

THIS DEED is made on 27th June 2003 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 (which Deed, as previously amended, is in this Deed called “the Trust Deed”) an occupational superannuation scheme (in the Trust 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 the Minister for Finance and Administration may, by signed instrument, amend the Trust Deed but that the Minister may not amend the Trust Deed unless the Board has consented to the amendment or the amendment falls within any of sub-paragraphs (b)(i), (ii) or (iii) of sub-section 5(1A);

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, 29 January 1996, 10 December 1996, 25 March 1998, 5 December 1999, 20 August 2001, 25 September 2001, 26 June 2002 and 3 April 2003 (the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, Sixteenth and Seventeenth 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 and that the Board has consented to those amendments where necessary:

1. Subject to subclause 1.1, the amendments of the Trust Deed and Rules made by this Deed come into effect on the later of:
 - (a) the date of gazettal [see the *Acts Interpretation Act 1901*, sections 46A and 48]; and
 - (b) the time when the *Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Act 2003* receives the Royal Assent.
- 1.1 The amendments of the Rules made by subclauses 3.8, 3.9, 3.10 and 3.23 of this Deed come into effect on 1 July 2003.
2. The Trust Deed is amended as follows:
 - 2.1 Subclause 12.1 is replaced with the following subclauses:

“12.1 The Board may by an instrument under its seal delegate to:

 - (a) a member of the Board; or
 - (b) the Commissioner; or
 - (c) a member of the staff assisting the Commissioner in the performance of his or her functions; or
 - (d) an APS employee in the Department referred to in subclause 1.3(b); or

- (e) an officer or employee of the person who is responsible for investing money forming part of a superannuation fund vested in or managed by the Board; or
- (f) any other person who performs duties in connection with the operation of the Deed; or
- (g) a committee consisting of 2 or more persons each of whom is a person referred to in any of the above paragraphs; or
- (h) any other person;

all or any of its powers under the Deed other than its power to reconsider its own decisions or decisions made by its delegates.

12.2 The Board may by an instrument under its seal delegate to a Reconsideration Advisory Committee established under the Rules the Board's power to reconsider its own decision or a decision made by its delegate and to determine the matter by:

- (a) affirming the decision under reconsideration; or
- (b) varying the decision; or
- (c) substituting another decision; or
- (d) setting the decision aside;

and, at its discretion, refunding any fee paid.

12.3 If the Board delegates a power under subclause 12.1, other than paragraph (h), the delegate may, by writing, sub-delegate the power:

- (a) if the delegate is a member of the Board – to:
 - (i) another member of the Board; or
 - (ii) a person referred to in paragraph 12.1(b), (c), (d), (e) or (f); or
- (b) if the delegate is the Commissioner – to a person referred to in paragraph 12.1(c), (d), (e) or (f); or
- (c) if the delegate is a person referred to in paragraph 12.1(c), (d), (e) or (f) – to:
 - (i) another person referred to in the same paragraph; or
 - (ii) a person referred to in another of those paragraphs.

12.4 Section 34AA and paragraphs 34AB(a), (b) and (d) of the *Acts Interpretation Act 1901* apply in relation to a sub-delegation in a corresponding way to the way in which they apply to a delegation.

12.5 Section 34A and paragraphs 34AB(c) and (d) of the *Acts Interpretation Act 1901* apply in relation to a sub-delegation as if it were a delegation.”

2.2 Subclause 13.1 is replaced with the following subclause:

“13.1 The Minister for Finance and Administration may by signed instrument delegate all or any of his or her powers under the Deed, other than this power of delegation, to:

- (a) the Board; or
- (b) an APS employee in the Department referred to in subclause 1.3(b); or
- (c) the Commissioner or a member of the staff assisting the Commissioner in the performance of his or her functions.”

3. The Rules are amended as follows:

3.1 Rule 1.2.1 is amended by replacing the definition of **basic salary** with the following definition:

“**basic salary** means:

- the amount agreed between a **member** and his/her **designated employer** to be his/her **basic salary**; or
- where there is no such agreement - the amount, or element or elements of remuneration determined by the Minister as **basic salary** applicable to members, a class of members, or a **member**.
A determination of **basic salary** made by the **Board** under the Rules applicable at 30 June 1995 continues in force until such time as the Minister has made a determination or determinations.”

3.2 Rule 1.2.1 is amended by replacing the definition of **eligible child** with the following definition:

“**eligible child** in relation to a **deceased member**, a **deceased pensioner**, a **deceased preserved benefit member** or a **deceased limited benefits member**, is a child of the former **member** (including an adopted child, an ex-nuptial child, a step-child or any other person whom the **Board** determines is to be treated as a child of the former **member**) who:

- has not reached age 16; or
- is age 16 or more but less than age 25 and;
 - is receiving full-time education at a school, college or university; and
 - is not ordinarily employed or self-employed;

and

- immediately before the death of the former **member**;
 - ordinarily lived with the former **member**; or
 - was, in the opinion of the Board, wholly or substantially dependent upon the former **member**; or
 - is born after the death of the former **member**, and would have, in the opinion of the **Board**, ordinarily lived with, or been wholly or substantially dependent on, the former **member** if the child had been born before the death of the former **member**.”

3.3 Rule 1.2.1 is amended by replacing the definition of **partially dependent child** with the following definition:

“partially dependent child in relation to a **deceased member**, a **deceased pensioner**, a **deceased preserved benefit member** or a **deceased limited benefits member**, is a child of the former **member** (including an adopted child, an ex-nuptial child, a step-child or any other person whom the **Board** determines is to be treated as a child of the former **member**) who:

- is not an **eligible child**; and
- is aged less than 16, or if aged 16 or more but less than age 25:
 - is receiving a full-time education at a school, college or university; and
 - is not ordinarily employed or self-employed;

and

- in respect of whom, immediately before the death of the former **member**,
 - the former **member** was voluntarily making, or required by a Court to make, regular maintenance payments; or
 - in the opinion of the **Board**, the former **member** would have been voluntarily making, or required by a Court to make, such payments if the child had been born before the death of the former **member**.”

3.4 Rule 1.2.1 is amended by replacing the definition of **spouse** with the following definition:

- “**spouse** in relation to a **deceased member**, a **deceased limited benefits member**, a **deceased preserved benefit member** or a **deceased pensioner**, means:
- another person who had a **marital relationship** with the deceased person at the time of the deceased person’s death; or
 - another person who did not have a **marital relationship** with the deceased person at the time of the deceased person’s death but who had previously had a **marital relationship** with the deceased person, and at the time of the deceased person’s death:
 - was legally married to the deceased person; and
 - in the opinion of the **Board** that other person was wholly or substantially dependent upon the deceased person at the time of the deceased person’s death.”

3.5 Rule 1.2.1 is amended by replacing the definition of **recognised allowances** with the following definition:

- “**recognised allowances** means:
- the amount agreed between a **member** and his/her **designated employer** to be his/her **recognised allowances**; or
 - where there is no such agreement - such allowance or amount, or part of an allowance or amount, determined by the Minister as applicable to members, a class of members, or a **member**. A determination of **recognised allowances** made by the **Board** under the Rules applicable at 30 June 1995 continues in force until such time as the Minister has made a determination or determinations.”

3.6 Rule 1.2.1 is amended by replacing the definition of **transfer amount** with the following definition:

- “**transfer amount** means an amount transferred by a **member** into the **PSS scheme** under Rule 11.1.1 or 11.1.2, less income tax payable by the **PSS Fund** in relation to that amount.”

3.7 Rule 1.2.1 is amended by deleting the definition of **workplace bargaining supplement**.

3.8 Rules 3.3.2, 3.3.3 and 3.3.4 and their headings are replaced with the following Rules and headings:

“

Maintained salary – reduction occurred before 1 July 2003

3.3.2 Where the reduction in the hourly rate occurred before 1 July 2003:

- (a) the amount of maintained basic salary on any day before 1 July 2003 is the annual rate, on the basis of full-time work, at which the **basic salary** applicable to the **regular member** in the position held immediately prior to the reduction in the hourly rate is payable on that day; and
- (b) the amount of maintained basic salary on any day after 30 June 2003 is the amount of maintained basic salary on 30 June 2003 increased by multiplying that amount by the factor calculated by the formula below; and
- (c) the amount of maintained recognised allowances, if any, on any day before 1 July 2003 is:
 - (i) if a **partial invalidity pension** is not payable as a consequence of the reduction in the hourly rate - the annual amount, on the basis of full-time work, of the **recognised allowances**, if any, applicable to the **regular member** in the position held immediately prior to the reduction in the hourly rate; or
 - (ii) if a **partial invalidity pension** is payable as a consequence of the whole or part of the reduction in the hourly rate - the annual rate, on the basis of full-time work, at which the **recognised allowances**, if any, applicable to the **regular member** in the position held immediately prior to the reduction in the hourly rate are payable on that day; and
- (d) the amount of maintained recognised allowances, if any, on any day after 30 June 2003 is:
 - (i) if a **partial invalidity pension** is not payable as a consequence of the reduction in the hourly rate - the annual amount, on the basis of full-time work, of the **recognised allowances**, if any, applicable to the **regular member** in the position held immediately prior to the reduction in the hourly rate; or
 - (ii) if a **partial invalidity pension** is payable as a consequence of the whole or part of the reduction in the hourly rate - the amount of maintained recognised allowances on 30 June 2003 increased by multiplying that amount by the factor calculated by the formula below:

$$1 + \left(\frac{\text{New AWOTE} - \text{Old AWOTE}}{\text{Old AWOTE}} \right)$$

where:

New AWOTE	is the index number of the full-time adult average weekly ordinary time earnings last published by the Australian Statistician before the day, in respect of a period ending after the reduction in the member's hourly rate of basic salary and/or recognised allowances occurred but before the day;
Old AWOTE	is the index number of the full-time adult average weekly ordinary time earnings last published by the Australian Statistician on or before 1 July 2003;

provided:

- (A) the New AWOTE index number exceeds the Old AWOTE index number; and
- (B) the factor is to be rounded up or down to the nearest one thousandth; and
- (C) any index number that is published by the Australian Statistician in substitution for an earlier published Old AWOTE or New AWOTE index number is to be disregarded for the purposes of this Rule; and

if the Australian Statistician changes the reference base for the index of full-time adult average weekly ordinary time earnings, regard shall only be had to index numbers published in terms of the new reference base.

Maintained salary – reduction occurred after 30 June 2003

3.3.3 Where the reduction in the hourly rate occurred after 30 June 2003:

- (a) the amount of maintained basic salary on any day is the annual amount, on the basis of full-time work, of the **basic salary** applicable to the **regular member** in the position held immediately prior to the reduction in the hourly rate increased by multiplying that amount by the factor calculated by the formula below; and
- (b) the amount of maintained recognised allowances, if any, on any day is:
 - (i) if a **partial invalidity pension** is not payable as a consequence of the reduction in the hourly rate - the annual amount, on the basis of full-time work, of the **recognised allowances**, if any, applicable to the **regular member** in the position held immediately prior to the reduction in the hourly rate; or
 - (ii) if a **partial invalidity pension** is payable as a consequence of the whole or part of the reduction in the hourly rate - the annual amount, on the basis of full-time work, of the **recognised allowances**, if any, applicable to the **regular member** in the position held immediately prior to the reduction in the hourly rate increased by multiplying that amount by the factor calculated by the formula below:

$$1 + \left(\frac{\text{New AWOTE} - \text{Old AWOTE}}{\text{Old AWOTE}} \right)$$

where:

New AWOTE is the index number of the full-time adult average weekly ordinary time earnings last published by the Australian Statistician before the day, in respect of a period ending after the reduction in the member's hourly rate of **basic salary** and/or **recognised allowances** occurred but before the day;

Old AWOTE is the index number of the full-time adult average weekly ordinary time earnings last published by the Australian Statistician before, or at the same time as, the reduction in the member's hourly rate of **basic salary** and/or **recognised allowances** occurred;

provided:

- (A) the New AWOTE index number exceeds the Old AWOTE index number; and
- (B) the factor is to be rounded up or down to the nearest one thousandth; and
- (C) any index number that is published by the Australian Statistician in substitution for an earlier published Old AWOTE or New AWOTE index number is to be disregarded for the purposes of this Rule; and

if the Australian Statistician changes the reference base for the index of full-time adult average weekly ordinary time earnings, regard shall only be had to index numbers published in terms of the new reference base.”

3.9 Rule 4.1.1 is replaced with the following Rule:

“**4.1.1** A **member** must pay contributions on each **contribution day** occurring during his/her **period of membership**, except contribution days occurring:

- (a) on or after becoming a **maximum benefits member** (*see Rule 4.1.5*); or
- (b) during a continuous period of leave of absence without pay that:
 - (i) starts before 1 July 2003, provided that any extension to a period of leave of absence shall be treated as a period of leave of absence that starts on the date the extension was granted; and
 - (ii) exceeds 12 weeks; and
 - (iii) is not an **excluded period of leave of absence** (*see Rule 4.2.1*); or

- (c) during a continuous period of leave of absence without pay where:
 - (i) the period of leave of absence:
 - (A) starts on or after 1 July 2003, provided that any extension to a period of leave of absence shall be treated as a period of leave of absence that starts on the date the extension was granted; and
 - (B) exceeds 12 weeks; and
 - (C) is not an **excluded period of leave of absence** (*see Rule 4.2.1*); and
 - (ii) the member's usual employer, or the **Secretary** if the **member** is employed in a **Department**, has stopped making payments to the Commonwealth in respect of benefits that become payable under the Rules to or in respect of the **member**; or
- (d) during a period of maternity or parental leave of absence without pay, unless the **member** has chosen to pay contributions (*see Rule 4.2.6*); or
- (e) when the PSS Fund is prohibited by the **SIS Act** from receiving those contributions (*see Rule 4.1.5*); or
- (f) on or after the date he/she reaches age 70 (*see Rule 4.1.5*)."

3.10 Paragraph (d) of Rule 4.2.1 is deleted.

3.11 Paragraph (f) of Rule 4.2.1 is replaced with the following paragraph:

- "(f) a period of leave of absence for the purpose of engaging in employment with:
 - (i) an organisation registered under the *Workplace Relations Act 1996* the membership of which includes people who are members of the **CSS scheme** or of the **PSS scheme**; or
 - (ii) a body consisting of such organisations;
 if the member is not required to contribute under a superannuation arrangement maintained by the temporary employer and the temporary employer complies with the requirements of Rule 4.2.2;"

3.12 Rules 6.2.1 and 6.2.2 are replaced with the following Rules:

6.2.1 A **member** who ceases membership on voluntary retirement, resignation or dismissal on or after **minimum retiring age** is entitled to leave his/her **final benefit accrual** in the scheme as a **preserved benefit**, or, as an alternative, 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 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) ceased membership on the sale or transfer of all or part of an organisation, business, service, asset or function (*see Division 6 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*)

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 leave his/her **final benefit accrual** in the scheme as a **preserved benefit**, or, as an alternative, may 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 Division 6 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 6.3.3 is replaced with the following Rule:

“6.3.3 A **member** who ceases membership on **involuntary retirement** on or after **minimum retiring age** is entitled to leave his/her **final benefit accrual** in the scheme as a **preserved benefit**, or, as an alternative, may choose:

- (a) 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, or a lump sum of less than that amount, 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**; or
- (c) to **roll-over** his/her **final benefit accrual**; 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:

- (A) he/she ceases membership on the sale or transfer of all or part of an organisation, business, service, asset or function (*see Division 6 of Part 6*); or
- (B) 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*).

3.14 Rule 6.5.2 is replaced with the following Rule:

“6.5.2 A **member**, including a **limited benefits member**, who ceases membership on **invalidity retirement** on or after age 60 is entitled to leave his/her **final benefit accrual** in the scheme as a **preserved benefit**, or, as an alternative, may choose:

- (a) to be paid a lump sum of his/her **final benefit accrual**; or
- (b) to take his/her **final benefit accrual** as a **pension**; or
- (c) to convert half or more of his/her **final benefit accrual** to a **pension** and be paid the balance as a lump sum; 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** (*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 6.6.2 is replaced with the following Rule:

“6.6.2 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 with the new owner or transferee; and
- (b) could have continued to be a **member** of the scheme after the sale or transfer;

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

- 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*).”

3.16 Rules 6.8.1 and 6.8.2 are replaced with the following Rules:

“6.8.1 The Minister and the **Board** may, before 1 July 2003, agree that a superannuation scheme is an **eligible superannuation scheme** able to receive transfers of **final benefit accruals** and **preserved benefits** in respect of former members who join the scheme if:

- (a) the scheme is established:
 - (i) by, or under a law of, or under the authority of, the Commonwealth, of a State or of a Territory; or
 - (ii) under the authority of a municipal corporation, another local governing body, or a public authority constituted by or under a law of the Commonwealth, of a State or of a Territory; or
 - (iii) under the authority of a company or other body corporate in which one or more of the governments, bodies and authorities in subparagraphs (i) and (ii) has a controlling interest; and
- (b) the scheme is a regulated superannuation fund or an exempt public sector superannuation scheme for the purposes of the **SIS Act**; and
- (c) the trustee of the scheme (or the person who manages the scheme if there is no trustee) has undertaken in writing that the scheme will:
 - (i) accept transfers of **final benefit accruals** and **preserved benefits** paid from, and pay similar transfer amounts to, the **PSS scheme** or any other **eligible superannuation scheme**; and
 - (ii) provide equitable benefits in return for a transferred amount; and

- (iii) except in respect of a former **member** who is retrenched before 1 July 2000, not to pay to the former **member** the whole or any part of:
 - (A) the employer component of an amount transferred from the **PSS scheme**, or
 - (B) the employer component, or the part that represents that component, of any other amount transferred from the **PSS scheme** to another **eligible superannuation scheme** and subsequently transferred to the scheme;

unless preserved benefits under the **SIS Act** would be payable in the same circumstances; and
- (iv) not to pay the employer components described in paragraphs 6.8.1(c)(iii)(A) and (B) to any other scheme that is not an **eligible superannuation scheme**; and
- (v) not pay a former **member** who is retrenched before 1 July 2000 that part of the transferred amount that is or would be compulsorily preserved under the **SIS Act** until the conditions for payment of compulsorily preserved amounts under that Act and regulations are met; and
- (d) the trustee of the scheme (or the person who manages the scheme if there is no trustee) has confirmed that the governing rules of the scheme do not conflict with the undertaking under paragraph (c).

6.8.2 The Minister and the **Board** may, before 1 July 2003, agree that a superannuation scheme which does not comply with the conditions in Rule 6.8.1 is an **eligible superannuation scheme** if they are satisfied that there are special circumstances that make this desirable.”

3.17 The following Rule is inserted after Rule 6.8.11:

“

Board may replace an eligible superannuation scheme that has ceased to exist

6.8.12 If the **Board** is satisfied that an **eligible superannuation scheme** that has ceased to exist was, upon so ceasing to exist, replaced by another superannuation scheme, the **Board** may determine that the other scheme is an **eligible superannuation scheme** for the purposes of this Division.”

3.18 Rules 7.3.1 and 7.3.2 are replaced with the following Rules:

“7.3.1 A spouse of a **deceased pensioner** is **entitled** to a **pension** (*see Rule 9.3.5*), unless the **pension** is reduced under Rule 9.3.11 and the **pension** is converted to a lump sum under Rule 9.3.13.

7.3.2 An **eligible child** or children and/or a **partially dependent child** or children of a **deceased pensioner** who is not survived by a **spouse**, is or are collectively, entitled to a **pension** (see Rule 9.3.6), unless the **pension** is reduced under Rule 9.3.11 and the **pension** is converted to a lump sum under Rule 9.3.13.”

3.19 Rule 8.3.3 is replaced with the following Rule:

“**8.3.3** A **preserved benefit member** who applied to the Insurance and Superannuation Commissioner before 1 July 1997 for the early release of his/her **preserved benefit** on compassionate grounds or the grounds of severe financial hardship may, at any time, choose to be paid a lump sum to the value approved by the Insurance and Superannuation Commissioner, or after 1 July 1998, the Australian Prudential Regulation Authority, but not exceeding the **accumulated productivity contributions** included in his/her **preserved benefit**, and have the balance of the **preserved benefit** remain in the scheme.”

3.20 Rules 8.3.6 and 8.3.7 are replaced with the following Rules:

“**8.3.6** A **preserved benefit member** who applies to the Insurance and Superannuation Commissioner or the Australian Prudential Regulation Authority after 30 June 1997 for the early release of his/her **preserved benefit** on compassionate grounds may, at any time, choose to be paid a lump sum to the value approved by the Australian Prudential Regulation Authority and have the balance of the **preserved benefit** (if any) remain in the scheme.

8.3.7 A **preserved benefit member** who has been paid a lump sum under Rules 8.3.3, 8.3.4, 8.3.5 or 8.3.6 can be paid further amounts under Rules 8.3.5 or 8.3.6, provided that any further payments have been approved by the Australian Prudential Regulation Authority, or the **Board**, as the case may be.”

3.21 Division 2 of Part 9 is replaced with the following Division:

“

Division 2

Calculating Retirement and Preserved Benefit Pensions

Calculating age, involuntary and sale or transfer retirement pensions

9.2.1 A **member** who retires, other than on **invalidity retirement** before age 60, can choose a Reduced Pension in favour of higher reversionary benefits payable on his/her death. A choice must be made within the period commencing three months before the member’s **last day of membership** and ending three months after the member’s **last day of membership**, or such further period as the **Board** allows.

9.2.2 The annual **pension** payable on the retirement of a **member**, other than **invalidity retirement** before age 60, is calculated in accordance with the formula:

$$\frac{\text{Pension Accrual}}{\text{Pension Conversion Factor}} \times \text{Reduction Factor}$$

where:

Pension Accrual

is the member's **final benefit accrual**, or the proportion of the **final benefit accrual** that he/she chooses to convert to **pension** in accordance with Part 6 of these rules;

Pension Conversion Factor

is determined from the following Table according to the member's age in years and days on his/her **last day of membership**:

Age		Factor	
(Whole Years)			
65	10		<p>Ages Less Than 55</p> <p>The Factors for ages less than 55 are 12.0 <u>increased</u> by 0.2 for each whole year the age is less than 55</p>
64	10.2		
63	10.4		<p>Ages More Than 65</p> <p>The Factors for ages more than 65 are 10.0 <u>decreased</u> by 0.2 for each whole year the age is more than 65</p>
62	10.6		
61	10.8		<p>Age Not In Whole Years</p> <p>Where age is not in whole years, the Factor is <u>calculated</u> in accordance with the following formula:</p>
60	11		
59	11.2		$F - \frac{(0.2 \times Y)}{D}$
58	11.4		
57	11.6		<p>Where F is the factor for whole years from the table, Y is the number of days in excess of whole years and D is the number of days in the year next following the whole years.</p>
56	11.8		
55	12		

Reduction Factor

is:

- (i) 1 – if the **member** does not choose a Reduced Pension under Rule 9.2.1;
- (ii) 0.93 – if the **member** chooses a Reduced Pension under Rule 9.2.1.

This rule also applies to the calculation of an annual **pension** payable under Rule 6.2.4 to a **member** who, on retirement before 1 July 1996, was suffering from a **terminal medical condition**.

Calculating invalidity pensions

9.2.3 The annual **pension** payable on the **invalidity retirement** of a **member** before age 60 is calculated by dividing by 11 the amount of either;

- (a) the member's **invalidity benefit accrual**, or;

- (b) if the **member** chooses to take his or her **accumulated member contributions** as a lump sum under Rule 6.5.1, the **invalidity benefit accrual** less the member's **accumulated member contributions**.

9.2.4 If the **invalidity retirement** of a **member** in receipt of **pre-assessment payments** is backdated, the **Board** may deduct from the arrears of **pension** due to be paid, the lesser of:

- (a) the amount of any **pre-assessment payments** paid after the first **pension payday** occurring on or after the date from which the member's **invalidity retirement** commences; and
- (b) the amount of **pension** payable to the date any **pre-assessment payments** ceased.

9.2.5 A **pension** payable on the **invalidity retirement** of a **member** before age 60 ceases if he/she again becomes a **member**.

Calculating preserved benefit pensions

9.2.6 A **preserved benefit member** who takes all or part of his/her **preserved benefit** as a **pension** can choose a Reduced Pension in favour of higher reversionary benefits payable on his/her death. A choice must be made within the period commencing three months before the date the **preserved benefit** becomes payable and ending three months after the date the **preserved benefit** becomes payable, or such further period as the **Board** allows.

9.2.7 The annual **pension** payable to a **preserved benefit member** is calculated in accordance with the formula:

$$\frac{\text{Preserved Amount}}{\text{Pension Conversion Factor}} \times \text{Reduction Factor}$$

where:

Preserved Amount is the amount of **preserved benefit** which the **preserved benefit member** chooses to convert to **pension** under Rule 8.2.1;

Pension Conversion Factor is:

- (i) a factor determined according to the **preserved benefit member's** age in years and days on the date the **preserved benefit** becomes payable, from the Table – *Pension Conversion Factors* in Rule 9.2.2; or
- (ii) a factor of 11 if the **preserved benefit member** has not yet reached age 60, and the **preserved benefit** becomes payable because of a **terminal medical condition**, or physical or mental incapacity referred to in Rule 8.1.1.

Reduction Factor

is:

- (i) 1 – if the **preserved benefit member** does not choose a Reduced Pension under Rule 9.2.6;
- (ii) 0.93 – if the **preserved benefit member** chooses a Reduced Pension under Rule 9.2.6.”

3.22 Division 3 of Part 9 is replaced with the following Division:

“

Division 3

Calculating Pensions Payable on Death

Percentage rate of pension according to relationship(s) and choice of Reduced Pension

9.3.1 The following table is used for the purposes of Rules 9.3.2, 9.3.5 and 9.3.9 to calculate the annual reversionary **pension** payable following the death of a **member** (see Rule 9.3.2), an **invalidity pensioner** or a **pensioner** (see Rule 9.3.5), or a **preserved benefit member** (see Rule 9.3.9) according to the number of persons in relationship(s) to the former **member** and whether the former **member** chose a Reduced Pension (see also Rule 9.3.8). A person who became the **spouse, eligible child or partially dependent child** of a **pensioner** after the **pensioner** became a **pensioner** and after the **pensioner** had reached age 60, may have the amount of his/her reversionary **pension** reduced under Rule 9.3.11.

	Number of persons in Relationship(s)	Relevant % - if the former member did <u>not</u> choose a Reduced Pension	Relevant % - if the former member chose a Reduced Pension
Part A - spouse or spouses with or without eligible children and/or partially dependent children	1 person (spouse)	67	85
	2 persons (eg spouse and child or 2 spouses)	78	97
	3 persons (eg spouse and 2 children)	89	108
	4 persons (eg 2 spouses and 2 or more children)	100	108
Part B - no spouse; an eligible child or children, a partially dependent child or children, or both	1 child only	45	51
	2 children only	80	92
	3 children only	90	108
	4 or more children only	100	108

Calculating pensions following the death of a member

9.3.2 The annual reversionary **pension** apportionable between a **spouse** or spouses and eligible children or partially dependent children following the death of a **member** is the amount calculated in accordance with the following formula:

$$\frac{R \times DBA}{PCF}$$

where:

- R** is the relevant percentage rate determined from the Table - *Percentage Rate according to the Relationship(s) to the former member and whether the former member chose a Reduced Pension* in Rule 9.3.1; and
- DBA** is the **death benefit accrual** in respect of the **deceased member**; and
- PCF** is the pension conversion factor determined as:
- if the former **member** died before age 60 - 11; or
 - if the former **member** died on or after age 60 - a factor, according to the former member's age in years and days on his/her date of death, determined from the Table - *Pension Conversion Factors* in Rule 9.2.2.

The amount of the reversionary **pension** so calculated will be reduced where necessary to take account of the limitation under Rule 9.3.8 of the amount payable if the **deceased member** is survived by a **partially dependent child** or partially dependent children.

9.3.3 The **Board** will apportion the reversionary **pension** between multiple eligible beneficiaries (*see Rule 9.4.1*).

Conversion of pension to lump sum by spouse

9.3.4 Where a **spouse** of a **deceased member** chooses under Rule 7.1.2 to convert the whole, or a proportion not greater than half, of the reversionary **pension** to a lump sum, the lump sum is calculated by the formula:

$$\frac{A \times M \times P}{N}$$

where:

- A is the **death benefit accrual** in respect of the **deceased member** less any amount determined by the **Board**, after consideration of actuarial advice, to be the capital value of pensions payable in relation to an **eligible child** or a **partially dependent child** or children determined under Part B of the Table - *Percentage Rate according to the Relationship(s) to the former member and whether the former member chose a Reduced Pension* in Rule 9.3.1;
- M is the annual **pension** of that **spouse**, determined under Rules 9.3.2 and 9.3.3;
- N is the sum of the annual pensions for all spouses of the **deceased member**; and
- P is the proportion of the reversionary **pension** chosen under Rule 7.1.2 to be converted to a lump sum.

Calculating pensions following the death of a pensioner

9.3.5 The annual reversionary **pension** payable to a **spouse** of a **deceased pensioner** is:

- (a) for the first seven **pension** paydays after the death of the **pensioner**, the greater of:
 - (i) the annual **pension** that would have been payable to the **deceased pensioner**; and
 - (ii) the annual **pension** that would have been payable to the **deceased pensioner** multiplied by the relevant percentage according to the relationship(s) to the **deceased pensioner** determined from the Table - *Percentage Rate according to the Relationship(s) to the former member and whether the former member chose a Reduced Pension* in Rule 9.3.1;
- (b) thereafter, the highest of the annual rates of **pension** that would have been payable to the **deceased pensioner** during the first seven **pension** paydays after the death of the **pensioner**, multiplied by the relevant percentage according to the relationship(s) to the **deceased pensioner** determined from the Table - *Percentage Rate according to the Relationship(s) to the former member and whether the former member chose a Reduced Pension* in Rule 9.3.1;

provided:

- (A) the amount of the reversionary **pension** so calculated will be reduced where necessary to take account of:
- (i) the limitation under Rule 9.3.8 of the amount payable if the **deceased pensioner** is survived by a **partially dependent child** or partially dependent children; and
 - (ii) the reduction (if any) under Rule 9.3.11 of the amount payable if a person becomes the **spouse** of the **deceased pensioner** after the **deceased pensioner** became a **pensioner** and after the **deceased pensioner** reached age 60; and
- (B) the **Board** may offset the **pension** in paragraph (a) by the amount of any **pension** incorrectly paid in respect of the **deceased pensioner** on the first seven **pension** paydays after his/her death into a bank (which includes, but is not limited to, any body corporate that is an ADI (authorised deposit-taking institution) for the purposes of the *Banking Act 1959*) that was subsequently withdrawn by the **spouse**.

9.3.6 The annual **pension** payable to or for the benefit of an **eligible child** or children or a **partially dependent child** or children, or both, of a **deceased pensioner** who is not survived by a **spouse** or spouses, is the amount calculated by the formula:

$$\mathbf{R} \times \mathbf{Annual\ Pension}$$

where:

R is the relevant percentage rate determined from the Table - *Percentage Rate according to the Relationship(s) to the former member and whether the former member chose a Reduced Pension* in Rule 9.3.1; and

Annual Pension is the annual **pension** payable to the **pensioner** immediately before his/her death.

The amount of the **pension** so calculated will be reduced where necessary to take account of:

- (a) the limitation under Rule 9.3.8 of the amount payable if the **deceased pensioner** is survived by a **partially dependent child** or partially dependent children; and
- (b) the reduction (if any) under Rule 9.3.11 of the amount payable if a child becomes the child of the **deceased pensioner** after the **deceased pensioner** became a **pensioner** and after the **deceased pensioner** reached age 60.

9.3.7 The **Board** will apportion the reversionary **pension** between multiple eligible beneficiaries in accordance with Rule 9.4.1.

Calculating pensions for a partially dependent child or children

9.3.8 If a **deceased member** or **deceased pensioner** is survived by a **partially dependent child** or children, the amount of reversionary **pension** payable in respect of the number of persons in relationship(s) to the former **member** or **pensioner** cannot exceed the sum of:

- (a) the amount that would have been payable if there were no partially dependent children; and
- (b) the annual amount of any regular maintenance payments paid, or required by a Court to be paid, by the former **member** or **pensioner** immediately before his/her death in respect of the **partially dependent child** or children.

Calculating pensions following the death of a preserved benefit member

9.3.9 The annual reversionary **pension** payable to a **spouse** of a **deceased preserved benefit member** who chooses to be paid a **pension** under Rules 7.4.1, 7.4.3 or 7.4.4 is the amount calculated in accordance with the following formula:

$$\frac{\mathbf{R} \times \mathbf{PB}}{\mathbf{PCF}}$$

where:

R is the relevant percentage rate determined from the Table - *Percentage Rate according to the Relationship(s) to the former member and whether the former member chose a Reduced Pension* in Rule 9.3.1; and

PB is:

- if the former **member** is survived by one **spouse** only, that part of the **preserved benefit** chosen by the **spouse** to be converted to **pension**; or
- if the former **member** is survived by more than one **spouse**, that part of the **preserved benefit** as apportioned under Rule 7.4.2 chosen to be converted to **pension** by the **spouse**; and

PCF

is the pension conversion factor determined as follows:

- if the former **member** died before age 60 - 11; or
- if the former **member** died on or after age 60 - a factor, according to the former member's age in years and days on his/her date of death, determined from the Table - *Pension Conversion Factors* in Rule 9.2.2.

Calculating children's pensions following the death of a spouse in receipt of pension

9.3.10 On the death of a **spouse** in receipt of a **pension**, a **pension** is payable to or for the benefit of an **eligible child**, or children, who was, or were, ordinarily living with the **spouse**. The **pension** is calculated by multiplying the **pension** payable to the deceased **spouse** immediately before his/her death, by the relevant fraction shown in the following Table according to the number of eligible children.

Table – Pension Rates on Death of Spouse	
Number of Eligible Children	Fraction
One	45/78
Two	80/89
Three	90/100
Four or more	100/100

Reduced reversionary pension following the death of a pensioner

9.3.11 A reduced reversionary **pension** calculated by the formula in Rule 9.3.12 is payable to a **spouse** of a **deceased pensioner**, or any **eligible child** or **partially dependent child** of a **deceased pensioner** who is not survived by a **spouse** if:

- (a) in the case of a **spouse**, the **marital relationship** between the **spouse** and the **deceased pensioner** began:
 - (i) after the **deceased pensioner** became a **pensioner**; and
 - (ii) after the **deceased pensioner** had reached age 60; and
 - (iii) less than 1095 days before the death of the **deceased pensioner**; or

- (b) in the case of an **eligible child** or **partially dependent child**:
- (i) the **eligible child** or **partially dependent child**:
- (A) was born of a **marital relationship** between the **deceased pensioner** and another person; or
- (B) became a stepchild of the **deceased pensioner** as a result of a **marital relationship** between the **deceased pensioner** and another person; or
- (C) is a child of a person with whom the **deceased pensioner** had a **marital relationship**;
- and that **marital relationship** began:
- (D) after the **deceased pensioner** became a **pensioner**; and
- (E) after the **deceased pensioner** had reached age 60; and
- (F) less than 1095 days before the death of the **deceased pensioner**; or
- (ii) the **eligible child** or **partially dependent child** is an adopted child or a person whom the **Board** determines is to be treated as a child of the **deceased pensioner**; and became a child of the **deceased pensioner**:
- (A) after the **deceased pensioner** became a **pensioner**; and
- (B) after the **deceased pensioner** had reached age 60; and
- (C) less than 1095 days before the death of the **deceased pensioner**.

9.3.12 The formula for calculation of reduced reversionary **pension** is:

$$\text{Full reversionary pension} \times \frac{\text{Relevant Period}}{1095}$$

where:

Full reversionary pension is the amount of reversionary **pension** that would be payable if there was no reduction in reversionary **pension**;

Relevant Period is whichever is relevant of:

- the length of the **marital relationship**, in days; or
- the length that the child had been a child of the **deceased pensioner**, in days.

9.3.13 A spouse, an **eligible child** or a **partially dependent child** whose reversionary **pension** is reduced under Rule 9.3.11 may choose to convert the whole of that **pension** to a lump sum if:

- (a) the **pension** is less than the rate determined by the **Board** for the purposes of this Rule; and
- (b) the choice is made within the period commencing three months before the date the **pension** becomes payable and ending three months after the date the **pension** becomes payable, or such further period as the **Board** allows.

The amount of the lump sum will be the amount determined by the **Board**, after considering actuarial advice, to be the capital value of the **pension** payable in relation to the spouse, **eligible child** or **partially dependent child**.”

3.23 Rules 10.11.9, 10.11.10, 10.11.11, 10.11.12, 10.11.13 and 10.11.14 are replaced with the following Rules:

“**10.11.9** The annual **pension** rate payable to an **invalidity pensioner** is to be reduced (*see Rule 10.11.12*) or the **pension** suspended (*see Rule 10.11.13*) during any period when the invalidity pensioner’s Earnings exceed his/her Notional Income. For this purpose:

Earnings are the sum of:

- (a) the annual **pension** rate that would have been payable if:
 - (i) the **invalid pensioner** had chosen to take his/her whole **invalidity benefit accrual** as a **pension**; and
 - (ii) that rate had not been reduced or suspended by any earlier applications of this Rule; and
- (b) his/her annual **personal earnings** rate, as estimated by the **Board** under Rule 10.11.4; and

Notional Income is the amount determined under:

- (a) Rule 10.11.10 where the **invalidity pensioner** ceased to be a **member** before 1 July 2003; or
- (b) Rule 10.11.11 where the **invalidity pensioner** ceased to be a **member** after 30 June 2003.

10.11.10 Where the **invalidity pensioner** ceased to be a **member** before 1 July 2003:

- (a) the amount of Notional Income on any day before 1 July 2003 is the greater of:
 - (i) \$33,732, increased on 1 January 2002, and compounded each subsequent 1 July and 1 January, in accordance with the increases, if any, applying to pensions under Rule 9.6.1 and Rule 9.6.3; or

- (ii) 75% of the annual rate of salary determined by the **Board** as that which would have been payable to the **pensioner** had he/she continued to be a **member**; and
- (b) the amount of Notional Income on any day after 30 June 2003 is the greater of:
- (i) \$33,732, increased on 1 January 2002, and compounded each subsequent 1 July and 1 January, in accordance with the increases, if any, applying to pensions under Rule 9.6.1 and Rule 9.6.3; or
 - (ii) the amount of Notional Income on 30 June 2003 increased by multiplying that amount by the factor calculated by the formula below:

$$1 + \left(\frac{\text{New AWOTE} - \text{Old AWOTE}}{\text{Old AWOTE}} \right)$$

where:

New AWOTE is the index number of the full-time adult average weekly ordinary time earnings last published by the Australian Statistician before the day, in respect of a period ending after the pensioner's **last day of membership** but before the day;

Old AWOTE is the index number of the full-time adult average weekly ordinary time earnings last published by the Australian Statistician on or before 1 July 2003;

provided:

- (A) the New AWOTE index number exceeds the Old AWOTE index number; and
- (B) the factor is to be rounded up or down to the nearest one thousandth; and
- (C) any index number that is published by the Australian Statistician in substitution for an earlier published Old AWOTE or New AWOTE index number is to be disregarded for the purposes of this Rule; and

if the Australian Statistician changes the reference base for the index of full-time adult average weekly ordinary time earnings, regard shall only be had to index numbers published in terms of the new reference base.

10.11.11 Where the **invalidity pensioner** ceased to be a **member** after 30 June 2003 the amount of Notional Income on any day is the greater of:

- (a) \$33,732, increased on 1 January 2002, and compounded each subsequent 1 July and 1 January, in accordance with the increases, if any, applying to pensions under Rule 9.6.1 and Rule 9.6.3; or

- (b) 75% of the annual rate of salary that was payable to the **pensioner** immediately before he/she ceased to be a **member** increased by multiplying that rate by the factor calculated by the formula below:

$$1 + \left(\frac{\text{New AWOTE} - \text{Old AWOTE}}{\text{Old AWOTE}} \right)$$

where:

New AWOTE is the index number of the full-time adult average weekly ordinary time earnings last published by the Australian Statistician before the day, in respect of a period ending after the pensioner's **last day of membership** but before the day;

Old AWOTE is the index number of the full-time adult average weekly ordinary time earnings last published by the Australian Statistician before, or at the same time as the pensioner's **last day of membership**;

provided:

- (A) the New AWOTE index number exceeds the Old AWOTE index number; and
- (B) the factor is to be rounded up or down to the nearest one thousandth; and
- (C) any index number that is published by the Australian Statistician in substitution for an earlier published Old AWOTE or New AWOTE index number is to be disregarded for the purposes of this Rule; and

if the Australian Statistician changes the reference base for the index of full-time adult average weekly ordinary time earnings, regard shall only be had to index numbers published in terms of the new reference base.

10.11.12 The annual rate of **pension** payable to an **invalidity pensioner** must, if the annual rate of **pension** is greater than the lesser of:

- (a) the annual **personal earnings** estimated under Rule 10.11.4; or
- (b) the amount by which Earnings exceed Notional Income, as calculated under Rule 10.11.9;

be reduced by the lesser of those amounts.

10.11.13 The annual **pension** payable to an **invalidity pensioner** must be suspended if the lesser of:

- (a) annual **personal earnings** estimated under Rule 10.11.4; or
- (b) the amount by which Earnings exceed Notional Income, as calculated under Rule 10.11.9;

is equal to or greater than the annual rate of **pension**.

10.11.14 The **Board** will specify when the reduction or suspension takes effect, not being a date earlier than the date the next payment of **pension** to the **invalidity pensioner** is payable, and notify the **invalidity pensioner** accordingly.

10.11.15 The **Board** may, at its discretion, pay arrears of **pension** where an **invalidity pension** has been reduced or suspended under Rule 10.11.9 if:

- (a) a later calculation under that Rule results in:
 - (i) a higher rate of **invalidity pension**; or
 - (ii) lifting the suspension and re-commencement of payments of an **invalidity pension**; and
- (b) that higher rate of payment of re-commenced **pension** would have been payable before the date the **pension** is increased or the suspension lifted.

10.11.16 No recovery of overpaid **pension** will be made if a calculation under Rule 10.11.9 results in a lower rate of **invalidity pension** or suspension of an **invalidity pension** and that lower rate or suspension would have applied during a period in respect of which **invalidity pension** has already been paid.”

3.24 Part 11 is replaced with the following Part:

“

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 a superannuation entity as defined in the **SIS Act**, 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*; or

- (d) an amount payable in respect of the person under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;

into the **PSS scheme** as a **transfer amount**.

Payments in respect of performance pay or productivity contributions

11.1.2 A **member** or a **preserved benefit member** may transfer into the **PSS scheme** as a **transfer amount** an amount payable to, or in respect of, him/her by a declared fund (within the meaning of the *Superannuation (Productivity Benefit) Act 1988*) or by a superannuation entity as defined in the **SIS Act** other than that declared fund, which wholly or in part represents:

- (a) contributions made in respect of performance pay (within the meaning of the *Superannuation (Productivity Benefit) Alternative Arrangements Declaration No. 6 (Statutory Rules 1993, No. 34)*); or
- (b) continuing contributions (within the meaning of the *Superannuation (Productivity Benefit) Act 1988*) that have been paid, but are no longer being paid in respect of a continuous period of employment of the **member** or **preserved member**.

Payments to be paid into the PSS Fund

11.1.3 The **Board** must pay any **transfer amount** into the **PSS Fund**.

Accumulation of transfer amount and preserved amount

11.1.4 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.

11.1.5 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** under Rule 11.1.1, 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.

11.2.2 On the death of a **member** who transferred a **transfer amount** into the **PSS scheme** under Rule 11.1.1, 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**.

11.2.3 *Rule deleted in the 10th Amending Deed.*

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** under Rule 11.1.1, before 1 January 1996 (*see also Rule 11.3.4*) is, in respect of that **transfer amount**, entitled, to whichever is the greater of his/her:

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

$$\frac{\text{FAS} \times \text{TA}}{\text{AS}}$$

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

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.

11.3.3 *Rule deleted in the 10th Amending Deed.*

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) joined the **PSS scheme** before 1 January 1996 but transferred into the **PSS scheme** on or after that date a **transfer amount** to which his/her entitlement arose from employment that ceased before that date; or
- (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
- (e) joined the **PSS scheme** before 6 July 1996 and transferred in a **transfer amount** that became payable as a result of membership, which ceased on joining the **PSS Scheme**, of the CAA Staff Superannuation Fund, or that Fund and its successor, the AvSuper Fund.

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 9.2.2 and then multiplying the result by the Reduction Factor as defined in Rule 9.2.2. 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** under Rule 11.1.1, 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** under Rule 11.1.1, 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 is not required under the **SIS Act** to be preserved 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** under Rule 11.1.1, 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** under Rule 11.1.1, 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, less, if the **member** has received or is entitled to receive an adjustment payment under the *Australian Federal Police Act 1979*, the adjustment payment received, or entitled to be received;

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

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

where:

BAM	is the Benefit Accrual Multiple (<i>see Divisions 2 and 3 of Part 5</i>) plus, if membership ceased on invalidity retirement before age 60, the Invalidity Multiple (<i>see Divisions 4 and 5 of Part 5</i>), applicable to the member on the contribution due day ; and
AS	is the member's average salary on the contribution due day ; 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 is required to be preserved under the **SIS Act** is converted to **pension**;

and 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), less, if the **member** has received or is entitled to receive an adjustment payment under the *Australian Federal Police Act 1979*, the adjustment payment received, or entitled to be received;

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** under Rule 11.1.1, 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** under Rule 11.1.1, 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 or Rule 11.3.8, 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 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 percentage as specified in subsection 19(2) 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**.

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 percentage as specified in subsection 19(2) 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.

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.

11.3.29 If an additional pension is payable to a **member** under Rules 11.3.5 or 11.3.8, or an additional reversionary pension is payable in respect of a former **member** under Rule 11.3.16:

- (a) an amount, if any, calculated by using the following formula shall be included in the member's or former member's **accumulated funded productivity contributions**:

$$(ATM - TMA) \times \frac{PA}{TA}$$

- (b) an amount, if any, calculated by using the following formula shall be included in the member's or former member's **accumulated member contributions**:

$$(ATM - TMA) \times \frac{NPA}{TA}$$

where:

ATM	is the member's Accumulated Transfer Amount; and
TMA	is the member's Transfer Multiple Amount; and
TA	is the member's transfer amount ; and
PA	is that part of the member's transfer amount that was required to be compulsorily preserved under the SIS Act ;
NPA	is that part of the member's transfer amount that was <u>not</u> required to be compulsorily preserved under the SIS Act .

Division 4

Additional contributions after age 70

When additional contributions may be made

11.4.1 A **member** may choose to pay additional contributions on each **contribution day** occurring during the period commencing on the date he/she reaches age 70 and ending on his/her **last day of membership**, except contribution days occurring when the **PSS Fund** is prohibited by the **SIS Act** from receiving those contributions (*see Rule 11.4.5*). A **member** may choose to cease paying additional contributions at any time.

11.4.2 Additional contributions paid or payable by a **member** under this Division are not to be taken to be contributions paid or payable by a **member** under Part 4.

What rate of additional contributions can be paid

11.4.3 A **member** may choose to pay additional contributions at any whole percentage rate that is not less than 2% or more than 10% of his/her **fortnightly contribution salary**. A **member** who does not choose a contribution rate will be deemed to have chosen the rate of 5%.

11.4.4 A **member** may change his/her future rate of additional contributions at any time to another whole percentage rate that is not less than 2% or more than 10% of his/her **fortnightly contribution salary**. Changes take effect on the **contribution day** occurring immediately after the date of the member's request to change his/her rate of additional contributions.

Additional contributions not allowed to be paid

11.4.5 A **member** is not permitted to pay additional contributions in respect of any **contribution day** occurring when the **PSS Fund** is prohibited by the **SIS Act** from receiving those contributions.

Additional contributions to be paid to the Board

11.4.6 Additional contributions payable by **members** under these Rules are to be paid to the **Board** by or on behalf of the **member** choosing to pay the additional contributions. The **Board** must pay into the **PSS Fund** all additional contributions it receives from, or on behalf of, members.

Substitution of contribution days

11.4.7 The **Board** and a **designated employer** may agree to substitute other days in lieu of contribution days for payments of additional contributions if the **designated employer** does not pay members in respect of each fortnight ending on the day before a **contribution day**. The **Board** will adjust the calculation and payment of additional contributions as necessary.

Accumulation of additional contributions and preserved additional contributions

11.4.8 Interest (if any) on additional contributions 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 additional contributions plus accumulated interest are called Accumulated Additional Contributions.

Benefit entitlement on cessation

11.4.9 A **member** who:

- (a) chooses to pay additional contributions; and
- (b) ceases to be a **member**, but not by reason of death;

is entitled to be paid a lump sum of his/her Accumulated Additional Contributions.

11.4.10 On the death of a **member** who chooses to pay additional contributions the Accumulated Additional Contributions 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 the deceased member's **death benefit accrual** is payable under Part 7. The Accumulated Additional Contributions cannot be taken as a reversionary **pension**.

Division 5

Benefits where performance pay or productivity contributions are transferred

Benefit entitlement on cessation – performance pay or productivity contributions

11.5.1 A **member** who:

- (a) transferred a **transfer amount** into the **PSS scheme** under Rule 11.1.2; 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.

11.5.2 On the death of a **member** who transferred a **transfer amount** into the **PSS scheme** under Rule 11.1.2, 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**.

Payment of preserved accumulated transfer amount – performance pay or productivity contributions

11.5.3 A **preserved benefit member** who transferred a **transfer amount** into the **PSS scheme** under Rule 11.1.2 is entitled to a **preserved benefit** of his/her Accumulated Transfer Amount. 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.

Employer component of preserved benefits to be preserved

11.5.4 The employer component of the benefit to which a person is entitled under this Division is to be treated as a preserved benefit under the **SIS Act**. The **Board** will determine the proportion of the benefit that is the employer component.”

- 3.25 Rule 12.1.2 and its heading are replaced with the following Rule and heading:
“

Who can choose on behalf of a member, former member or child

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. If an **eligible child** or a **partially dependent child** has more than one benefit option available under these Rules, the **Board** may permit another person to choose an option on behalf of the **eligible child** or **partially dependent child** within such period as the **Board** allows.”

- 3.26 Rule 12.2.4 is replaced with the following Rule:

“**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 the Commissioner of Taxation or, where required by the relevant State or Territory legislation, to the relevant State or Territory authority, if:

- (i) the benefit is taken to be unclaimed money within the meaning of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*; and
- (ii) under that Act the amount of the benefit is required to be paid to the Commissioner of Taxation, or to the relevant State or Territory authority.”

- 3.27 Part 13 is replaced with the following Part:
“

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 by a Reconsideration Advisory Committee. 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.

Recommendation by Reconsideration Advisory Committees

13.1.4 Where the **Board** has referred a **decision** to a Reconsideration Advisory Committee for review and to make a recommendation to the **Board**, the Committee is to review the **decision** and 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.

Reconsideration of 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:

- (a) if the **Board** has delegated to a Reconsideration Advisory Committee the Board's power to determine the matter, refer the request to the Committee for review and to exercise that power and in that event the Committee must review the decision and determine the matter in accordance with the delegated power by:
 - (i) affirming the decision under review; or
 - (ii) varying the decision; or
 - (iii) substituting another decision; or
 - (iv) setting the decision aside; or

- (b) itself review the **decision** and decide whether to affirm the **decision**, vary the **decision**, substitute another **decision** or set the **decision** aside, after considering the recommendation of a Reconsideration Advisory Committee, if any, if, at its discretion, it has referred the request to the Committee for review and to make a recommendation in relation to the decision.

Decision to be notified to affected person

13.2.4 The **decision** of the **Board** or the Reconsideration Advisory Committee 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**.

Reconsideration of decision of Board

13.3.7 Where the **Board** accepts a request to reconsider one of its decisions, the **Board**, unless under Rule 13.3.4 it has decided in favour of the person seeking reconsideration, must:

- (a) if the **Board** has delegated to a Reconsideration Advisory Committee the Board's power to determine the matter, refer the request to the Committee for review and to exercise that power and in that event the Committee must review the decision and determine the matter in accordance with the delegated power by:
 - (i) affirming the decision under review; or
 - (ii) varying the decision; or
 - (iii) substituting another decision; or
 - (iv) setting the decision aside; or
- (b) itself review the **decision** and decide whether to affirm the **decision**, vary the **decision**, substitute another **decision** or set the **decision** aside, after considering the recommendation of a Reconsideration Advisory Committee, if any, if, at its discretion, it has referred the request to the Committee for review and to make a recommendation in relation to the decision;

after first obtaining, if appropriate, the recommendation of an Assessment Panel, and the Committee or the **Board**, as the case requires, may, at its discretion, refund the fee paid.

Decision to be notified to affected person

13.3.8 The **decision** of the **Board** or the Reconsideration Advisory Committee under Rule 13.3.7 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**."

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

SIGNED, SEALED AND DELIVERED)

)

by the Honourable NICHOLAS HUGH MINCHIN)

SIGNED

)

Minister for Finance and Administration)

)

for and on behalf of)

)

THE COMMONWEALTH OF)

)

AUSTRALIA, in the presence of:)

)

)

(name))

CHRIS KEANE

)

) U14 9-15 OXLEY ST

(address))

GRIFFITH 2603

)

)

(description))

ADVISER

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