

THIRTY-SEVENTH AMENDMENT
of the
PUBLIC SECTOR SUPERANNUATION SCHEME TRUST DEED

THIS DEED is made on 31 May 2013 by THE MINISTER FOR FINANCE AND DEREGULATION.

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 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AND WHEREAS the body corporate, that was previously constituted as the Board under repealed section 20 of the Act, is continued in existence under the name Commonwealth Superannuation Corporation (CSC) by section 5 of the *Governance of Australian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 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 under subsection 5(1A) requires the consent of CSC to amendments in certain circumstances;

AND WHEREAS CSC has consented to the amendments provided for in this Deed, except clauses 7 and 8, which do not require CSC consent.

NOW THIS DEED WITNESSES as follows:

1. Commencement of amendments

The amendments in this Deed take effect as follows:

- (a) clauses 3 and 4: immediately after the commencement of clause 4 of the Ninth Amendment of the Superannuation (PSSAP) Trust Deed;

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.

- (b) clauses 5, 6, 9 and 10: 1 July 2014;
- (c) clauses 7 and 8: 1 July 2013;
- (d) in all other cases: the day after it 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 that it has in the Trust Deed and the Rules.

3. Application of amendments – roll-over of accumulated transfer amounts and accumulated additional contributions

The amendments made by clause 4 of this Deed apply in relation to roll-overs out of the PSS made on or after the commencement of clause 4 of this Deed.

4. Amendments – roll-over of accumulated transfer amounts and accumulated additional contributions

4. The Rules are amended as follows:

4.1 The following heading and rules are inserted immediately after Rule 11.2.2:

“ **Payment of accumulated transfer amount prior to cessation**

11.2.3 CSC may allow a **member** to **roll-over** the sum of all of their **post-1995 accumulated transfer amounts** once each financial year.

11.2.3A For the purposes of Rule 11.2.3, a **post-1995 accumulated transfer amount** of a **member** is an **accumulated transfer amount** in respect of a **transfer amount** which the **member** transferred into the **PSS scheme** under Rule 11.1.1, after 31 December 1995, the entitlement to which did not arise from employment during a period of leave of absence without pay that commenced on or before that date (*see Rule 11.3.4*).

11.2.3B For the purposes of Rule 11.2.3, a **roll-over** is taken to have occurred in the financial year in which a valid transfer request in respect of that **roll-over** is received.”

4.2 The following heading and rules are inserted immediately after **Rule 11.2.4**:

“**11.2.4A** CSC may allow a **preserved benefit member** to **roll-over** the sum of all of their **post-1995 accumulated transfer amounts**.”

11.2.4B For the purposes of Rule 11.2.4A, a **post-1995 accumulated transfer amount** of a **preserved benefit member** is an **accumulated transfer amount** in respect of a **transfer amount** which the **preserved benefit member** had transferred into the **PSS scheme** under Rule 11.1.1, after 31 December 1995, the entitlement to which did not arise from employment during a period of leave of absence without pay that commenced on or before that date (*see Rule 11.3.4*).

Fees for payment of accumulated transfer amounts

11.2.4C CSC may determine any fees to be charged in relation to a **roll-over** requested under Rule 11.2.3 or Rule 11.2.4A and deduct them from the **accumulated transfer amount** prior to **roll-over**.”

4.3 The following heading and rules are inserted immediately after Rule 11.4.10:

“ Roll-over of Accumulated Additional Contributions

11.4.10A CSC may allow a **member** or a **preserved benefit member** who has chosen to pay additional contributions into the **PSS scheme** under Rule 11.4.1 to **roll-over** the balance of their Accumulated Additional Contributions.

11.4.10B CSC may determine any fees to be charged in relation to a **roll-over** requested under Rule 11.4.10A and deduct them from the member’s Accumulated Additional Contributions prior to **roll-over**.”

5. Application of amendments – roll-over of accumulated transfer amounts and Accumulated Additional Contributions from 1 July 2014

The amendments made by clause 6 of this Deed apply in relation to roll-overs out of the PSS made on or after 1 July 2014.

6. Amendments – roll-over of accumulated transfer amounts and Accumulated Additional Contributions from 1 July 2014

6. The Rules are amended as follows:

6.1 Rule 11.2.3 is amended by deleting the existing rule and replacing it with the following new rule:

“11.2.3 A **member** is entitled to **roll-over** the sum of all of their **post-1995 accumulated transfer amounts** once each financial year.”

6.2 Rule 11.2.4A is amended by deleting the existing rule and replacing it with the following new rule:

“11.2.4A At any time, a **preserved benefit member** is entitled to **roll-over** the sum of all of their **post-1995 accumulated transfer amounts**.”

- 6.3 Rule 11.4.10A is amended by deleting the existing rule and replacing it with the following new rule:

“**11.4.10A** At any time, a **member** or a **preserved benefit member** who has chosen to pay additional contributions into the **PSS scheme** under Rule 11.4.1 is entitled to **roll-over** the balance of their Accumulated Additional Contributions.”

7. Application of amendments – contributions from age 75

The amendments made by clause 8 of this Deed apply in relation to contribution days occurring on or after 1 July 2013.

8. Amendments – contributions from age 75

8. The Rules are amended as follows:

- 8.1 Rule 1.2.1 is amended by deleting the existing definition of “contribution due day” and inserting the following new definition:

“**contribution due day** means:

- a **contribution day** on which a **member** is required to pay contributions under Part 4; or
- a **contribution day** for the purposes of the *Superannuation Act 1976* referred to in Rule 14.4.3; or
- a **contribution day** on which a **no-TFN member** would have been required to pay contributions under Part 4 if they were not a **no-TFN member**; or
- a **contribution day** on which a **zero contributions member** would have been required to pay contributions under Part 4 if they were not a **zero contributions member**.”

- 8.2 Rule 1.2.1 is amended by inserting the following new definition immediately after the definition of “unfunded preserved benefit”:

“**zero contributions member** means a **member** for which the **PSS Fund** is unable to accept Part 4 contributions under the **SIS Act** because the member:

- has reached age 75; or

- has reached age 65 but not age 75, and was not gainfully employed on at least a part-time basis during the financial year.”

8.3 Rule 2.1.3 is amended by deleting the existing rule and replacing it with the following new rule:

“2.1.3 A **regular member** or a **casual member** can be further classified for particular purposes as a **limited benefits member** (*see Division 2 of Part 10*), a **maximum benefits member** (*see Rule 5.6.1*), **no-TFN member** (*see Rule 1.2.1*) or a **zero contributions member** (*see Rule 1.2.1*).”

8.4 Rule 4.1.1 is amended by deleting the existing paragraphs (e) and (f) and replacing them with the following new paragraph (e):

“(e) when the **PSS Fund** is prohibited by the **SIS Act** from receiving those contributions (see Rule 4.1.5).”

8.5 Rule 4.1.5 is amended by deleting the existing paragraphs (b) and (c) and replacing them with the following new paragraph (b):

“(b) when the **PSS Fund** is prohibited by the **SIS Act** from receiving those contributions.”

8.6 The note immediately after Rule 4.3.1 is amended by deleting the existing note and replacing it with the following new note:

“ **Note:** A **contribution due day** is a day on which a **member** is required to pay contributions or a day on which a member is a **no-TFN member** or a **zero contributions member** and would have been required to pay contributions if they were not a **no-TFN member** or **zero contributions member** respectively. ”

8.7 Rule 5.2.3 is amended by deleting the words “and would have been required to pay contributions if they were not a **no-TFN member**” and replacing them with the words “or a **zero contributions member** and would have been required to pay contributions if they were not a **no-TFN member** or **zero contributions member** respectively”.

8.8 Rule 5.2.3 is amended by deleting in the definition of 'Contribution Paid' the words “that a **member** is a **no-TFN member**” and replacing them with the words “that a **member** is a **no-TFN member** or a **zero contributions member**”.

8.9 The note immediately after Rule 5.2.3 is amended by deleting the existing note and replacing it with the following new note:

“ **Note:** Where a **member** is a **no-TFN member** or a **zero contributions member** on a **contribution due day** the contribution is taken to be 0% for that **contribution due day**. ”

- 8.10 Rule 5.3.3 is amended by deleting the words “and would have been required to pay contributions if they were not a **no-TFN member**” and replacing them with the words “or a **zero contributions member** and would have been required to pay contributions if they were not a **no-TFN member** or **zero contributions member** respectively”.
- 8.11 Rule 5.3.3 is amended by deleting in the definition of 'Contribution Paid' the words “that a **member** is a **no-TFN member**” and replacing them with the words “that a **member** is a **no-TFN member** or a **zero contributions member**”.

9. Application of amendments – date of effect of changes to the rate of contribution

The amendments made by clause 10 of this Deed apply in relation to contribution days occurring on or after the commencement of clause 10.

10. Amendments – date of effect of changes to the rate of contribution

10. The Rules are amended as follows:
- 10.1 Rule 4.1.3 is amended by inserting the words “on or” immediately before the word “immediately”.

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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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) of that Act 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 of making	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

Date of making	Number	<i>Gazette details / Registration details</i>
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
21 June 2007	Twenty-eighth	F2007L01943, 28 June 2007
28 August 2007	Twenty-ninth	F2007L03519, 31 August 2007
19 December 2007	Thirtieth	F2007L04993, 24 December 2007
29 July 2008	Thirty-first	F2008L02863, 1 August 2008
16 December 2008	Thirty-second	F2008L04706, 18 December 2008
22 June 2009	Thirty-third	F2009L02530, 25 June 2009
17 May 2011	Thirty-fourth	F2011L00855, 25 May 2011
29 June 2011	Thirty-fifth	F2011L01393, 30 June 2011
5 July 2011	Thirty-sixth	F2011L01488, 13 July 2011