

NINTH AMENDMENT
of the
SUPERANNUATION (PSSAP) TRUST DEED

THIS DEED is made on 31 May 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AND WHEREAS the body corporate, that was previously constituted as the Board under repealed section 20 of the 1990 Act, is continued in existence under the name Commonwealth Superannuation Corporation (CSC) by section 5 of the *Governance of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 take effect as follows:

- (a) clauses 7 and 8: 1 July 2014;
- (b) clause 9: immediately after the commencement of the Seventh Amendment of the Superannuation (PSSAP) Trust Deed;
- (c) in all other cases: the day after it is registered on the Federal Register of Legislative Instruments.

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.

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. Application – salary sacrifice for current government scheme members

The amendments made by clause 4 of this Deed apply in relation to contributions made on or after the day of commencement of clause 4 of this Deed.

4. Salary sacrifice for current government scheme members

4. The Rules are amended as follows:

4.1 Rule 1.2.1 is amended by deleting the existing definition of “additional employer contributions” and replacing it with the following new definition:

“**additional employer contributions** means, in respect of an **ordinary-employer-sponsored member**, contributions made by the **designated employer** of that member under Rule 2.2.4, and, in respect of a **current government scheme member**, salary sacrifice contributions made by the **designated employer** of that member under Rule 2.2.4A.”

4.2 Rule 1.2.1 is amended by inserting the following definition immediately after the definition of “assessment”:

“**Australian government superannuation scheme member** has the same meaning as in the Act.”

4.3 Rule 1.2.1 is amended by inserting the following definition and note immediately after the definition of “CSS”:

“**current government scheme member** means a person who has a PSSAP membership because they were, and continue to be, an **Australian government superannuation scheme member**.”

Note: Where a **current government scheme member**, who is employed by two or more **designated employers**, ceases to be the employee of one or more, but not all, of those **designated employers**, the person does not cease to be a **current government scheme member**. Also, where a person is a **current government scheme member** with one **designated employer** and, upon ceasing to be the employee of that **designated employer**, immediately becomes the employee of another **designated employer**, the person does not cease to be a **current government scheme member**. See Rule 2.1.5.

- 4.4 Rule 1.2.1 is amended by deleting the existing definition of “designated employer” and replacing it with the following new definition:

“**designated employer** in relation to an **ordinary employer-sponsored member**, or a **current government scheme member**, is the designated employer of that member determined in accordance with section 19 of the **Act**.”

- 4.5 Rule 1.2.1 is amended by inserting the following definitions immediately after the definition of “enterprise agreement”:

“**former Australian government superannuation scheme member** has the same meaning as in the **Act**.

former government scheme member means a person who has a PSSAP membership because they were, and continue to be, a **former Australian government superannuation scheme member**.

government scheme member means a person who has a PSSAP membership because they are or were an **Australian government superannuation scheme member** or **former Australian government superannuation scheme member**.”

- 4.6 The note immediately before Rule 2.1.1 is amended by deleting the existing note and replacing it with the following new note:

“ **Note:** A person becomes a **PSSAP member** under Part 3 of the Act, which also specifies the duration of the person’s PSSAP membership. As well as specifying when a person is eligible to become a member of PSSAP, that Part empowers the Minister to either declare that a particular person is eligible to become a **PSSAP member** or is not eligible to become a **PSSAP member**.

A **designated employer** is required to pay contributions only in respect of:

- **ordinary employer-sponsored members**; and
- **current government scheme members** (salary sacrifice contributions only).

Part 4 of the Act sets out the situations in which a **PSSAP member** is an **ordinary employer-sponsored member** of PSSAP.

”

- 4.7 The heading immediately before Rule 2.1.1 is amended by deleting the existing heading and replacing it with the following new heading:

“ **Concurrent memberships – ordinary employer-sponsored member** ”

- 4.8 The note immediately after Rule 2.1.3 is amended by deleting the existing note and replacing it with the following new note:

“ **Note:** CSC must keep a **personal accumulation account** (and/or **pension account**) for each **PSSAP member**. (See Rule 5.1.1.) ”

- 4.9 The following headings, rules and notes are inserted immediately after the note following Rule 2.1.3:

“ **Concurrent memberships – current government scheme member** ”

2.1.4 A person may be a **current government scheme member** in respect of two or more concurrent employments.

2.1.5 Where a **current government scheme member**, who is employed by two or more **designated employers** at the same time, ceases to be an employee of one or more but not all of those **designated employers**, the person will not cease to be a **current government scheme member**. Also, where a **current government scheme member** ceases to be employed by one **designated employer** but immediately afterwards becomes an employee of another **designated employer**, the person does not cease to be a **current government scheme member**.

2.1.6 Where a person is a **current government scheme member** in respect of two or more concurrent employments, **CSC** may maintain one **personal accumulation account** for the member.

Note: CSC must keep a **personal accumulation account** (and/or **pension account**) for each **PSSAP member**. (See Rule 5.1.1.)

Concurrent memberships – ordinary employer-sponsored and government scheme member

2.1.7 A person may have concurrent PSSAP memberships as an **ordinary employer-sponsored member** and as a **government scheme member**.

2.1.8 Where a person is concurrently an **ordinary employer-sponsored member** and a **government scheme member**, **CSC** may maintain one **personal accumulation account** for the member.

Note: CSC must keep a **personal accumulation account** (and/or **pension account**) for each **PSSAP member**. (See Rule 5.1.1.) ”

- 4.10 The following heading, rules and note are inserted immediately after the note following Rule 2.2.4:

“ **Additional employer contributions – salary sacrifice contributions for current government scheme members**

2.2.4A Subject to Rule 2.2.4B, the **designated employer** of a **current government scheme member** may pay salary sacrifice contributions to **CSC** in respect of that member:

- (a) where the **current government scheme member** has elected a particular investment strategy; and
- (b) where **CSC** has accepted the election made by the **current government scheme member** to choose a particular investment strategy.

Note: This rule allows employers to make contributions as a result of salary sacrifice arrangements with an employee. Salary sacrifice contributions are the only contributions the employer of a **current government scheme member** can make to the **PSSAP Fund**. **Current government scheme members** cannot make personal post-tax member contributions or spouse contributions into the **PSSAP Fund**.

CSC must only accept salary sacrifice contributions under this Rule if the person they are in respect to was an **Australian government superannuation scheme member** at the time the contributions were made. These contributions are considered to be “**additional employer contributions**” for the purpose of the Rules.

2.2.4B **CSC** must reject any contributions paid under Rule 2.2.4A if the **SIS Act** would prevent the **PSSAP Fund** from accepting the contributions or if acceptance of the contributions by **CSC** may jeopardise the status of the **PSSAP Fund** as a complying superannuation fund.”

- 4.11 The following rule is inserted immediately after Rule 2.2.6:

“**2.2.6A** The **designated employer** of a **current government scheme member** must pay any **additional employer contributions** in accordance with any determination of **CSC** under Rule 2.2.5.”

- 4.12 The following new division is inserted immediately after Part 2, Division 4:

“ **Division 5**

Administration fees

Administration fees for certain PSSAP members

2.5.1 CSC must determine fees to be paid from the **personal accumulation account** of a person who is a **government scheme member** in relation to the costs of administering their **personal accumulation account**.

Note: Fees in relation to the cost of administering the **personal accumulation account** of **PSSAP members** that are not **government scheme members** are, unless otherwise specified, paid by the Commonwealth.

The **personal accumulation account** of a **government scheme member** can continue to attract administration fees after the person exits the **CSS** or **PSS**. If such a member commutes their pension under Rule 3.6.8(c), their **personal accumulation account** can continue to attract administration fees.

4.13 The note immediately after Rule 5.1.1 is amended by deleting the existing note and replacing it with the following new note:

Note: A **PSSAP member** includes an **ordinary employer-sponsored member** and a **government scheme member**.

4.14 Rule 5.1.6 is amended by deleting the existing paragraph (e) and replacing it with the following new paragraph:

“(e) any fees, costs and expenses paid from the person’s **personal accumulation account** under Rule 5.4.3 and Rule 2.5.1;”

4.15 Rule 5.4.2 is amended by deleting the existing rule and replacing it with the following new rule:

“**5.4.2** CSC may determine when and how **PSSAP members**, or particular **PSSAP members**, may make or change an election about their choice of investment strategy.”

4.16 The heading immediately before Rule 7.3.7 is amended by deleting the existing heading and replacing it with the following new heading:

CSC may not take out insurance policy for a non-member spouse

5. Application – transfer amounts

The amendments made by clause 6 of this Deed apply in relation to transfers or roll-overs made on or after the day of commencement of clause 6 of this Deed.

6. Transfer amounts

6. The rules are amended as follows:

6.1 Rule 1.2.1 is amended by deleting the existing definition of “transfer amount” and replacing it with the following new definition:

“**transfer amount** means an amount transferred or rolled-over in respect of:

- (a) an **ordinary employer-sponsored member** to **CSC** under Rule 2.4.1; or
- (b) a **PSSAP member** to **CSC** under Rule 2.4.1A or Rule 2.4.1D; or
- (c) a **current government scheme member** to **CSC** under Rule 2.4.1B; or
- (d) a **former government scheme member** to **CSC** under Rule 2.4.1C;

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

6.2 The following rules and note are inserted immediately after Rule 2.4.1A:

“**2.4.1B** Subject to the **SIS Act**, **CSC** may allow a **current government scheme member** to **transfer** or **roll-over** a **roll-over superannuation benefit** to **CSC** as a **transfer amount** where the member has elected a particular investment strategy and **CSC** has accepted the election.

2.4.1C Subject to the **SIS Act**, **CSC** may allow a **former government scheme member** to **roll-over** to **CSC** as a **transfer amount** their:

- (a) **PSS** accumulated transfer amount paid under **PSS** Rule 11.2.4A; or
- (b) **PSS** Accumulated Additional Contributions paid under **PSS** Rule 11.4.10A,

where the member has elected a particular investment strategy and **CSC** has accepted the election.

2.4.1D Subject to the **SIS Act**, **CSC** may allow a **PSSAP member** to **transfer** or **roll-over** a **roll-over superannuation benefit** to **CSC** as a **transfer amount** where:

- (a) the **roll-over superannuation benefit** is a benefit paid from the **PSS** or **CSS**;
- (b) the member has elected a particular investment strategy and **CSC** has accepted the election; and
- (c) the member has made an application for benefits to be cashed as an **account-based pension** under paragraph 3.1.1(g), using the amount of the **roll-over superannuation benefit** under paragraph (a).

Note: CSC may only accept a **transfer amount** under Rule 2.4.1B or 2.4.1C if they are in respect of a person who is an **Australian government superannuation scheme member** or **former Australian government superannuation scheme member** at the time of the **transfer** or **roll-over**.

Rule 2.4.1D ensures that a benefit paid from the **CSS** or **PSS** is only accepted for the purpose of purchasing an **account-based pension**.

6.3 Rule 3.6.6 is amended by deleting the existing paragraphs (b) and (c) and replacing them with the following new paragraphs:

“(b) the interest (if any) in respect of fund earnings on the **pension account** as determined by **CSC**;

(c) the amount (if any) of **roll-over superannuation benefit** transferred or rolled-over under Rule 2.4.1D, unless that amount is credited to the PSSAP member’s **personal accumulation account**; and

(d) such other amounts as **CSC** determines from time to time.”

6.4 Rule 5.1.1 is amended by deleting the existing rule and replacing it with the following new rule:

“**5.1.1** **CSC** must keep a **personal accumulation account** and/or **pension account** for each **PSSAP member**.”

6.5 Rule 7.3.8 is amended by deleting the existing rule and replacing it with the following new rule:

“**7.3.8** **CSC** shall not accept **employee contributions**, contributions by an employer or **transfer amounts**, including those referred to in Part 2, Division 4, for the purpose of them being credited to the **non-member spouse interest account**.”

7. Application – transfer amounts from 1 July 2014

The amendments made by clause 8 of this Deed apply in relation to transfers or roll-overs made on or after 1 July 2014.

8. Transfer amounts from 1 July 2014

8. The rules are amended as follows:

8.1 Rule 2.4.1B is amended by deleting the words “**CSC** may allow a **current government scheme member** to” and replacing them with the words “a **current government scheme member** may”.

- 8.2 Rule 2.4.1C is amended by deleting the words “CSC may allow a **former government scheme member** to” and replacing them with the words “a **former government scheme member** may”.
- 8.2 Rule 2.4.1D is amended by deleting the words “CSC may allow a **PSSAP member** to” and replacing them with the words “a **PSSAP member** may”.

9. Definition

9. The rules are amended as follows:

- 9.1 Rule 1.2.1 is amended by deleting the definition of “general insurance company”.
- 9.2 Rule 1.2.1 is amended by inserting the following definition immediately after the definition of “former government scheme member”:

“**general insurance company** has the same meaning as in the *Income Tax Assessment Act 1997*.”

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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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
14 March 2013	Eighth	F2013L00551, 25 March 2013