5 of Part 5</i> ), applicable to the <b>member</b> on the <b>contribution due day</b> ; and
AS	is the member's <b>average salary</b> on the <b>contribution due day</b> ; and
TM	is the member's Transfer Multiple calculated by using the formula in paragraph (b) of Rule 11.3.1 with the terms as defined in that paragraph, but replacing the FAS factor in that formula by 1.

**11.3.11** Any **member contributions** paid by the **member** subsequent to the **contribution due day** ascertained under Rule 11.3.10, together with the interest (if any) in respect of these contributions in accordance with a determination or determinations by the **Board** as to rates of interest and method of allocation, are payable to the former member.

#### Payment of preserved benefits to former member

**11.3.12** An Accumulated Transfer Amount, or part of such Accumulated Transfer Amount, that has been preserved in the **PSS scheme**, as further accumulated until payment, is payable to the former member under the same conditions as apply to, and on the same date as, a **preserved benefit** under Part 8.

**11.3.13** The amount preserved in the PSS scheme (if any) by which the Transfer Multiple Amount exceeded the Accumulated Transfer Amount on cessation, accumulated until payment by the method set out in Rules 8.6.2 and 8.6.3 in relation to an **unfunded preserved benefit**, is



payable to the former member under the same conditions as apply to, and on the same date as, a **preserved benefit** under Part 8.

**11.3.14** A **preserved benefit member** who preserved in the **PSS scheme**:

- (a) the whole of his/her Accumulated Transfer Amount; and
- (b) all his/her **accumulated member contributions** (other than any refunded Excess Contribution Multiple);

may, under the same conditions and to the same extent as set out in Part 8, convert to additional pension some or all of the sum of:

- (i) his/her Accumulated Transfer Amount, as further accumulated until payment; and
- (ii) the amount, if any, by which his/her Transfer Multiple Amount exceeded the Accumulated Transfer Amount on cessation of membership, accumulated until payment by the method set out in Rules 8.6.2 and 8.6.3 in relation to an **unfunded preserved benefit**.

provided that:

- (A) if the entitlement to payment does not arise on invalidity grounds, at least half of the sum of the former member's **preserved benefit** and the amounts in items (i) and (ii) is converted to pension; or
- (B) if the entitlement to payment arises on invalidity grounds, at least all of that part of the Accumulated Transfer Amount, as accumulated, that does not represent member contributions, as accumulated, is converted to pension; and
- (C) any part of the member's Accumulated Transfer Amount, as accumulated until payment, and the amount, if any, by which his/her Transfer Multiple Amount exceeded the Accumulated Transfer Amount on cessation, as accumulated until payment, that has not been converted to additional pension is payable as a lump sum

**11.3.15** A **preserved benefit member** who chooses to take additional pension under Rule 11.3.14 is taken to have become a **maximum benefits member** on the first **contribution due day** during his/her **period of membership** on which the amount in respect of the year in which the **contribution due day** falls shown opposite the member's **average salary**:

- (i) in the Table *Maximum Benefits* in Rule 5.6.1 (as amended by determination of the Board under Rule 5.6.5 from time to time) ; or
- (ii) in the relevant Table in Division 7 of Part 5 (as amended by determination of the Board under Rule 5.7.7 from time to time), if the **member** has received, or is entitled to receive, an adjustment payment under the *Australian Federal Police Act 1979*;

is equalled or exceeded by the amount calculated by the formula in Rule 11.3.10.

**Benefits on death of member**

**11.3.16** On the death of a **member** who:

- (a) transferred a **transfer amount** into the **PSS scheme** before 1 January 1996; and
- (b) was not a **limited benefits member** at the date of his/her death;

additional reversionary pension is payable under the same conditions and to the same person or persons, and, where relevant, in the same proportions as are payable to those persons, as reversionary pension is payable under Part 7. The additional reversionary pension is calculated in accordance with the formula in Rule 9.3.2, but replacing the **death benefit accrual** in that formula with the Transfer Multiple Amount in respect of the **deceased member**.

**11.3.17** The **Board** will take the Transfer Multiple Amount in respect of the **deceased member** into account, in addition to the deceased member's Benefit Accrual Multiple, in ascertaining the date under Rule 5.4.2 when the **deceased member** would have become a **maximum benefits member** if all additional reversionary pension is not converted to a lump sum or lump sums under rule 11.3.18.

**11.3.18** A **spouse** of the **deceased member** to whom Rule 11.3.16 applies may convert the same proportion of the additional reversionary pension to a lump sum as the proportion of the reversionary pension chosen by that **spouse** under Rule 7.1.2 to be converted to a lump sum calculated in accordance with the formula in Rule 9.3.4, but substituting the greater of the Accumulated Transfer Amount or the Transfer Multiple Amount for the **death benefit accrual** in respect of the **deceased member**.

**11.3.19** If the **deceased member** to whom Rule 11.3.16 applies is not survived by a **spouse** but is survived by any child entitled to additional pension, the **Board** will pay a lump sum, if any, of the difference between the capital value of the additional pension or pensions payable, as determined by the **Board** after considering actuarial advice, and the greater of the Accumulated Transfer Amount or the Transfer Multiple Amount in respect of the **deceased member** to, or on behalf of, the child or children.

**11.3.20** If the **deceased member** to whom Rule 11.3.16 applies is not survived by a **spouse** or spouses, or a child or children eligible for benefits, the greater of the Accumulated Transfer Amount or Transfer Multiple Amount is payable to the same person or persons as the **death benefit accrual** is payable under Part 7.

**11.3.21** On the death of a **member** who:

- (a) transferred a **transfer amount** into the **PSS scheme** before 1 January 1996; and
- (b) was a **limited benefits member** at the date of his/her death

the greater of the Accumulated Transfer Amount or the Transfer Multiple Amount in relation to the **deceased limited benefits member** is payable under the same conditions and to the same person or persons, and, where relevant, in the same proportions as are payable to those persons,

as the lump sum of the **final benefit accrual** in relation to the former member is payable under Part 7.

### Benefits on death - preserved benefits

**11.3.22** An Accumulated Transfer Amount that has been preserved in the **PSS scheme** and a preserved amount (if any) by which the Transfer Multiple Amount exceeded the Accumulated Transfer Amount on cessation, as accumulated, that become payable on the death of a **preserved benefit member** are payable under the same conditions and to the same person or persons and, where relevant, in the same proportions as are payable to those persons, as a **preserved benefit** is payable under Division 4 of Part 7.

**11.3.23** A **spouse** of a **deceased preserved benefit member** who preserved:

- (a) the whole of his/her Accumulated Transfer Amount ; and
- (b) all his/her **accumulated member contributions** (other than any refunded Excess Contribution Multiple);

in the **PSS scheme** may convert to additional reversionary pension some or all of the proportion to which he/she is entitled of the sum of:

- (i) the Accumulated Transfer Amount, as further accumulated until payment, applicable to the **deceased preserved benefit member**; and
- (ii) the amount, if any, by which the Transfer Multiple Amount applicable to the **deceased preserved benefit member** exceeded the Accumulated Transfer Amount applicable to him/her on cessation, accumulated until payment by the method set out in Rules 8.6.2 and 8.6.3 in relation to an **unfunded preserved benefit**;

provided that at least half of the proportion to which the **spouse** is entitled of the sum of the **preserved benefit** applicable to the **deceased preserved benefit member** and the amounts in items (i) and (ii) is converted to pension.

**11.3.24** Any part of the proportion applicable to the **spouse** of the Accumulated Transfer Amount, as accumulated until payment, and the amount, if any, by which the Transfer Multiple Amount applicable to the **deceased preserved benefit member** exceeded the Accumulated Transfer Amount applicable to him/her on cessation, as accumulated until payment, that is not converted to additional reversionary pension is payable as a lump sum.

### Benefits on death of pensioner

**11.3.25** On the death of a pensioner in receipt of additional pension under Rule 11.3.5, additional reversionary pension is payable under the same conditions and to the same person or persons, and, where relevant, in the same proportions as are payable to those persons, as reversionary pension is payable under Part 7. The additional reversionary pension is calculated in

accordance with the provisions of Division 3 of Part 9 relevant to the relationship(s) to the **deceased pensioner**.

### **Benefits on death - additional reversionary pension not payable**

**11.3.26** If additional reversionary pension is not payable on the death of a pensioner in receipt of additional pension, or additional reversionary pension ceases to be payable, a lump sum is payable of the amount, if any, by which the sum of the Accumulated Transfer Amount at the date the additional pension became payable and:

- (a) if the **deceased pensioner** did not retire on invalidity grounds and was not a **preserved benefit member** immediately before becoming a pensioner, his/her
  - (i) **accumulated member contributions**; and
  - (ii) **accumulated productivity contributions**;

or

- (b) if the **deceased pensioner** retired on invalidity grounds and was not a **preserved benefit member** immediately before becoming a pensioner, his/her **final benefit accrual**;

exceeds the total amount of benefits in the form of pension or lump sum paid to, or in respect of, the deceased pensioner, including to a **spouse** or children entitled to benefits, since his/her **last day of membership**.

**11.3.27** If additional reversionary pension is not payable on the death of a pensioner in receipt of additional pension who was a **preserved benefit member** immediately before becoming a pensioner, or additional reversionary pension ceases to be payable, a lump sum is payable of the amount, if any, by which the sum of the Accumulated Transfer Amount at the date the additional pension became payable and the:

- (a) **accumulated member contributions** included in the **preserved benefit** at the date it became payable; and
- (b) **accumulated productivity contributions** included in the **preserved benefit** at the date it became payable;

exceed the total amount of benefits in the form of pension or lump sum paid to, or in respect of, the **deceased pensioner**, including to a **spouse** or children entitled to benefits, since the **preserved benefit** became payable.

**11.3.28** The **Board** may pay any lump sum under Rules 11.3.26 or 11.3.27 to:

- (a) any child or children of the **deceased pensioner** who is or are not otherwise eligible for benefits; or
- (b) the deceased pensioner's **legal personal representative**; or

- (c) one or more individual persons (apportioned as necessary) if there is no child or children to whom the lump sum can be paid and, after making reasonable enquiries, a **legal personal representative** can not be found.

## PART 12 - GENERAL BENEFIT PROVISIONS

### Division 1

#### Choosing Benefit Options

##### When a member can choose his/her benefit option

**12.1.1** If a **member** or former member has more than one benefit option available under Part 6 and/or Part 11 of these Rules, he/she may choose one of those options within the period commencing three months before and ending three months after he/she ceases membership, or within such further period as the **Board** allows.

##### Who can choose on behalf of a member or former member

**12.1.2** If a person has more than one benefit option available under these Rules and is, because of physical or mental incapacity, unable to choose one of those options, the **Board** may permit another person to choose an option on behalf of the person within such period as the **Board** allows.

**12.1.3** If a former member who has more than one benefit option available under these Rules dies before choosing one of those options:

- (a) his/her **spouse**, if any; or
- (b) another person permitted by the **Board**, if the former member was not survived by a **spouse**, or his/her **spouse** dies before exercising the former member's benefit option, but is survived by an **eligible child** or children;

may choose a benefit option on behalf of the former member within such period as the **Board** allows. If the former member is not survived by a **spouse** or child entitled to benefits, the **final benefit accrual** in relation to the former member will be paid as a lump sum.

##### Changing a benefit option choice

**12.1.4** The **Board** may approve a request by a person to:

- (a) cancel his/her original benefit option choice; and
- (b) replace that original choice with another option available to him/her under these Rules;

if the request is made within three months of choosing a benefit option under these Rules, or such further period as the **Board** allows.

**12.1.5** The approval of the **Board** under Rule 12.1.4 to replace an original choice with another option, is not effective after a benefit has been paid or commenced to be paid unless:

- (a) if the request is to replace all or part of a lump sum payment with a pension benefit or increased pension benefit:
  - (i) the amount of lump sum paid that is no longer payable, together with such interest, if any, as the **Board** determines is repaid by the date specified by the **Board**; and
  - (ii) pension instalments flowing from the reduced lump sum entitlement only become payable from the **pension payday** next following repayment of the lump sum amount determined above; and
- (b) if the request is to replace all or part of a pension benefit with a lump sum payment, such conditions as the **Board** thinks fit are met for the repayment or offsetting of pension instalments paid that are no longer payable; and
- (c) if the request is to replace a transfer of benefits to an **eligible superannuation scheme** under Rule 6.8.6 or 6.8.7, such conditions as the **Board** thinks fit are met to achieve an equitable substitution of that benefit option.

**Note:**

Rule 12.1.3 covers the situation where a *former member* or *former preserved benefits member* dies before choosing a benefit option and any payment resulting from a choice made *on behalf* of him/her is the former member's entitlement, not the entitlement of the person making the choice.

This is different to the situation where a member or preserved benefits member dies. Payments made in this situation are the entitlement of the person receiving the payment, except where payment is made to a legal representative.

## Division 2

### Board's Powers Relating to Benefits

#### Benefits in unusual circumstances

12.2.1 If, in a particular case, the **Board** is of the opinion that:

- (a) the operation of the Rules would otherwise produce 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, having regard to the principles in the Rules and the need for equity between members, including preserved benefit members, vary any of the components or factors applicable in the determination of benefits, whether or not any benefit is immediately payable.

#### Paying benefits to legal personal representative

12.2.2 The **Board** may pay all or part of a former member's lump sum payment, fortnightly instalment of pension, including **partial invalidity pension**, or pre-assessment payments to the **legal personal representative** of the member where:

- (a) in the opinion of the **Board**, the former member is insane; or
- (b) the former member is in prison; or
- (c) for any other reason, the **Board** considers it appropriate.

#### Payment of benefits to eligible roll-over fund where no instructions

12.2.3 The **Board** may pay:

- (a) a benefit which must be taken in the form of a lump sum; or
- (b) a **preserved benefit**;

to a fund declared by the Insurance and Superannuation Commission to be eligible to receive unclaimed benefits under Part 24 of the **SIS Act** if:

- (i) 90 days have passed since the benefit became payable; and
- (ii) the person in relation to whom the benefit is payable has not informed the **Board** in writing how he/she wishes the benefit to be paid.



**Payment of unclaimed benefits to eligible roll-over fund**

12.2.4 The Board must pay a benefit which must be taken in the form of either:

- (a) a lump sum; or
- (b) a **preserved benefit**;

to a fund declared by the Insurance and Superannuation Commission to be eligible to receive unclaimed benefits under Part 24 of the **SIS Act** if the **Board** is satisfied that at least 2 consecutive prescribed reports of the kind referred to in paragraph 244(3)(b) of the **SIS Act** in respect of the **PSS Fund** have not been received by the person in respect of whom the benefit is payable.

**Withholding benefits**

12.2.5 The **Board** may withhold payment of all or part of a benefit from a person who does not provide, or arrange to provide, information required by the **Board** to determine:

- (a) that person's entitlement to a benefit under these Rules; or
- (b) the level of benefit payable to that person under these Rules.

**Board may determine break-up of part payments**

12.2.6 Subject to any requirements of the *Income Tax Assessment Act 1936*, the **Board** may determine the funded and unfunded composition of any payments of lump sums that do not represent the full lump sum entitlement of a former member or of a class of persons.

## Division 3

### Additional Interest

#### Additional interest for late payment

**12.3.1** The Board may add an amount of interest to the benefit payment if:

- (a) payment of a lump sum benefit; and/or
- (b) commencement of pension instalments;

payable under these Rules is, or is expected to be, delayed by circumstances outside the control of the person entitled to the lump sum and/or pension benefit.

#### Board to decide interest rates, etc.

**12.3.2** The Board will determine:

- (a) the rate or rates of interest to apply;
- (b) the method of allocating the rate or rates of interest; and
- (c) the period for which interest is to accrue;

in respect of any interest payable under this Division.

#### Additional interest to form part of benefit

**12.3.3** Interest payable under this Division forms part of the benefit payable to, or in respect of, a former member for the purposes of the Rules, other than the Rules in:

- (a) this Division; and
- (b) Divisions 6 and 7 of Part 5 relating to maximum benefits.

## PART 13 - REVIEW OF DECISIONS

### Division 1

#### Reconsideration Advisory Committees

##### Establishing Reconsideration Advisory Committees

**13.1.1** The **Board** will establish one or more Reconsideration Advisory Committees comprising people with such qualifications as the **Board** determines and may refer a **decision** of the **Board**, or of a delegate of the **Board**, to be reconsidered to a Reconsideration Advisory Committee for advice. A member of a Reconsideration Advisory Committee may also be a trustee of the **PSS scheme**.

**13.1.2** Subject to any **Board** directions, a Reconsideration Advisory Committee will regulate its own affairs.

##### Board responsibilities to Reconsideration Advisory Committees

**13.1.3** Where the **Board** has referred a **decision** to a Reconsideration Advisory Committee, the **Board** is to provide the Committee with all relevant evidence and information.

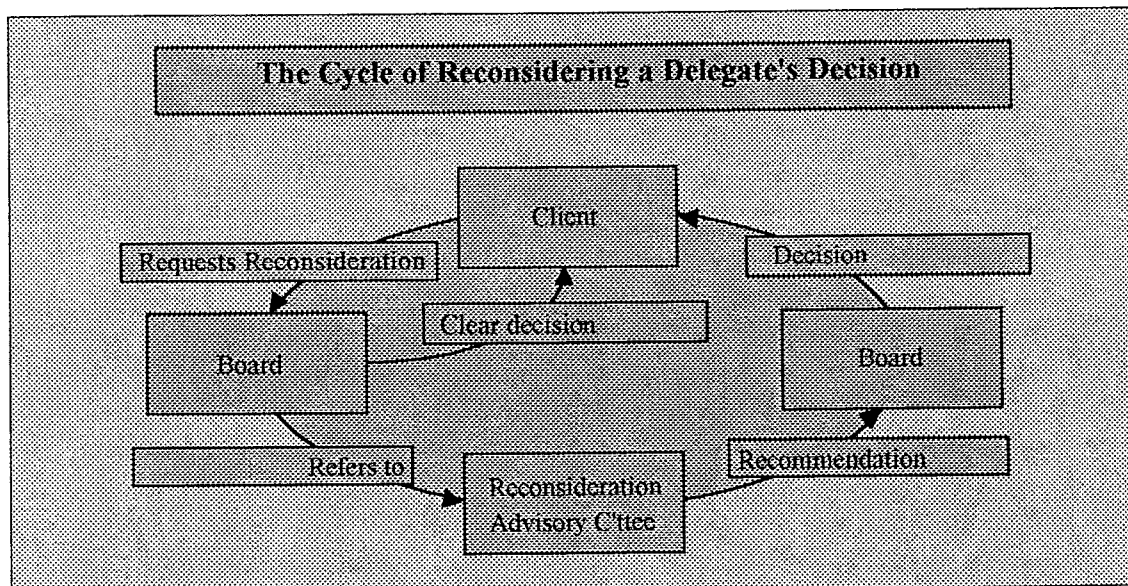
##### Role of Reconsideration Advisory Committees

**13.1.4** Where the **Board** has referred a **decision** to a Reconsideration Advisory Committee, the Reconsideration Advisory Committee is to:

- (a) gather such evidence as it requires to examine the **decision**; and
- (b) make a recommendation to the **Board** whether the **decision** should be affirmed, varied, substituted or set aside.

## Division 2

### Reconsidering Delegate's Decisions



#### Request for reconsideration

13.2.1 A person affected by a **decision** made by a delegate of the **Board** may request the **Board** to reconsider the original **decision**.

13.2.2 A request for reconsideration must be made in writing, or any other form acceptable to the **Board**, and must set out the particulars of the **decision** to be reconsidered.

#### Board to reconsider decision of delegate

13.2.3 Where the **Board** accepts a request to reconsider a **decision** of a delegate of the **Board**, the **Board** must decide whether to affirm the original **decision**, vary the **decision**, substitute another **decision** or set the **decision** aside, after considering:

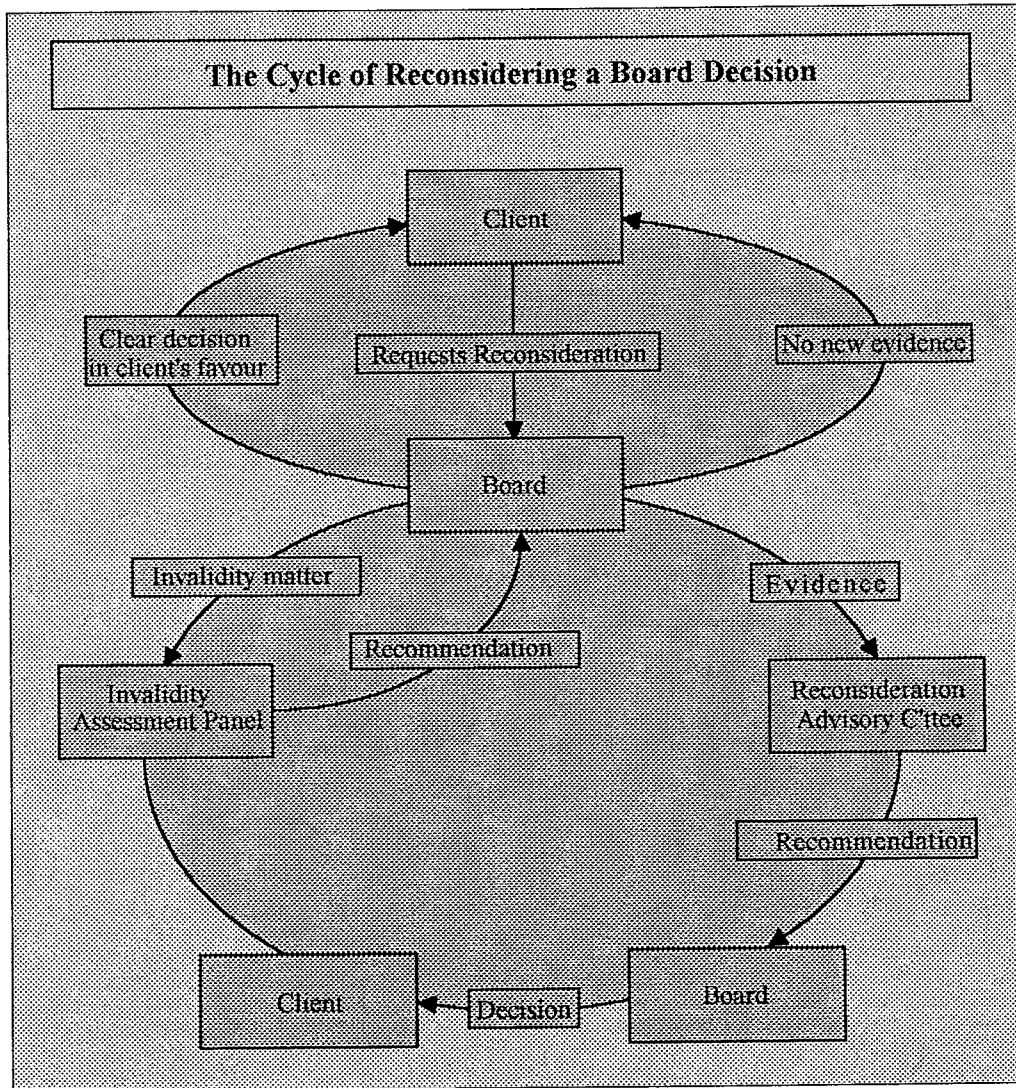
- (a) the recommendation of a Reconsideration Advisory Committee, if any; and
- (b) any other matters the **Board** considers relevant.

#### Board decision to be notified to affected person

13.2.4 The **decision** of the **Board** under Rule 13.2.3 on a reconsideration must be notified to the person requesting reconsideration of the original **decision**. The notification is to include a statement of reasons for the **decision**.

## Division 3

### Reconsidering Board Decisions



#### Request for reconsideration

**13.3.1** A person affected by a **decision** of the **Board**, including a **decision** under Division 2 or 4 of this Part, may request the **Board** to reconsider that **decision**.

**13.3.2** A request for reconsideration of a **decision** of the **Board** must be made in writing and:

- (a) set out the particulars of the **decision** to be reconsidered; and
- (b) specify the grounds for the request; and
- (c) include new evidence, being evidence not previously known to the **Board**, supporting the grounds for the request; and

- (d) be accompanied by the fee prescribed under the *Superannuation Act 1990*.

**13.3.3** The **Board** must not proceed with a request for reconsideration of a **decision** of the **Board**:

- (a) that does not include new evidence; or
- (b) if in the opinion of the **Board**, the evidence included in the request does not support the grounds specified for the request;

and the **Board** may refund the fee paid. The **Board** may subsequently proceed with the request if sufficient new evidence is provided.

#### Clear decision in favour of person

**13.3.4** If the **Board** accepts a request to reconsider a **decision** of the **Board**, the **Board** may decide in favour of the person seeking reconsideration without referring the request to a Reconsideration Advisory Committee or to an Assessment Panel if, after considering:

- (a) the new evidence provided with the request; and
- (b) any other evidence the **Board** considers relevant;

it is satisfied there is no reasonable doubt it should decide in favour of the person.

#### Invalidity Assessment Panel involved in original decision

**13.3.5** If the **Board** accepts a request to reconsider an invalidity related **decision** made by the **Board** after considering the recommendation of an Assessment Panel, other than a request already agreed to under Rule 13.3.4, the **Board** must:

- (a) refer the request to an Assessment Panel; and
- (b) provide the Panel with:
- (i) the new evidence provided with the request; and
- (ii) any other evidence the **Board** considers relevant.

**13.3.6** If the **Board** has referred a reconsideration request to an Assessment Panel, the Panel is to make a recommendation with supporting reasons to the **Board**:

- (a) if the **Board** has to reconsider whether to approve the **invalidity retirement** of a **member**, whether the **member** is **totally and permanently incapacitated**; and
- (b) if the **Board** has to reconsider whether to pay a **preserved benefit** on invalidity grounds under Rule 8.1.1(c), whether the former member is:
- (i) suffering from a **terminal medical condition**; or

- (ii) **totally and permanently incapacitated;**  
as appropriate; and
- (c) if the **Board** has to reconsider whether to regard a former member as having ceased membership on **invalidity retirement** under Rule 8.5.2, whether the former member was **totally and permanently incapacitated** on his/her last day of membership; and
- (d) on any other matters the panel considers relevant or the **Board** requires;

within the period specified by the **Board**.

#### Referral of request to a Reconsideration Advisory Committee

**13.3.7** The **Board** must refer a request to reconsider one of its decisions that it has accepted, to a Reconsideration Advisory Committee, after first obtaining, if appropriate, the recommendation of an Assessment Panel, unless the request has already been agreed under Rule 13.3.4.

#### Board to reconsider decision

**13.3.8** The **Board** must decide whether to affirm a **decision** under reconsideration, other than a decision already made under Rule 13.3.4, vary the **decision**, substitute another **decision** or set the **decision** aside, only after considering:

- (a) the recommendation of the Reconsideration Advisory Committee; and
- (b) any other matters the **Board** considers relevant;

and may refund the fee paid.

#### Board decision to be notified to affected person

**13.3.9** The **decision** of the **Board** under Rule 13.3.4 or 13.3.8 must be notified to the person requesting reconsideration of the original **decision**. The notification is to include a statement of reasons for the **decision**.

## Division 4

### Board Initiated Reconsiderations

#### Board may initiate a reconsideration of a decision

**13.4.1** The **Board**, on its own motion, may initiate the reconsideration of a delegate's decision or a decision of the **Board** and may vary the **decision**, substitute another **decision** or set the **decision** aside. The **Board** will advise the person affected of that reconsideration and any changed **decision**.



## PART 14 - CSS TRANSFEREES

### Division 1

#### Commencement of Membership

##### Day on which membership commences

**14.1.1** The first day of membership of the PSS scheme for a member who had previously been an eligible employee under the *Superannuation Act 1976* is:

- (a) 1 July 1990 - if the person:
  - (i) had been a member of the **CSS scheme** on 30 June 1990; and
  - (ii) was not on leave without pay at that date; and
  - (iii) remained a member of the **CSS scheme** until the date of his/her election to join the **PSS scheme**; and
  - (iv) elected before 1 July 1991 to join the **PSS scheme**; or
- (b) 1 July 1990 - if the person had been a member of the **CSS scheme** on 30 June 1990, and:
  - (i) was on leave without pay from his/her employer, or was deemed by section 87C(6) of the *Public Service Act 1922* to be absent from duty on leave without pay from the Australian Public Service, for the period 1 July 1990 to 31 March 1991 or any later date (and was not engaged in employment with another employer whose staff were covered by the **PSS scheme**); and
  - (ii) recommenced duty with his/her employer before 1 July 1991; and
  - (iii) elected before 1 July 1991 to join the **PSS scheme**; and
  - (iv) remained a member of the **CSS scheme** until the date of his/her election to join the **PSS scheme**; or
- (c) the date the person rejoined his/her employer if the person had been a member of the **CSS scheme** on 30 June 1990, and
  - (i) was on leave without pay from his/her employer, or was deemed by section 87C(6) of the *Public Service Act 1922* to be absent from duty on leave without pay from the Australian Public Service, for the period 1 July 1990 to 30 June 1991 or any later date (and was not engaged in employment with another employer whose staff were covered by the **PSS scheme**); and
  - (ii) remained a member of the **CSS scheme** until the date of his/her election to join the **PSS scheme**; or

- (d) the date the person last became a member of the **CSS scheme** if:
  - (i) the person became a member of the **CSS scheme** after 30 June 1990; and
  - (ii) elected to join the **PSS scheme**; or
- (e) the date the person elected to join the **PSS scheme** - if the person:
  - (i) had been a member of the **CSS scheme** on 30 June 1990; and
  - (ii) was not on leave without pay at that date; and
  - (iii) remained a member of the **CSS scheme** until the date of his/her election to join the **PSS scheme**; and
  - (iv) after 1 July 1991, elected under the provisions of section 244 of the *Superannuation Act 1976* to join the **PSS scheme**

#### **Election and declaration under the *Superannuation Act 1976***

**14.1.2** For the purposes of this Part, an election to join the **PSS Scheme** by a member of the **CSS Scheme** includes a declaration under paragraph 244(1)(a) of the *Superannuation Act 1976* that he/she wishes to join the **PSS Scheme**.

## Division 2

### CSS Transfer Multiples

#### Entitlement to CSS Transfer Multiple

14.2.1 A member is entitled to a CSS Transfer Multiple if:

- (a) he/she elected to cease to be an eligible employee under section 244 of the *Superannuation Act 1976*; and
- (b) the Board has received a transfer of assets in respect of the member from the superannuation fund established under the *Superannuation Act 1976* which have become part of the PSS Fund, or is satisfied that such a transfer will be made.

#### Calculation of a CSS Transfer Multiple

14.2.2 A CSS Transfer Multiple is calculated using the following formula:

$$\frac{\text{CSS Transfer Credit}}{\text{CSS Average Salary}}$$

where:

CSS Transfer Credit

is the sum of:

- the amount of the member's paid accumulated contributions under the *Superannuation Act 1976* immediately before his/her **first day of membership**;
  - for this purpose, paid accumulated contributions include two-sevenths of the amount of any transfer value paid on behalf of the member under section 128(2)(a) of the *Superannuation Act 1976* prior to his/her **first day of membership** only, whether or not the employee component of that transfer value was two-sevenths of the total amount;
- and
- an amount that is 2.5 times the amount of the member's accumulated basic contributions under the *Superannuation Act 1976* immediately before his/her **first day of membership**;
  - for this purpose, accumulated basic contributions include:
    - (i) two-sevenths of the amount of any transfer value paid on behalf of the member under section 128(2)(a) of the *Superannuation Act 1976* prior to his/her **first day of membership** only, whether or not the employee

component of that transfer value was two-sevenths of the total amount; and

- (ii) the amount to which a **member** who:
- (a) had become entitled to an invalidity benefit under section 66 of the *Superannuation Act 1976*; and
  - (b) had elected under section 68 or 71 of that Act to take part of the invalidity benefit as a lump sum; and
  - (c) had subsequently again become an eligible employee under that Act;

would have been entitled if he/she had not elected to take part of the invalidity benefit as a lump sum;

and

- whichever of the following is applicable in relation to the **member**:
  - the amount, if any, of unfunded productivity benefits (the notional interim benefit under section 8A of the *Superannuation (Productivity Benefit) Act 1988*);
  - the amount, if any, of funded productivity contributions and interest under the *Superannuation Act 1976* immediately before his/her **first day of membership**;
  - the amount, net of tax, of any transfer value paid on behalf of the **member** under section 128 of the *Superannuation Act 1976* on or after his/her **first day of membership**;
  - the amount, net of tax, of any payment under section 110K, 110L or 110M of the *Superannuation Act 1976* on behalf of the **member** on or after his/her **first day of membership**;

and

- the amount immediately before his/her **first day of membership** in relation to non-contributory units held by the **member** under the *Superannuation Act 1922* on ceasing to be a contributor under that Act;

and

CSS Average Salary

is:

- the average of the member's annual rates of salary under the *Superannuation Act 1976* on the three birthdays preceding his/her **first day of membership**; or
- if his/her period of membership of the **CSS scheme** (or last period of membership if he/she had been an eligible employee under the *Superannuation Act 1976* more than once) did not encompass three birthdays, the average of the **member's** annual rates of salary under the *Superannuation Act 1976* on:
  - his/her birthdays which occurred whilst he/she was an eligible employee under that Act; and
  - his/her first day of service for the purposes of that Act (if not a birthday);

provided that:

- for a **member** in receipt of a partial invalidity pension on a birthday (or first day of service), the annual rate of salary under the *Superannuation Act 1976* is the rate that would have applied if the **member** had ceased to be an eligible employee under that Act on that day; and
- the **Board** may use an alternative salary where it considers that the CSS Average Salary calculated above is not in accordance with the spirit of the Rules and would lead to inequitable treatment between members.

**14.2.3** Where the **Board** has used an alternative salary for the purposes of CSS Average Salary in the formula in Rule 14.1.2, the affected **member** is to be:

- (a) advised of the use of that alternative salary and his/her resultant CSS Transfer Multiple; and
- (b) given the opportunity to reconsider his/her decision to transfer to the **PSS scheme**.

## Division 3

### Maximum Benefits

#### Calculating maximum benefits for certain CSS transferees

**14.3.1** The **maximum benefit** of a **member** entitled to a CSS Transfer Multiple is the amount calculated under Rule 14.3.2, if the **member** is excluded from the operation of Rule 5.6.2 because the benefit amount calculated in respect of the **member** by the formula:

$$(\text{CSS Transfer Multiple} + \text{On-going Multiple}) \times \text{Average Salary}$$

as at the day he/she elected to cease to be an eligible employee under the *Superannuation Act 1976* exceeds the amount from the Table *Maximum Benefits* in Rule 5.6.2 applicable to the member's **average salary** on that day.

**14.3.2** The **maximum benefit** in respect of a **member** entitled to a CSS Transfer Multiple who is excluded from the operation of Rule 5.6.2 is the amount calculated by the formula:

$$\text{Normal Maximum Benefit} \times \text{Scaling Factor}$$

where:

Normal Maximum Benefit is the amount from the Table *Maximum Benefits* in Rule 5.6.2 opposite the member's average salary as at the day he/she elected to cease to be an eligible employee under the *Superannuation Act 1976*; and

Scaling Factor is calculated by the formula:

$$\frac{(\text{CSS Transfer Multiple} + \text{On-going Multiple}) \times \text{Average Salary}}{\text{Normal Maximum Benefit}}$$

where the member's:

- (a) CSS Transfer Multiple; and
- (b) On-going Multiple; and
- (c) Normal Maximum Benefit; and
- (d) **average salary**;

are assessed as at the day the **member** elected to cease to be an eligible employee under the *Superannuation Act 1976*.

## Division 4

### Contribution Matters

#### CSS contributions to count as member contributions

**14.4.1** Member contributions include any contributions under the *Superannuation Act 1976* paid in the period from the member's **first day of membership** to the date of his/her election to join the **PSS scheme** by a **member** who is entitled to a CSS Transfer Multiple under Division 2 of this Part.

#### Contribution days to count

**14.4.2** A **contribution day** includes any contribution day for the purposes of the *Superannuation Act 1976* on which contributions were payable that occurred since a **member** entitled to a CSS Transfer Multiple who is now a **casual member** but who was an eligible employee under that Act last became such an eligible employee.

#### Contribution due days to count

**14.4.3** A **contribution due day** includes:

- (a) any contribution day for the purposes of the *Superannuation Act 1976* which occurred in the period from the member's **first day of membership** to the date of his/her election to join the **PSS scheme**; and
- (b) any contribution day for the purposes of the *Superannuation Act 1976* after a **member** last became an eligible employee for the purposes of that Act;

on which the **member** was required to pay contributions.

#### Default rate of contributions

**14.4.4** The contributions of a **member** entitled to a CSS Transfer Multiple continue at the lesser of:

- (a) the rate the **member** was last paying under the *Superannuation Act 1976*; or
- (b) 10% of **fortnightly contribution salary**

until he/she chooses a different contribution rate under Rule 4.1.3.