

FIRST AMENDMENT
of the
DEED TO ESTABLISH THE PUBLIC SECTOR SUPERANNUATION ACCUMULATION
PLAN

THIS DEED is made on 25/7/06 by THE COMMONWEALTH OF AUSTRALIA.

WHEREAS section 10 of the *Superannuation Act 2005* (the Act) provides for the Minister to establish a superannuation scheme to be administered by the Board established under section 20 of the *Superannuation Act 1990* (the Board);

AND WHEREAS the Public Sector Superannuation Accumulation Plan was established by Trust Deed dated 29 June 2005¹ (the Principal Deed);

AND WHEREAS section 11 of the Act provides for the Minister, by instrument in writing, to amend the Principal Deed, and requires the consent of the Board to amendments in certain circumstances.

AND WHEREAS the Board has consented to the amendments provided for in this Deed;

NOW THIS DEED WITNESSES as follows:

1. The amendments in this Deed and Rules come into effect on the later of
 - a) 1 July 2006; or
 - b) the day after this Deed is registered.
2. Unless a contrary intention appears, a word or phrase in this Deed (including the provisions of this Deed relating to the amendment of the Rules set out in the Schedule to the Principal Deed) has the same meaning it has in the Principal Deed.

3. The Principal Deed is amended as follows:

3.1 The preamble is amended by replacing the words:

“THIS DEED is made on 29 June 2005 by the COMMONWEALTH OF AUSTRALIA.”

with the words

“THIS DEED, to be known as the Superannuation (PSSAP) Trust Deed, is made on 29 June 2005 by the COMMONWEALTH OF AUSTRALIA.”.

3.2 Clause 4, including the heading, and all subclauses are deleted.

4. The Rules are amended as follows:

¹ Section 4 of the Act defines “Trust Deed” to include that deed as subsequently amended. A note listing particulars of the Trust Deed and the amending deeds is set out at the end of this Deed.

4.1 Rule 1.2.1 is amended by deleting the definition of **accumulated member contributions**.

4.2 Rule 1.2.1 is further amended by deleting the definition of **AWA**.

4.3 Rule 1.2.1 is further amended by deleting the definition of **certified agreement**.

4.4 Rule 1.2.1 is further amended by inserting the following definition in alphabetical order:

“pre-reform AWA means a “pre-reform AWA” within the meaning of Schedule 7 of the *Workplace Relations Act 1996*.”.

4.5 Rule 1.2.1 is further amended by inserting the following definition in alphabetical order:

pre-reform certified agreement means a “pre-reform certified agreement” within the meaning of Schedule 7 of the *Workplace Relations Act 1996*.”.

4.6 Rule 1.2.1 is further amended by inserting the following definition in alphabetical order:

“workplace agreement means a “workplace agreement” within the meaning of the *Workplace Relations Act 1996*.”.

4.7 The following Rule is substituted for Rule 2.2.3:

“2.2.3 The **superannuation salary** of an **ordinary employer-sponsored member** will be the person’s **ordinary time earnings** if this is specified in:

- (aa) a **workplace agreement** that applies to the **ordinary employer-sponsored member**;
- (a) a **pre-reform certified agreement** that applies to the **ordinary employer-sponsored member**;
- (b) a **pre-reform AWA** that applies to the **ordinary employer-sponsored member**;
- (c) a **remuneration determination** that applies to the **ordinary employer-sponsored member**; or
- (d) an agreement in writing between the **ordinary employer-sponsored member** and their **designated employer** in the case of an **ordinary employer-sponsored member** not covered by a **workplace agreement**, a **pre-reform AWA**, a **pre-reform certified agreement** or a **remuneration determination**.”.

4.8 Rule 3.1.1 is amended by replacing paragraph (b) with the following paragraph:

- “(b) a **PSSAP member** other than in the capacity of an **ordinary employer-sponsored member** applying under paragraph (a);”.

4.9 The following Rule and notes are substituted for Rule 3.1.13:

“3.1.13 A **roll-over application** may be made to the **Board**, in accordance with the **SIS Act**, by:

- (a) a **PSSAP member** other than in their capacity as a **transitional member** applying under paragraph (b); or
- (b) a **transitional member** who is applying for an amount of benefits to be **cash**ed as an income product, which may be a **non-commutable allocated annuity**, a **non-commutable allocated pension**, a **non-commutable annuity** or a **non-commutable pension**.”.

Notes:

Concerning paragraph 3.1.13(a)

1. Under Divisions 6.4 and 6.5 of the **SIS Regulations**, a member of a regulated superannuation fund may, in writing, ask the trustee of the fund to roll over or transfer an amount that is the whole or part of the member’s withdrawal benefit, and the trustee of the fund must roll over or transfer, as permitted by SIS, the amount in accordance with the request. Division 6.5 prescribes circumstances where the trustee must roll over or transfer an amount in accordance with a request by the member.

Concerning paragraph 3.1.13(b)

2. Under Division 6.3 of the **SIS Regulations**, a member of a regulated superannuation fund, upon reaching the preservation age, is allowed to cash their benefits as a non-commutable income stream, subject to the conditions of release and the relevant restrictions set out in Schedule 1 of the SIS Regulations. As PSSAP does not directly provide for such benefits members will roll over all or part of their entitlement to a provider of such benefits.

4.10 The following Rule and note are substituted for Rule 3.1.15:

“3.1.15 Subject to the **SIS Act** and Rule 3.1.15A, if the **Board** receives a **roll-over application** from a **PSSAP member** under Rule 3.1.13(a), the **Board**, where required by the **SIS Act**, must, and, where not so required, may **roll-over** or **transfer** so much of the person’s **total benefit** as is requested in the **roll-over application** to a **superannuation entity, RSA or life insurance company.**”

Note: Regulation 6.35 of the **SIS Regulations** sets out when a trustee may refuse to **roll over** or **transfer** an amount in response to a request from a scheme member.

4.11 The following Rule is inserted after Rule 3.1.15:

“3.1.15A If the **Board** receives a **roll-over application** under Rule 3.1.13(a) that is made by an **ordinary employer-sponsored member** who intends to cease to be an **ordinary employer-sponsored member** within one month of making the **roll-over application, the roll-over and transfer** must take place as soon as possible after the person ceases to be an **ordinary employer-sponsored member.**”.

4.12 Rules 3.1.16 and 3.1.17 and the note immediately following Rule 3.1.17 are deleted.

4.13 The following Rule and note are substituted for Rule 3.1.18:

“3.1.18 If the **Board** receives a **roll-over application** from a **transitional member** under Rule 3.1.13(b), the **Board** must, subject to the **SIS Act, roll-over** or **transfer** such part of the person’s **total benefit** as is requested in the **roll-over application** to a **superannuation entity or life insurance company.**”.

4.14 The following heading and Rule is substituted for Rule 3.5.1:

Board may arrange income products

“3.5.1 The **Board** may enter into arrangements with a provider of products and services other than the Commonwealth to offer income products, including retirement income products, for purchase by persons in receipt of benefits under the Rules.”.

4.15 The following heading and Rule is substituted for Rule 5.2.1:

Crediting of earnings and debiting of expenses and losses

“5.2.1 The **Board** may determine the amounts to be credited or debited to a person’s **personal accumulation account** under Rule 5.1.5(e) and 5.1.6(c) that reasonably reflects the after tax earnings or losses derived from the investment of the amount in the account.”.

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

SIGNED, SEALED AND DELIVERED)

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by Senator the Honourable NICHOLAS HUGH MINCHIN)

Nick Minchin

)

Minister for Finance and Administration)

)

for and on behalf of)

)

THE COMMONWEALTH OF)

)

AUSTRALIA, in the presence of:)

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CRISTY ELLIOTT)

(name))

CElliott

36 GRENFELL ST)

KENT TOWN S.A. 5067)

(address))

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ELECTORATE OFFICER)

(description))

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TABLE LISTING TRUST DEED AND AMENDING DEEDS

From 1 January 2005, paragraph 6(d) of the *Legislative Instruments Act 2003* declared disallowable instruments (such as the instruments amending the Trust Deed) to be legislative instruments. Legislative instruments are registered on the Federal Register of Legislative Instruments instead of being notified in the *Gazette*.

Date	Number	<i>Gazette</i> / Registration details
29 June 2005	Trust Deed	F2005LO1901, 30 June 2005