

EIGHTH AMENDMENT
of the
SUPERANNUATION (PSSAP) TRUST DEED

THIS DEED is made on 14 March 2013 by THE MINISTER FOR FINANCE AND DEREGULATION.

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* (1990 Act) before its repeal by the *Superannuation Legislation (Consequential Amendments and Transitional Provisions) Act 2011*;

AND WHEREAS the body corporate, that was previously constituted as the Board under repealed section 20 of the 1990 Act, is continued in existence under the name Commonwealth Superannuation Corporation (CSC) by section 5 of the *Governance of Australian Government Superannuation Schemes Act 2011*;

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 CSC to amendments in certain circumstances;

AND WHEREAS CSC 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 commence on the day after it is registered.

2. Interpretation

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

3. Introduction of Account-based Pension Products

The Rules are amended as follows:

3.1 Rule 1.2.1 is amended by inserting the following definition immediately before the definition of “**accumulation amount**”:

“**account-based pension** has the same meaning as in the **SIS Regulations**.”

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.

- 3.2 Rule 1.2.1 is amended by inserting the following definition immediately before the definition of “**permanent incapacity**”:

“**pension account** means an account established by **CSC** under Rule 3.6.4.”

- 3.3 Rule 1.2.1 is amended by inserting the following definition immediately before the definition of “**quarter**”:

“**PSSAP pensioner** means a person who has a **pension account** or accounts, other than a **reversionary beneficiary**.”

- 3.4 Rule 1.2.1 is amended by inserting the following definition immediately before the definition of “**roll-over**”:

“**reversionary beneficiary** means a person who is receiving an **account-based pension** because of the death of a **PSSAP pensioner**.”

- 3.5 Rule 3.1.1(e) is amended by deleting the word “or”.

- 3.6 Rule 3.1.1(f) is deleted and replaced with the following new Rule 3.1.1(f):

“(f) a **PSSAP member** or the Commissioner of Taxation, applying for the payment of a benefit pursuant to a **release authority**,”

- 3.7 Rule 3.1.1 is amended by inserting the following new paragraphs (g) and (h) after paragraph (f):

“(g) a **PSSAP member** who is applying for an amount of benefits to be cashed as an **account-based pension**; or

(h) a **PSSAP pensioner** or **reversionary beneficiary** who is applying to commute all or part of the balance of their **pension account**.”

- 3.8 The notes immediately after Rule 3.1.13 are amended by deleting the words “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.”

- 3.9 The following new Division is inserted immediately after Division 5 of Part 3:

<p>“Division 6 Account-based pensions provided by CSC</p>
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3.6.1 If **CSC** receives a benefit application from a **PSSAP member** pursuant to Rule 3.1.1(g), **CSC** may, subject to the **SIS Act** and the person satisfying any requirements determined under Rule 3.6.2, provide one or more **account-based pensions** to the person.

3.6.2 **CSC** may, subject to the **SIS Act** and this Division, determine terms and conditions for the provision of an **account-based pension**, including the amount and manner of payments from the account.

<p>Note: Rule 3.6.2 allows CSC to set terms and conditions for the provision of an account-based pension.</p>
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For example, **CSC** may:

- Decide to only provide a pension where the amount paid from a **PSSAP member's personal accumulation account** into their **pension account** is above a certain amount.
- Allow **PSSAP pensioners** to select the amounts and timing of their pension payments, within specified restrictions.
- Offer **PSSAP pensioners** the opportunity to elect to have amounts held in their **pension account** invested in accordance with particular investment strategies, including conditions on how and when changes to their investment strategy can be made.
- Determine the eligibility requirements and the manner and form required for the nomination, and variations of nomination, of **reversionary beneficiaries**.

Payment of account-based pensions

3.6.3 If **CSC** provides an **account-based pension** under Rule 3.6.1, the following conditions, in addition to any terms and conditions determined by **CSC** under Rule 3.6.2, shall apply to the pension:

- (a) the pension shall be paid from the **pension account**;
- (b) payment of the pension shall be made at least annually until the earlier of the member's death or the date that the **pension account** balance is exhausted;
- (c) the amount of any pension payment cannot be greater than balance of the **pension account** at the time of the payment;
- (d) the amount of the pension shall be subject to the minimum and maximum limits specified by the **SIS Act**;
- (e) once the pension is commenced, no amounts can be added to by way of contribution or **roll-over** to the **pension account**;
- (f) the pension is transferable to another person only on the death of the **PSSAP pensioner** or **reversionary beneficiary** or as otherwise permitted under the **SIS Act**;
- (g) the capital value of the pension and income from the pension cannot be used by a person as security for a borrowing; and
- (h) the pension is to be commuted in whole or part to a lump sum only if permitted or required by the **SIS Act**.

Note: Under the **SIS Regulations**, **account-based pensions** are subject to an annual minimum based on the pensioner's age. Where a **PSSAP pensioner** has reached their relevant preservation age and is taking their pension as a transition to retirement income stream, the **SIS Regulations** also prescribe an annual maximum for the payments, based on the total account balance.

Pension account

3.6.4 Where **CSC** provides one or more **account-based pensions** to a **PSSAP member** under Rule 3.6.1, **CSC** shall establish and maintain a separate **pension account** for each pension.

3.6.5 At any particular time, the balance of the **pension account** of a **PSSAP pensioner** is equal to the total of the amounts credited to the **pension account** of the **PSSAP pensioner** under Rule 3.6.6 less the total of the amounts debited to the **pension account** under Rule 3.6.7.

3.6.6 The following amounts are to be credited to a **pension account**:

- (a) the amount transferred from the **personal accumulation account** or **non-member spouse interest account** of the **PSSAP pensioner**, as requested by the **PSSAP pensioner**;
- (b) the interest (if any) in respect of fund earnings on the **pension account** as determined by **CSC**; and
- (c) such other amounts as **CSC** determines from time to time.

3.6.7 The following amounts are to be debited to a **pension account**:

- (a) any pension payments made to or in respect of the **PSSAP pensioner** or a **reversionary beneficiary**;
- (b) the interest (if any) in respect of fund losses on the **pension account** as determined by **CSC**;
- (c) any fees, costs and expenses paid or deducted from the **pension account** under Rule 3.6.9;
- (d) any amounts commuted under Rule 3.6.8; and
- (e) such other amounts as **CSC** determines from time to time.

Commutation of amounts held in pension account

3.6.8 If **CSC** receives a benefit application from a **PSSAP pensioner** or **reversionary beneficiary** pursuant to Rule 3.1.1(h), **CSC** may, subject to the **SIS Act**:

- (a) **roll-over** or **transfer** to a superannuation entity or life assurance company;
- (b) pay to the person (as a lump sum);
- (c) if the application is from a **PSSAP member**, credit the person's **personal accumulation account**;
- (d) if the application is from a **non-member spouse**, credit the person's **non-member spouse interest account**;

such part of the person's **pension account** as is requested in the application.

Notes:

- 1 The **SIS Regulations** may restrict the commutation of the pension if minimum thresholds for pension payments have not yet been paid in the financial year. There may also be restrictions on commutation where a transition to retirement income stream is taken.
- 2 A **reversionary beneficiary** may also be a **PSSAP member**. In these circumstances, the balance of the pension account may be added to the reversionary beneficiary's own **personal accumulation account**.

Fees, costs and expenses relating to pension accounts

3.6.9 Fees, costs and expenses incurred in relation to a **pension account** are to be determined by **CSC** and deducted from that **pension account**.

Pension account – member investment choice on death

3.6.10 If **CSC** is satisfied that a **PSSAP pensioner** or **reversionary beneficiary** has died, **CSC** may, pending payment of the person's benefit, switch the investment options in which the person's benefit was then invested to an investment option that **CSC** selects.

References in other rules

3.6.11 A reference in Rule 3.1.1(c), Rule 3.1.1(d), Rule 3.1.1(e), Rule 3.1.1(f), Rule 3.1.6, Rule 3.1.10, Rule 3.1.11A, and Rule 3.1.20 to a **PSSAP member** is taken to include a **PSSAP pensioner** or **reversionary beneficiary**.

3.6.12 A reference in Rule 3.1.6, Rule 3.1.10, and Rule 3.1.11A to **total benefit** is taken to include the balance of the person's **pension account**.

Nomination of reversionary beneficiary

3.6.13 A **PSSAP pensioner** may, before their **account-based pension** commences to be paid or at such other times as **CSC** may allow, nominate one or more dependants as a beneficiary.

Death of a person with a pension account

3.6.14 On the death of a **PSSAP pensioner**:

- (a) if there is a valid nomination of a beneficiary under Rule 3.6.13 at the date of the death of the **PSSAP pensioner**, **CSC** must continue payment of the pension to the nominated beneficiary if the **SIS Act** permits it to do so; or

- (b) if the pensioner has not nominated a beneficiary under Rule 3.6.13, but has made a valid **binding member nomination**, **CSC** must deal with payment of that balance in accordance with that **binding member nomination** subject to the **SIS Act**; or
- (c) where paragraphs (a) and (b) do not apply, **CSC** may pay the **pension account** balance in such manner and in such proportions as it determines, as permitted or required by the **SIS Act**.

3.6.15 On the death of a **reversionary beneficiary**, any remaining **pension account** balance will be paid as determined by **CSC**, subject to the **SIS Act**.”

- 3.10 The heading to Rule 5.5.2 and Rule 5.5.2 are deleted and replaced with the following new heading and rule:

“ **CSC must redirect incorrectly paid amounts and correct personal accumulation accounts, pension accounts and non-member spouse accounts**

5.5.2 If any moneys paid to or withdrawn from the **personal accumulation account**, **pension account** or **non-member spouse interest account** of a **PSSAP member**, **PSSAP pensioner** or **reversionary beneficiary** were, in the opinion of **CSC**, paid into or withdrawn from the respective account by mistake (whether of law or of fact), **CSC** must take steps to correct the mistake, including:

- (a) withdrawing an amount from the **personal accumulation account**, **pension account** or **non-member spouse interest account** or paying an amount to the **personal accumulation account**, **pension account** or **non-member spouse interest account**; and
- (b) doing all things necessary to correct the records of the **PSSAP Fund** to reflect action taken under paragraph (a).”

- 3.11 Rule 5.1.5 is amended by deleting paragraph (i) and replacing it with the following paragraphs:

- “(i) amount of any tax offset as determined by **CSC**;
- (j) any amount credited to the person’s **personal accumulation account** under Rule 3.6.8.”

4. Removing Reference to Previously Deleted Rule

The Rules are amended as follows:

- 4.1 The note immediately after Rule 3.1.4 is amended by deleting the existing note and replacing it with the following new note:

“ **Note:** Where part of a benefit is paid to a person under Rule 3.1.4, the remainder of the benefit must be retained in the **personal accumulation account** of the **PSSAP member** or **rolled-over** or **transferred** to another superannuation entity. See Rule 3.1.12. ”

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

SIGNED, SEALED AND DELIVERED)

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by)

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Senator the Hon PENELOPE YING YEN WONG)

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Minister for Finance and Deregulation)

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in the presence of:)

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(name))

Paul Hiscox

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PUBLIC SERVANT

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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
22 June 2009	Fourth	F2009L02531, 25 June 2009
29 June 2011	Fifth	F2011L01390, 30 June 2011
10 February 2012	Sixth	F2012L00319, 15 February 2012
12 December 2012	Seventh	F2013L00027, 7 January 2013