

**ELEVENTH 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 10 December 1996 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 dated 21 June 1990 (in this Deed called "the Trust Deed") an occupational superannuation scheme (in the Deed called the "Public Sector 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 by signed instrument, amend the Trust Deed;

AND WHEREAS by Deeds dated 21 June 1990, 1 July 1991, 30 June 1992, 21 December 1992, 16 June 1993, 24 January 1994, 7 March 1994, 28 June 1994, 22 June 1995 and 29 January 1996 (the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth and Tenth Amending Deeds, respectively) the Minister amended the Trust Deed and the Rules for the administration of the Public Sector Superannuation Scheme set out in the Schedule to the Trust Deed;

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

1. Subject to this Clause, this Deed has effect from the date of gazettal [see the *Acts Interpretation Act 1901*, sections 46A and 48].
 - 1.1 Subclause 3.46 has effect from 1 July 1995.
2. The Trust Deed is amended as follows:
 - 2.1 Clause 4.2 is replaced with the following Clause:

"4.2 The 5th Trustee, who will also be the Chairperson of the Board, shall be appointed by the Minister in agreement with the other 4 Trustees in relation to the appointment."
3. The Rules are amended as follows:
 - 3.1 Rule 1.2.1 is amended by replacing the definition of **compensation leave** with the following definition:

"**compensation leave** means any period during which a person is absent full-time from his/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 *Safety, Rehabilitation and Compensation Act 1988* or any period in respect of which persons not covered by that Act are receiving similar compensation payments."

3.2 Rule 1.2.1 is amended by replacing the second dot point of the definition of **contribution day** with the following dot point:

- "• another day that is determined by the **Board** to be a **contribution day** in relation to a **member** who transfers out of the **PSS scheme** on the sale or transfer of all or part of a particular organisation, business, service, asset or function; and"

3.3 Rule 1.2.1 is amended by replacing the definition of **equivalent employment** with the following definition:

"**equivalent employment** in relation to the sale or transfer of all or part of an organisation, business, service, asset or function, means the definition of subsequent employment determined by the **Board** having regard to any definition agreed between the parties negotiating that sale or transfer."

3.4 Rule 1.2.1 is amended by replacing the seventh dot point of the definition of **involuntary retirement** with the following dot point:

- "• in the case of a **fixed-term employee**, in the circumstances referred to in Rules 6.4.1, 6.4.2, 6.4.4, 6.4.9, 6.4.10 and 6.4.11;"

3.5 Rule 1.2.1 is amended by replacing the tenth dot point of the definition of **involuntary retirement** with the following dot point:

- "• on the sale or transfer of all or part of an organisation, business, service, asset or function (*see Divisions 6 and 7 of Part 6*); or"

3.6 Rule 3.1.4 is amended by replacing subparagraph (a)(ii) with the following subparagraphs:

- "(ii) his/her annual CSS salary, if any, on the day he/she last commenced as a **regular member** (*see Division 4 of this Part*); or
- (iii) his/her salary for average salary purposes under paragraph 3.5.2(d) or (e), as the case may be, on the day he/she last commenced as a **regular member** (*see Division 5 of this Part*);"

3.7 Rule 3.5.2 is replaced with the following Rule:

"**3.5.2** For the purposes of the calculation under Rule 3.5.1, the salary for average salary purposes of a **regular member** is the greater of:

- (a) the sum of his/her annual rate of **basic salary** and **recognised allowances**, if any, payable as for full time work; and

- (b) the sum of his/her annual maintained basic salary and maintained recognised allowances, if any (*see Division 3 of this Part*); and
- (c) his/her annual CSS salary, if any (*see Division 4 of this Part*) calculated as though he/she had continued to be an eligible employee under the *Superannuation Act 1976* until ceasing to be an eligible employee on the day at which the calculation is made; and
- (d) if he/she was a **casual member** paid fees on a per diem basis in respect of an office or position during his/her **period of membership**, the highest of the amounts in respect of any 12 months preceding an anniversary of birth while such a **casual member** calculated by multiplying the per diem fee applicable to him/her on that anniversary of birth by:
 - (i) the number of days in that 12 months on which he/she was paid for holding that office or position, including days not worked in the office or position that attracted compensation payments; or
 - (ii) if the office or position had been held for less than 12 months preceding that anniversary of birth:
 - (A) the number of days, if any, on which he/she was paid for holding that office or position, including days not worked in the office or position that attracted compensation payments; and
 - (B) the number of days in the remainder of a 12 month period on which either the per diem fee would have been paid if the pattern of expected fees applied in the remainder of a 12 month period, or that would attract compensation payments in respect of days not worked in the office or position; and
- (e) if he/she was a **casual member** not paid on a per diem basis during his/her **period of membership**, the highest of the amounts of his/her annual **basic salary and recognised allowances**, if any, that would have been paid in any preceding year ending immediately before an anniversary of birth on which he/she was a **casual member** if:
 - (i) he/she worked full-time for a year ending on that anniversary; and
 - (ii) he/she received throughout that year the hourly rate of **basic salary and recognised allowances**, if any, applicable to the duties he/she undertook (including in respect of any hours not being worked, hours that attracted compensation payments):
 - (A) on the anniversary of birth; or
 - (B) when next undertaking duties after the anniversary of birth, if he/she had no duties on the anniversary of birth."

3.8 Rule 4.1.2 is replaced with the following Rule:

4.1.2 A **member** may choose to pay contributions at any whole percentage rate that is not less than 2% or more than 10% of his/her **fortnightly contribution salary**, unless he/she is on **compensation leave** (*see Rule 4.1.4*). A **member** who does not choose a contribution rate will be deemed to have chosen the rate of 5% unless:

- (a) he/she is entitled to a CSS Transfer Multiple (*see rule 14.4.4*); or
- (b) the **Board** allows the **member** to choose a different contribution rate for arrears under Rule 4.1.8."

3.9 The following Rule and its heading are inserted after Rule 4.1.7:

Board to allow members to choose a contribution rate for arrears in certain circumstances

"**4.1.8** The **Board** may allow a **member** to choose to pay contributions at a whole percentage rate that is not less than 2% of his/her **fortnightly contribution salary** in respect of the contribution due days occurring during a period in which:

- (a) the **member** did not commence to make contributions;
- (b) the **member** is required to pay in arrears the amount of **member contributions** due; and
- (c) his/her **designated employer** is required to pay in arrears the amount of **funded productivity contributions** due in relation to the **member**."

3.10 Rule 6.1.1 is amended by replacing paragraph (A) with the following paragraph:

"(A) ceased membership on the sale or transfer of all or part of an organisation, business, service, asset or function (*see Divisions 6 and 7 of this Part*); or"

3.11 Rule 6.2.1 is replaced with the following Rule:

"**6.2.1** A **member** who ceases membership on voluntary retirement, resignation or dismissal on or after **minimum retiring age** may choose:

- (a) to be paid a lump sum of that part of his/her **final benefit accrual** that is permitted to be paid in cash under the **SIS Act**, or a lump sum of less than that part, and:
 - (i) leave the balance, if any, of his/her **final benefit accrual** in the scheme as a **preserved benefit**; or
 - (ii) if the balance is 50% or more of his/her **final benefit accrual**, convert the balance into a **pension**; or
- (b) to take his/her **final benefit accrual** as a **pension**; or
- (c) to leave his/her **final benefit accrual** in the scheme as a **preserved benefit**; or
- (d) *paragraph deleted in the 11th Amending Deed*
- (e) to combine his/her **final benefit accrual** with the benefit accruing under another current **period of membership**, provided the combined benefit does not exceed his/her **maximum benefit** (*see Rules 5.2.20 and 5.3.20*);

unless the **member**:

- (A) ceased membership before age 60 and remains in the workforce (*see Rule 6.2.2*); or
- (B) *paragraph deleted in the 11th Amending Deed*
- (C) ceased membership on the sale or transfer of all or part of an organisation, business, service, asset or function (*see Divisions 6 and 7 of this Part*); or
- (D) transfers his/her benefits to an **eligible superannuation scheme** (*see Rule 6.8.6*), or joins an **approved superannuation scheme** (*see Rule 6.8.10*) or an **authorised superannuation scheme** (*see Rule 6.8.11*)."

3.12 Rule 6.2.2 is replaced with the following Rule:

"6.2.2 A **member** who ceases membership on voluntary retirement, resignation or dismissal on or after **minimum retiring age** and remains in the workforce is entitled to:

- (a) leave his/her **final benefit accrual** in the scheme as a **preserved benefit**; or
- (b) choose to be paid a lump sum of that part of his/her **final benefit accrual** that the **SIS Act** permits to be paid in cash and that does not exceed his/her **accumulated member contributions**, leaving the balance in the scheme as a **preserved benefit**;

unless the **member**:

- (A) ceased membership on or after age 60 (*see Rule 6.2.1*); or
- (B) ceased membership on the sale or transfer of all or part of an organisation, business, service, asset or function (*see Divisions 6 and 7 of this Part*); or
- (C) transfers his/her benefits to an **eligible superannuation scheme** (*see Rule 6.8.6*), or joins an **approved superannuation scheme** (*see Rule 6.8.10*) or an **authorised superannuation scheme** (*see Rule 6.8.11*)."

3.13 Rule 6.2.3 is amended by replacing paragraphs (A) and (B) with the following paragraphs:

- "(A) ceased membership before age 60 and remains in the workforce (*see Rule 6.2.2*); or
- (B) ceased membership on the sale or transfer of all or part of an organisation, business, service, asset or function (*see Divisions 6 and 7 of this Part*); or"

3.14 Rule 6.3.3 is replaced with the following Rule:

"6.3.3 A **member** who ceases membership on **involuntary retirement** on or after **minimum retiring age** may choose:

- (a) to be paid a lump sum of that part of his/her **final benefit accrual** that is permitted to be paid in cash under the **SIS Act**, or a lump sum of less than that part, and:

- (i) leave the balance, if any, of his/her **final benefit accrual** in the scheme as a **preserved benefit**; or
 - (ii) **roll-over** the balance, if any, of his/her **final benefit accrual**; or
 - (iii) if the balance is 50% or more of his/her **final benefit accrual**, convert the balance into a **pension**; or
- (b) to take his/her **final benefit accrual** as a **pension**;
 - (c) to leave his/her **final benefit accrual** in the scheme as a **preserved benefit**; or
 - (d) to **roll-over** his/her **final benefit accrual**; or
 - (e) to combine his/her **final benefit accrual** with the benefit accruing under another current **period of membership**, provided the combined benefit does not exceed his/her **maximum benefit** (*see Rules 5.2.20 and 5.3.20*);

unless the **member** transfers his/her benefits to an **eligible superannuation scheme** (*see Rule 6.8.6*), or joins an **approved superannuation scheme** (*see Rule 6.8.10*) or an **authorised superannuation scheme** (*see Rule 6.8.11*).

3.15 Rule 6.6.1 is amended by deleting the words "by the Commonwealth".

3.16 Rule 6.6.2 is amended by deleting the words "by the Commonwealth".

3.17 Rule 6.6.3 is replaced with the following Rule:

6.6.3 A **member** who ceases membership on the sale or transfer of all or part of an organisation, business, service, asset or function and:

- (a) as a result of the sale or transfer of that organisation, business, service, asset or function continues in employment but changes employer; and
- (b) was not allowed to continue to be a **member** of the scheme after the sale or transfer;

may choose:

- (i) to take his/her **final benefit accrual** as a **pension**; or
- (ii) to leave his/her **final benefit accrual** in the scheme as a **preserved benefit**; or
- (iii) to **roll-over** his/her **final benefit accrual**; or
- (iv) that part of his/her **final benefit accrual** that does not exceed his/her **accumulated member contributions** and that the **SIS Act** permits to be paid in cash, or a lump sum less than that amount, and:

- (A) leave the balance of his/her **final benefit accrual** in the scheme as a **preserved benefit**; or
- (B) **roll-over** the balance of his/her **final benefit accrual**; or
- (C) convert the balance of his/her **final benefit accrual** into a **pension**; or
- (v) to combine his/her **final benefit accrual** with the benefit accruing under another current **period of membership**, provided the combined benefit does not exceed his/her **maximum benefit** (*see Rules 5.2.20 and 5.3.20*);

unless he/she transfers his/her benefits to an **eligible superannuation scheme** (*see rule 6.8.6*), or joins an **approved superannuation scheme** (*see rule 6.8.10*) or an **authorised superannuation scheme** (*see rule 6.8.11*)."

3.18 The following Rule is inserted after Rule 6.6.3:

"6.6.4 A **member** who ceases membership on the sale or transfer of all or part of an organisation, business, service, asset or function and:

- (a) continues in employment in that sold or transferred organisation, business, service, asset or function, but does not change employer; and
- (b) was not allowed to continue to be a **member** of the scheme after the sale or transfer;

may choose:

- (i) to preserve his/her **final benefit accrual** in the scheme; or
- (ii) to combine his/her **final benefit accrual** with the benefit accruing under another current **period of membership**, provided it will not cause him/her to exceed his/her **maximum benefit** (*see Rules 5.2.20 and 5.3.20*);

unless he/she transfers his/her benefits to an **eligible superannuation scheme** (*see rule 6.8.6*), or joins an **approved superannuation scheme** (*see rule 6.8.10*) or an **authorised superannuation scheme** (*see rule 6.8.11*)."

3.19 Rule 6.7.1 is replaced with the following Rule:

"6.7.1 A **member** who before 1 July 2000 and before **minimum retiring age** ceases membership on the sale or transfer of all or part of an organisation, business, service, asset or function and is:

- (a) a **permanent employee** who:
 - (i) was not offered employment with the new owner or transferee; or
 - (ii) rejected an offer of less than **equivalent employment** made by the new owner or transferee; or

- (b) a **fixed-term employee** who, though not a **fixed-term employee** referred to in Division 4 of Part 6, ceases membership in circumstances of the kind referred to in Rules 6.4.1, 6.4.2, 6.4.4, 6.4.9, 6.4.10 and 6.4.11 that would entitle the **fixed-term employee** so referred to to **involuntary retirement** benefits and:
- (i) was not offered employment with the new owner or transferee; or
 - (ii) rejected an offer of less than **equivalent employment** made by the new owner or transferee;

is entitled to a **preserved benefit** of his/her **final benefit accrual** or, as an alternative, may choose:

- (A) to take his/her **final benefit accrual** as a **pension**; or
- (B) to **roll-over** his/her **final benefit accrual**; or
- (C) to be paid that part of his/her **final benefit accrual** that the **SIS Act** permits to be paid in cash, or a lump sum less than that amount, and:
 - (i) leave the balance of his/her **final benefit accrual** in the scheme; or
 - (ii) **roll-over** the balance of his/her **final benefit accrual**; or
 - (iii) if the balance is 50% or more of his/her **final benefit accrual**, convert the balance into a **pension**; or
- (D) to combine his/her **final benefit accrual** with the benefit accruing under another current **period of membership**, provided the combined benefit does not exceed his/her **maximum benefit** (see Rules 5.2.20 and 5.3.20);

unless he/she transfers his/her benefits to an **eligible superannuation scheme**."

3.20 Rule 6.7.2 is replaced with the following Rule:

"6.7.2 A member who on or after 1 July 2000 and before **minimum retiring age** ceases membership on the sale or transfer of all or part of an organisation, business, service, asset or function and is:

- (a) a **permanent employee** who:
 - (i) was not offered employment with the new owner or transferee; or
 - (ii) rejected an offer of less than **equivalent employment** made by the new owner or transferee; or
- (b) a **fixed-term employee** first referred to in paragraph 6.7.1(b);

is entitled to a **preserved benefit** of his/her **final benefit accrual** or may choose any one of the options in Rule 6.7.1. The lump sum under Rule 6.7.1(C) is limited to that part of his/her **final benefit accrual** that the **SIS Act** permits to be paid in cash and that does not exceed his/her **accumulated member contributions**. A **preserved benefit** or the choice of option is not available if the **member** transfers his/her benefit to an **eligible superannuation scheme**."

3.21 Rule 6.7.3 is replaced with the following Rule:

"6.7.3 A member who ceases membership before **minimum retiring age** on the sale or transfer of all or part of an organisation, business, service, asset or function and is:

- (a) a **permanent employee** who has rejected an offer of **equivalent employment** made by the new owner or transferee; or
- (b) a **temporary employee** who does not continue employment with the new owner or transferee, other than a **fixed-term employee** first referred to in paragraph 6.7.1(b);

may choose:

- (A) to leave his/her **final benefit accrual** in the scheme as a **preserved benefit**; or
- (B) to be paid a lump sum of his/her **final benefit accrual** if the **SIS Act** does not restrict payment of any part of that amount; or
- (C) to be paid a lump sum of that part of his/her **final benefit accrual** that the **SIS Act** permits to be paid in cash and that does not exceed his/her **accumulated member contributions**, leaving the balance in the scheme as a **preserved benefit**; or
- (D) to combine his/her **final benefit accrual** with the benefit accruing under another current **period of membership**, provided the combined benefit does not exceed his/her **maximum benefit** (*see Rules 5.2.20 and 5.3.20*);

unless the member transfers his/her **final benefit accrual** to an **eligible superannuation scheme** under Division 8 of this Part."

3.22 Rule 6.7.4 is deleted.

3.23 Rule 6.7.5 is replaced with the following Rule:

"6.7.5 A member, being either a permanent or temporary employee, who ceases membership on or after **minimum retiring age** on the sale or transfer of all or part of an organisation, business, service, asset or function and:

- (a) was not offered employment with the new owner or transferee; or
- (b) rejected an offer of employment made by the new owner or transferee;

may choose:

- (i) to be paid a lump sum of that part of his/her **final benefit accrual** that is permitted to be paid in cash under the **SIS Act**, or a lump sum of less than that part, and:
 - (A) leave the balance, if any, of his/her **final benefit accrual** in the scheme as a **preserved benefit**; or
 - (B) **roll-over** the balance, if any, of his/her **final benefit accrual**; or

- (C) if the balance is 50% or more of his/her **final benefit accrual**, convert the balance into a **pension**; or
- (ii) to take his/her **final benefit accrual** as a **pension**; or
- (iii) to leave his/her **final benefit accrual** in the scheme as a **preserved benefit**; or
- (iv) to **roll-over** his/her **final benefit accrual**; or
- (v) to combine his/her **final benefit accrual** with the benefit accruing under another current **period of membership**, provided the combined benefit does not exceed his/her **maximum benefit** (*see Rules 5.2.20 and 5.3.20*);

unless:

- (A) the **member** ceased membership before age 60 and remains in the workforce and is:
 - (i) a **permanent employee** who has rejected an offer of **equivalent employment** made by the new owner or transferee; or
 - (ii) a **temporary employee** who does not continue employment with the new owner or transferee, other than a **fixed-term employee** first referred to in paragraph 6.7.1(b) (*see Rule 6.7.8*); or
- (B) the **member** transfers his/her **final benefit accrual** to an **eligible superannuation scheme** under Division 8 of this Part."

3.24 Rule 6.7.6 is deleted.

3.25 Rule 6.7.7 is amended by replacing paragraph (a) with the following paragraph:

- "(a) before 1 July 1996, ceases membership on or after **minimum retiring age** on the sale or transfer of all or part of an organisation, business, service, asset or function; and"

3.26 Rule 6.7.8 is replaced with the following Rule:

"6.7.8 A **member** who:

- (a) ceases membership on or after **minimum retiring age** on the sale or transfer of all or part of an organisation, business, service, asset or function; and
- (b) is:
 - (i) a **permanent employee** who has rejected an offer of **equivalent employment** made by the new owner or transferee; or
 - (ii) a **temporary employee** who does not continue employment with the new owner or transferee, other than a **fixed-term employee** first referred to in paragraph 6.7.1(b); and
- (c) remains in the workforce;

is entitled only to preserve his/her **final benefit accrual** in the scheme, unless the **member**:

- (A) ceased membership on or after age 60 (*see Rule 6.7.5*); or
- (B) transfers his/her **final benefit accrual** to an **eligible superannuation scheme** under Division 8 of this Part."

3.27 The following Rule and its heading are inserted after Rule 6.7.8:

Calculation of average salary

"6.7.9 When calculating the **average salary** for a **regular member** using the table in Rule 3.5.1, the column headed "Cessation on involuntary retirement" shall be taken to apply to the **member** if he/she ceases membership on the sale or transfer of all or part of an organisation, business, service, asset or function sale retirement and is:

- (a) a **permanent employee** who:
 - (i) was not offered employment with the new owner or transferee; or
 - (ii) rejected an offer of less than **equivalent employment** made by the new owner or transferee; or
- (b) a **fixed-term employee** first referred to in paragraph 6.7.1(b)."

3.28 Rule 7.3.3 is replaced with the following Rule:

"7.3.3 A lump sum of the amount, if any, by which the sum of a deceased pensioner's:

- (a) **accumulated member contributions**; and
- (b) **accumulated productivity contributions**; and
- (c) any additional amount determined by the **Board** having regard to the charge percentages set out opposite relevant years in sections 20 and 21 of the *Superannuation Guarantee (Administration) Act 1992*;

exceeds the total amount of benefits in the form of **pension** or lump sum paid to the **deceased pensioner** since his/her **last day of membership** is payable if the **deceased pensioner**:

- (i) did not retire on invalidity grounds (*see instead Rule 7.3.4*); and
- (ii) was not a **preserved benefit member** immediately before becoming a **pensioner** (*see instead Rule 7.3.5*); and
- (iii) had not transferred a **transfer amount** into the **PSS scheme** before 1 January 1996 (*see instead Rule 11.3.26*); and
- (iv) is not survived by a **spouse** or children eligible for benefits, including partially dependent children."

3.29 Rule 7.3.5 is replaced with the following Rule:

"7.3.5 A lump sum of the amount, if any, by which the sum of a deceased pensioner's:

- (a) **accumulated member contributions** included in a **preserved benefit** at the date the **preserved benefit** became payable; and
- (b) **accumulated productivity contributions** included in a **preserved benefit** at the date the **preserved benefit** became payable; and
- (c) any additional amount determined by the **Board** having regard to the charge percentages set out opposite relevant years in sections 20 and 21 of the *Superannuation Guarantee (Administration) Act 1992*;

exceeds the total amount of benefits in the form of **pension** or lump sum paid to the **deceased pensioner** since the date the **preserved benefit** became payable, is payable if the **deceased pensioner**:

- (i) was a **preserved benefit member** immediately before becoming a **pensioner**; and
- (ii) had not transferred a **transfer amount** into the **PSS scheme** before 1 January 1996 (*see instead Rule 11.3.27*); and
- (iii) is not survived by a **spouse** or children eligible for benefits, including partially dependent children."

3.30 Rule 8.1.1 is replaced with the following Rule:

"8.1.1 A **preserved benefit** applicable to a **preserved benefit member** becomes payable in full on the earliest of the following dates:

- (a) the date he/she reaches age 65; or
- (b) the date he/she chooses in a written notice to the **Board**, if the date chosen is:
 - (i) on or after the date he/she reaches age 55; and
 - (ii) on or after the date he/she has reached the **minimum retiring age** for the position he/she held immediately before ceasing membership; and
 - (iii) on or after the date:
 - (A) he/she retired permanently, or intends to retire permanently, from the workforce; or
 - (B) he/she changes employers or ceases employment on or after he/she reaches age 60; and
- (iv) not earlier than the date of the notice to the **Board**; and
- (v) not later than 60 days after the date of the notice; or

- (c) the date the **Board** decides:
 - (i) he/she is suffering from a **terminal medical condition**; or
 - (ii) he/she is **unlikely**, because of a physical or mental incapacity, ever to be able to work again in a job for which he/she is reasonably qualified by education, training or experience or could reasonably be qualified after retraining; or
- (d) the date he/she dies; or
- (e) the date the **Board** is satisfied he/she intends to leave Australia permanently; or
- (f) the date the administrators of an **eligible superannuation scheme** agree to accept the **preserved benefit** where it is to be transferred as a result of a choice exercised under Rule 6.8.7; or
- (g) the date he/she chooses in a written notice to the **Board**, if:
 - (i) the **preserved benefit member** retired before 1 July 1996 and has a **preserved benefit** chosen under Rules 6.2.3 or 6.7.7; and
 - (ii) the date chosen is:
 - (A) not earlier than the date of the notice to the **Board**; and
 - (B) not later than 60 days after the date of the notice."

3.31 Rule 8.1.2 is deleted.

3.32 Rules 8.2.1 and 8.2.2 are replaced with the following Rules:

"8.2.1 A **preserved benefit member** whose **preserved benefit** has become payable under Rule 8.1.1:

- (a) on the date he/she reaches age 65; or
- (b) on the date chosen by the **preserved benefit member** under paragraph 8.1.1(b);

may choose:

- (A) to take his/her **preserved benefit**:
 - (i) entirely as a **pension**; or
 - (ii) as part **pension**, by converting half or more of the **preserved benefit** into **pension**, and the balance paid as a lump sum;

provided the **preserved benefit** includes all of his/her **accumulated member contributions** (other than any refunded Excess Contribution Multiple), **accumulated productivity contributions** and **unfunded preserved benefit**; or

- (B) to be paid a lump sum of his/her **preserved benefit**.

8.2.2 A **preserved benefit member** whose **preserved benefit** has become payable under Rule 8.1.1 on the date the **Board** decides the benefit is payable on grounds of a **terminal medical condition** or a physical or mental incapacity may choose:

- (a) to take his/her **preserved benefit**:
 - (i) entirely as a **pension**; or
 - (ii) as part **pension**, by converting at least all of his/her **unfunded preserved benefit and accumulated productivity contributions** into **pension**, and the balance paid as a lump sum;

provided the **preserved benefit** includes all of his/her **accumulated member contributions** (other than any refunded Excess Contribution Multiple), **accumulated productivity contributions** and **unfunded preserved benefit**; or

- (b) to be paid a lump sum of his/her **preserved benefit**."

3.33 Rule 8.2.5 is replaced with the following Rule:

"8.2.5 A **preserved benefit member** whose **preserved benefit** has become payable on the date chosen by the **preserved benefit member** under paragraph 8.1.1(g) may choose to take his/her **preserved benefit**:

- (a) entirely as a **pension**; or
- (b) as part **pension**, by converting at least all of his/her **unfunded preserved benefit** into **pension**, and the balance paid as a lump sum."

3.34 Rule 8.3.1 is replaced with the following Rule:

"8.3.1 A **preserved benefit member** who changes employers, or ceases employment, on or after the date his/her **preserved benefit** became applicable may choose, at any time, to be paid a lump sum of that part of his/her **preserved benefit** that the **SIS Act** permits to be paid in cash and does not exceed his/her **accumulated member contributions**, and have the balance of the **preserved benefit** remain in the scheme (*see also Rule 8.2.1, which allows for the full release of preserved benefits in certain circumstances*)."

3.35 Rule 8.3.4 is replaced with the following Rule:

"8.3.4 A **preserved benefit member** who:

- (a) retired on or after **minimum retiring age** before 1 July 1996; and
- (b) has a **preserved benefit** applicable under Rules 6.2.3 or 6.7.7 that includes **accumulated productivity contributions**; and who:
 - (i) retires permanently, or intends to retire permanently, from the workforce; or

- (ii) changes employers, or ceases employment, on or after he/she reaches age 60;

may choose, at any time, to be paid a lump sum of that part of his/her **preserved benefit** that the **SIS Act** permits to be paid in cash and does not exceed all of the **accumulated member contributions** and all the **accumulated productivity contributions** included in his/her **preserved benefit**, and have the balance of the **preserved benefit** remain in the scheme (*see also Rule 8.2.5, which allows for the full release of preserved benefits in certain circumstances*)."

3.36 Rule 8.4.1 is replaced with the following Rule:

"8.4.1 A former **member** who was employed by an organisation, business, service or asset or function nominated by the Minister and agreed by the **Board** immediately before the date of sale or transfer of that organisation, business, service or asset or function, and who:

- (a) was not allowed to continue to be a **member** after the sale or transfer; and
- (b) became entitled to a **preserved benefit** under Rule 6.6.3 or 6.6.4; and
- (c) remains continuously in employment with the new owner or transferee, or any subsequent new owner or transferee; and
- (d) is subsequently retrenched by the new owner or transferee, or any subsequent new owner or transferee, within a period of three years of the date of sale or transfer of the organisation, business, service, asset or function; and
- (e) has not reached his/her **maximum retiring age**;

may choose, within three months of the date of the retrenchment:

- (A) any one of the options in Rule 8.4.2 if he/she has not reached his/her **minimum retiring age** and is retired before 1 July 2000; or
- (B) any one of the options in Rule 8.4.2 with the exception of that set out in paragraph 8.4.2(c) if he/she has not reached his/her **minimum retiring age** and is retired on or after 1 July 2000; or
- (C) any one of the options in Rule 8.4.3 if he/she has reached his/her **minimum retiring age**."

3.37 Rule 8.4.2 is amended by replacing paragraph (e) with the following paragraph:

- "(e) be paid that part of his/her **preserved benefit** that the **SIS Act** permits to be paid in cash and that does not exceed his/her **accumulated member contributions**, and to:
 - (i) retain the balance of his/her **preserved benefit** in the **PSS scheme**; or
 - (ii) **roll-over** the balance of his/her **preserved benefit**; or
 - (iii) convert the balance of his/her **preserved benefit** into a **pension**."

3.38 Rule 8.4.3 is replaced with the following Rule:

"8.4.3 A **preserved benefit member** who is retrenched under the conditions set out in Rule 8.4.1 on or after **minimum retiring age** may choose:

- (a) to be paid a lump sum of that part of his/her **preserved benefit** that is permitted to be paid in cash under the **SIS Act**, or a lump sum of less than that part, and:
 - (i) retain the balance, if any, of his/her **preserved benefit** in the **PSS scheme**; or
 - (ii) **roll-over** the balance, if any, of his/her **preserved benefit**; or
 - (iii) if the balance is 50% or more of his/her **preserved benefit**, convert the balance into a **pension**; or
- (b) to take his/her **preserved benefit** as a **pension**; or
- (c) to retain his/her **preserved benefit** in the **PSS scheme**; or
- (d) to **roll-over** his/her **preserved benefit**."

3.39 Rule 8.5.1 is amended by replacing paragraph (a) with the following paragraph:

"(a) the date the **preserved benefit** becomes fully payable to, or in respect of, him/her under this Part; or"

3.40 Rule 9.5.5 is replaced with the following Rule:

"9.5.5 When no further benefits are payable in respect of a **deceased member** or **deceased pensioner**, a lump sum is payable of the amount, if any, by which the sum of the:

- (a) **accumulated member contributions**; and
- (b) **accumulated productivity contributions**; and
- (c) any additional amount determined by the **Board** having regard to the charge percentages set out opposite relevant years in sections 20 and 21 of the *Superannuation Guarantee (Administration) Act 1992*;

applicable to the **deceased member** or **deceased pensioner** exceeds the total amount of benefits in the form of **pension** or lump sum paid in respect of him/her, and paid to a **deceased pensioner**, since his/her **last day of membership**; the **Board** may pay the lump sum:

- (i) to any child or children (as apportioned by the **Board**) of the **deceased member** or **deceased pensioner** who would otherwise be ineligible for benefits; or
- (ii) to the **legal personal representative** of the **deceased member** or **deceased pensioner**.

If after making reasonable enquiries the **Board** is unable to find the **legal personal representative** of a **deceased member** or **deceased pensioner** the **Board** may pay the lump sum to an individual or apportion it between two or more individuals."

3.41 Rule 10.5.17 is replaced with the following Rule:

"10.5.17 The **Board** may suspend **partial invalidity pension** payments in respect of any period the **member** is on leave without pay unless the **member** is on sick leave without pay and has no sick leave credits applicable."

3.42 Rule 11.3.4 is amended by replacing paragraph (d) with the following paragraph:

"(d) joined the **PSS scheme** before 1 January 1996 but transferred into the **PSS scheme** on or after that date a **transfer amount** that:

- (i) became payable in respect of the **member** before that date; or
- (ii) would, in the Board's opinion, have become payable in respect of the **member** before that date if, in respect of contribution due days that occurred before that date:
 - (A) the **member** did not commence to make contributions;
 - (B) the **member** is required to pay in arrears the amount of **member contributions** due; and
 - (C) the member's **designated employer** is required to pay in arrears the amount of the **funded productivity contributions** due in relation to the **member**; or"

3.43 Rule 11.3.26 is replaced with the following Rule:

"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 greater of either the Accumulated Transfer Amount or the Transfer Multiple 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**; and
 - (iii) any additional amount determined by the **Board** having regard to the charge percentages set out opposite relevant years in sections 20 and 21 of the *Superannuation Guarantee (Administration) Act 1992*;

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**."

3.44 Rule 11.3.27 is replaced with the following Rule:

"**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 greater of either the Accumulated Transfer Amount or the Transfer Multiple 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; and
- (c) any additional amount determined by the **Board** having regard to the charge percentages set out opposite relevant years in sections 20 and 21 of the *Superannuation Guarantee (Administration) Act 1992*;

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."

3.45 Rule 12.2.3 is replaced with the following Rule:

"**12.2.3** The **Board** may pay a benefit which must be taken in the form of either:

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

to an eligible rollover fund as defined in section 242 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."

3.46 Rule 14.3.2 is replaced with the following Rule:

"**14.3.2** The **maximum benefit** in respect of a **member** entitled to a CSS Transfer Multiple who is referred to in paragraph 5.6.1(C) is the amount calculated by the formula:

Normal Maximum Benefit x Scaling Factor

where:

Normal Maximum Benefit is the amount shown opposite the member's **average salary** in the Table *Maximum Benefits* in Rule 5.6.1 (as amended by the Board under Rule 5.6.5 from time to time);

Initial Maximum Benefit is the amount shown opposite the member's **average salary** in the Table *Maximum Benefits* in Rule 5.6.1, assessed as at the day the **member** elected to cease to be an eligible employee under the *Superannuation Act 1976*; and

Scaling Factor is calculated by the formula:

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

where the member's:

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

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

IN WITNESS WHEREOF this Deed has been executed the day and year first hereinbefore written.

SIGNED, SEALED AND DELIVERED)

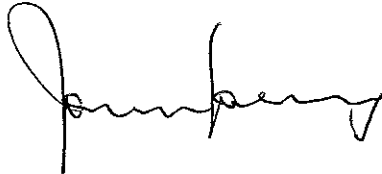
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by the Honourable JOHN JOSEPH FAHEY)

)

Minister for Finance, for and on behalf of)

)



THE COMMONWEALTH OF)

)

AUSTRALIA, in the presence of:)

)



(name)

) Peter Esmord Cullen

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(address)

) 9-9 ~~th~~ Howitt St
) Kingston ACT 2604

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(description)

) Ministerial Adviser

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