

FOURTH AMENDMENT
of the
SUPERANNUATION (PSSAP) TRUST DEED

THIS DEED is made on June 22nd 2009 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 (the PSSAP) was established by Trust Deed dated 29 June 2005¹ (the Trust Deed);

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

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

AND WHEREAS section 11 of the Act provides for the Minister, by instrument in writing, to amend the Trust Deed, and under section 32 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. Commencement of amendments

The amendments in this Deed take effect as follows:

- (a) clause 3.1: immediately after Schedule 22 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* commences;
- (b) clauses 3.2 to 3.9: immediately after Part 2-4 of the *Fair Work Act 2009* commences;
- (c) in all other cases: the day after this Deed is registered on the Federal Register of Legislative Instruments.

2. Interpretation

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

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.

3. Amendments – amendments resulting from the Fair Work legislation

3. The Rules are amended as follows:

3.1 **Rule 1.2.1** is amended by deleting paragraph (a) of the existing definition of **other approved employment** and substituting it with the following new paragraph (a):

“(a) employment with an organisation or association registered or recognised under the *Fair Work (Registered Organisations) Act 2009*, the membership of which includes people who are members of the **CSS** or the **PSS** or the **PSSAP** or a body consisting of such organisations;”

3.2 **Rule 1.2.1** is further amended by replacing the existing definition of **AWA** with the following definition:

“**AWA** means an “AWA” within the meaning of clause 1 of Schedule 7A to the *Workplace Relations Act 1996*, as continued in existence as a transitional instrument under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.”

3.3 **Rule 1.2.1** is further amended by replacing the existing definition of **pre-reform AWA** with the following definition:

“**pre-reform AWA** means a “pre-reform AWA” within the meaning of clause 1 of Schedule 7 to the *Workplace Relations Act 1996*, as continued in existence as a transitional instrument under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.”

3.4 **Rule 1.2.1** is further amended by replacing the existing definition of **pre-reform certified agreement** with the following definition:

“**pre-reform certified agreement** means a “a pre-reform certified agreement” within the meaning of clause 1 of Schedule 7 to the *Workplace Relations Act 1996*, as continued in existence as a transitional instrument under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.”

3.5 **Rule 1.2.1** is further amended by replacing the existing definition of **workplace agreement** with the following definition:

“**workplace agreement** means a “workplace agreement” within the meaning of section 4 of the *Workplace Relations Act 1996*, as continued in existence as a transitional instrument under the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.”

3.6 **Rule 1.2.1** is further amended by inserting the following new definition in alphabetical order:

“enterprise agreement means a “enterprise agreement” within the meaning of section 12 of the *Fair Work Act 2009*.”

3.7 **Rule 1.2.1** is further amended by inserting the following new definition in alphabetical order:

“workplace determination means a “workplace determination” within the meaning of section 12 of the *Fair Work Act 2009*.”

3.8 **Rule 2.2.3** is replaced with the following rule:

“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:

- (a) a **workplace agreement** that applies to the **ordinary employer-sponsored member**;
- (b) a **pre-reform certified agreement** that applies to the **ordinary employer sponsored member**;
- (c) a **pre-reform AWA** that applies to the **ordinary employer-sponsored member**;
- (d) an **AWA** that applies to the **ordinary employer-sponsored member**;
- (e) a **remuneration determination** that applies to the ordinary employer-sponsored member; or
- (f) an **enterprise agreement** that applies to the **ordinary employer-sponsored member**; or
- (g) a **workplace determination** that applies to the **ordinary employer-sponsored member**; or
- (h) 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 certified agreement**, a **pre-reform AWA**, an **AWA**, a **remuneration determination**, an **enterprise agreement**, or a **workplace determination**.”

3.9 The **note** following **Rule 2.2.4** is amended by inserting the following dot point immediately following the third dot point:

“- to provide additional superannuation cover as specified in an enterprise agreement or a workplace determination;”

4. Amendments – transfer of Government Co-contributions

4 The Rules are amended as follows:

4.1 The following Rule is to be inserted immediately following **Rule 2.4.1**:

“2.4.1A Subject to the **SIS Act**, a **PSSAP member** may **transfer** or **roll-over** an amount payable in respect of the person under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* to the **Board** as a **transfer amount** where the amount, in total or part, relates to a period where the person was an **ordinary employer-sponsored member**, provided the method of payment complies with Rule 2.4.2.”

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

“transfer amount means an amount transferred in respect of:

(a) an **ordinary employer-sponsored member** to the **Board** under Rule 2.4.1; or

(b) a **PSSAP member** to the **Board** under Rule 2.4.1A;

less income tax payable by the **PSSAP Fund** in relation to that amount.”

5. Application of Amendments – transfer of Government Co-contributions

The amendments made by clause 4 of this Deed apply in relation to transfer amounts received on or after the day on which the amendments commence.

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

SIGNED, SEALED AND DELIVERED) Lindsay Tanner

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by the Honourable LINDSAY TANNER)

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Minister for Finance and Deregulation)

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for and on behalf of)

)

THE COMMONWEALTH OF)

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AUSTRALIA, in the presence of:)

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(name)) Annette Lancy

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(address)) Parliament House,

)

Canberra

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(description)) Policy Advisor

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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	Gazette / Registration details
29 June 2005	Trust Deed	F2005L01901, 30 June 2005
25 July 2006	First	F2006L02524, 1 August 2006
21 June 2007	Second	F2007L01942, 28 June 2007
8 April 2008	Third	F2008L01089, 18 April 2008