

TWENTY-EIGHTH AMENDMENT
of the
PUBLIC SECTOR SUPERANNUATION SCHEME TRUST DEED

THIS DEED is made on 21 June 2007 by THE COMMONWEALTH OF AUSTRALIA.

WHEREAS section 4 of the *Superannuation Act 1990* (the Act) provides for the Minister to establish an occupational superannuation scheme to be administered by the Board established under section 20 of the Act (the Board);

AND WHEREAS the Public Sector Superannuation Scheme (the PSS) was established by a Trust Deed dated 21 June 1990 (the Trust Deed)¹;

AND WHEREAS The Schedule to the Trust Deed contains Rules for the administration of the PSS (the Rules);

AND WHEREAS the Trust Deed and the Rules have been amended from time to time by various Deeds;

AND WHEREAS section 5 of the Act provides for the Minister, by instrument in writing, to amend the Trust 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 take effect as follows:
 - (a) subject to paragraph (b), on the day after this Deed is registered on the Federal Register of Legislative Instruments;
 - (b) in relation to clauses 8 and 9, on 1 July 2007.

To avoid doubt, the amendments made by clause 8 do not affect any determination or determinations by the Board as to rates of interest and methods of allocation before 1 July 2007.

2. Unless a contrary intention appears, a word or phrase in this Deed has the same meaning that it has in the Trust Deed and the Rules.

¹ Section 3 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.

3. The Trust Deed is amended as follows:

3.1 Paragraph 3.2(i) is replaced with the following paragraph:

“(i) effect policies with insurers in the Board’s name to provide additional death and invalidity cover for members as provided for in the Rules;”

3.2 Paragraph 3.2(k) is deleted.

3.3 Subclauses 10.7 and 10.8 are deleted.

4. The Rules are amended by deleting Section A.

5. Section B of the Rules is amended as follows:

5.1 Before the heading “Part B1 – Introduction” in the amended Rules delete the following heading:

SECTION B – DEFINED BENEFITS PLAN

5.2 In the heading to each Part, delete the letter “B” as a prefix to the Part number.

5.3 In each rule number, delete the letter “B” as a prefix to the rule number.

5.4 Amend each reference to a Part of the Rules by deleting the letter “B” as a prefix to the Part number.

5.5 Amend each reference to a rule number in the Rules by deleting the letter “B” as a prefix to the rule number.

6. Part 1 of the Rules, as amended by clauses 4 and 5 above, is further amended as follows:

6.1 The heading to Division 1 is replaced with the following heading:

Division 1

Understanding these Rules

6.2 The heading to Rule 1.1.1 is replaced with the following heading:

Structure of the Rules

6.3 Rule 1.1.1 is amended by:

(a) replacing the first sentence with the following:

"These Rules have been divided into 16 Parts, each dealing with a major aspect of the operation of the **PSS scheme**."

(b) in the Guide, deleting the words “Section B of” (wherever appearing);

(c) in the Guide, replacing the words:

“PSS defined benefits plan”

with the words:

“PSS scheme”

wherever appearing.

6.4 Rules 1.1.3, 1.1.4 and 1.1.5 are replaced with the following Rules:

1.1.3 The Rules have been numbered so that the first number refers to the Part number, the second refers to the Division number within that Part and the third to the Rule number within that Division. For example, Rule 6.3.2 is the second Rule in Division 3 of Part 6 of the Rules.

1.1.4 There are several notes, diagrams and guides within the Rules to help you understand the more complicated superannuation concepts or to warn you if you need to also look in another area of the Rules. However, these aids (including Part, Division and Rule headings) do not form part of the Rules.

1.1.5 Tables on the other hand form part of the Rules and are used to provide factors or other similar information. Examples also form part of the Rules and have been included to demonstrate a practical application of a particular rule or the combined effect of a particular Division or Part.”

6.5 The heading to Division 2 is replaced with the following heading:

Division 2

Words and Phrases Used in these Rules

6.6 Rule 1.2.1 is amended by:

(a) replacing the first and second sentence of the Rule with the following:

“Because some words and phrases have a special meaning when used in these Rules they have been explained below. They appear throughout the Rules in **bold print** to remind you they have a special meaning.”

(b) in the definition of **approved medical practitioner**, deleting the words “Section B of”;

(c) replacing the definition of **casual member** with the following definition:

“**casual member** means a **PSS member** who is:

- not a **regular member** and is not entitled to holiday leave and sick leave in his/her job; or
- a **PSS member** who is paid fees on a daily basis in respect of an office or position.”

(d) deleting the definition of **category A member**;

(e) in the definitions of **decision**, **pension**, **pensioner** and **surchargeable contributions**, deleting the words “Section B of” (wherever appearing);

(f) in the definitions of **preserved benefit** and **transfer amount**, replacing the words:

“**PSS defined benefits plan**”

with the words:

“**PSS scheme**”

wherever appearing.

(g) deleting the definition of **PSS defined benefits plan**;

(h) replacing the definition of **regular member** with the following definition:

“**regular member** means a **PSS member** who is:

- a **permanent full-time employee**;
- a **permanent part-time employee**;
- a **temporary full-time employee**; or
- a **temporary part-time employee** who is entitled to holiday leave and sick leave in his/her job;

but does not include a **PSS member** who is paid fees on a daily basis in respect of an office or position.”

7. Part 2 of the Rules, as amended by clauses 4 and 5 above, is further amended as follows:

7.1 The following note is inserted immediately after Rule 2.1.1:

Note: Amendments to the *Superannuation Act 1990* that commenced on 1 July 2005 effectively closed the **PSS scheme** to new entrants from that date. Nevertheless, certain people can join or are required to rejoin the **PSS scheme on or after 1 July 2005**, in particular:

- a person who commences employment with the Australian Government or an approved authority who is:
 - already a **member** of the **PSS scheme** eg due to another concurrent instance of employment;
 - a person who has a **preserved benefit** in the **PSS scheme** that has not been paid;
 - a person who is an **invalidity pensioner**;
- a person who was the holder of a statutory office on 30 June 2005 or was a **temporary employee** on that date who had a continuing right to elect to be a **PSS member** in respect of the appointment or employment held on that day (see subsection 6(4) and sections 7 and 8 of the *Superannuation Act 1990*);
- a person who was a **temporary employee** before 1 July 2005 and who made an election before that date under section 8 of the *Superannuation Act 1990* to join the **PSS scheme** and the election took effect on or after that date;
- a person who validly elects to transfer to the **PSS scheme** from the **CSS scheme**.

7.2 Rule 2.1.1A (including the note to Rule 2.1.1A) and Rule 2.1.1B are deleted.

8. The Rules are further amended as follows:

8.1 Rule 1.2.1 is amended by replacing the second dot point of the definition of **accumulated funded productivity contributions** with the following dot point:

- “• the amount of any **accumulated funded productivity contributions** included in a **preserved benefit** applicable to the person immediately before last becoming a **member**, plus the amount of any interest up to his/her **first day of membership** in accordance with a determination or determinations by the **Board** as to rates of interest and the method of allocation; and”

8.2 Rule 1.2.1 is further amended by replacing the sixth dot point of the definition of **accumulated funded productivity contributions** with the following dot point:

- “• the interest (if any) on these amounts in accordance with a determination or determinations by the **Board** as to rates of interest and method of allocation;”

- 8.3 Rule 1.2.1 is further amended by replacing the second dot point of the definition of **accumulated member contributions** with the following dot point:
- “• the amount of any **accumulated member contributions** included in a **preserved benefit** applicable to the person immediately before last becoming a **member**, plus the amount of any interest up to his/her first day of membership in accordance with a determination or determinations by the **Board** as to rates of interest and the method of allocation; and”
- 8.4 Rule 1.2.1 is further amended by replacing the sixth dot point of the definition of **accumulated member contributions** with the following dot point:
- “• the interest (if any) on these amounts in accordance with a determination or determinations by the **Board** as to rates of interest and method of allocation.”
- 8.5 Rule 1.2.1 is further amended by replacing the fifth dot point of the definition of **accumulated unfunded productivity contributions** with the following dot point:
- “• the interest (if any) on these amounts in accordance with a determination or determinations by the **Board** as to rates of interest and method of allocation.”
- 8.6 Rule 1.2.1 is further amended by inserting the following definition in alphabetical order:
- “**amount** includes a nil amount.”
- 8.7 Rule 1.2.1 is further amended by inserting the following definition in alphabetical order:
- “**cumulative** has a meaning affected by Rule 1.2.5.”
- 8.8 Rule 1.2.1 is further amended by inserting the following definition in alphabetical order:
- “**interest** includes negative or zero interest, and the following words, when used in relation to interest, have a corresponding meaning – **accrue, accrued, accruing, accumulate, accumulated, accumulates.**”
- 8.9 Rule 1.2.1 is further amended by inserting the following definition in alphabetical order:
- “**notional interest** includes negative or zero notional interest.”
- 8.10 Rule 1.2.1 is further amended by inserting the following definition in alphabetical order:
- “**plus** has a meaning affected by Rule 1.2.5.”
- 8.11 Rule 1.2.1 is further amended by inserting the following definition in alphabetical order:
- “**sum** has a meaning affected by Rule 1.2.5.”
- 8.12 Rule 1.2.1 is further amended by inserting the following definition in alphabetical order:
- “**total** has a meaning affected by Rule 1.2.5.”

8.13 The following rule is inserted after Rule 1.2.4:

“1.2.5 If:

- (a) a provision of these Rules involves the calculation of a sum (whether the expression “cumulative”, “sum”, “total”, “plus” or any other expression is used); and
- (b) the calculation involves negative **interest** or negative **notional interest**; and
- (c) apart from this Rule, the sum would be less than zero;

the sum is taken to be zero.”

8.14 Rule 11.3.11 is replaced with the following Rule:

“11.3.11 Any **member contributions** paid by the **member** subsequent to the **contribution due day** ascertained under Rule 11.3.10, plus the interest (if any) on 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.”

8.15 Subparagraph (a)(i) of Rule 12.1.5 is replaced with the following subparagraph:

“(i) the amount of lump sum paid that is no longer payable, plus such interest, if any, as the **Board** determines is repaid by the date specified by the **Board**; and”

9. To avoid doubt, the amendments made by clause 8 do not imply that:

- (a) zero interest could not have been determined under the Rules before 1 July 2007; or
- (b) zero notional interest could not have been determined under the Rules before 1 July 2007.

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

SIGNED, SEALED AND DELIVERED)
)
by the Honourable NICK MINCHIN) Nick Minchin
)
Minister for Finance and Administration)
)
for and on behalf of)
)
THE COMMONWEALTH OF)
)
AUSTRALIA, in the presence of:)
) DWawn
)
DAVID WAWN)
 (name))
)
Parliament House, Canberra)
 (address))
)
Chief of Staff)
 (description))
)

Note to the Deed:

TABLE LISTING TRUST DEED AND AMENDING DEEDS

Before 1 January 2005, section 45 of the *Superannuation Act 1990* provided, in part, that instruments under subsection 5(1) amending the Trust Deed were disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*. The effect of these provisions was that amending instruments were required to be notified in the *Gazette* and take effect from the date of gazettal (unless the instrument provided otherwise).

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	Gazette details/ Registration details
21 June 1990	Trust Deed	GN 25, 27 June 1990, p1728
21 June 1990	First	GN 25, 27 June 1990, p1728
1 July 1991	Second	S 180, 1 July 1991
30 June 1992	Third	S 181, 1 July 1991
21 December 1992	Fourth	GN 1, 13 January 1993, p110
16 June 1993	Fifth	S 181, 18 June 1993
24 January 1994	Sixth	GN 4, 2 February 1993, p366
7 March 1994	Seventh	S 89, 15 March 1994
28 June 1993	Eighth	S 246, 29 June 1994
22 June 1995	Ninth	GN 25, 28 June 1995, p2285
29 January 1996	Tenth	S 41, 1 February 1996
10 December 1996	Eleventh	GN 50, 18 December 1996
25 March 1998	Twelfth	GN 13, 1 April 1998, p901
5 December 1999	Thirteenth	S 590, 6 December 1999
20 August 2001	Fourteenth	S 342, 22 August 2001
25 September 2001	Fifteenth	GN 39, 3 October 2001, p2972

26 June 2002	Sixteenth	S 225, 27 June 2002
3 April 2003	Seventeenth	GN 17, 30 April 2004, p 1398
27 June 2003	Eighteenth	S 245, 27 June 2003
26 November 2003	Nineteenth	S 446, 1 December 2003
23 March 2004	Twentieth	S 89, 24 March 2004
9 May 2004	Twenty-first	S 146, 11 May 2004
5 July 2004	Twenty-second	S 277, 9 July 2004
9 August 2004	Twenty-third	S 330, 12 August 2004
8 June 2005	Twenty-fourth	F2005L01613, 27 June 2005
24 June 2005	Twenty-fifth	F2005L01860, 29 June 2005
22 August 2005	Twenty-sixth	F2005L02372, 25 August 2005
20 June 2006	Twenty-seventh	F2006L01969, 26 June 2006