

THIS DEED is made on 24 January 1994 by THE COMMONWEALTH OF AUSTRALIA (in this Deed called the "the Commonwealth").

WHEREAS the Commonwealth Minister of State for Finance, for and on behalf of the Commonwealth, pursuant to section 4 of the Superannuation Act 1990, established by Deed dated 21 June 1990 (in this Deed called "the Trust Deed") an occupational superannuation scheme (in the Deed called the "Superannuation Scheme") in order to provide benefits for certain of its employees and for certain other persons;

AND WHEREAS section 5 of the Superannuation Act 1990 provides that the Minister may, by signed instrument, amend the Trust Deed;

AND WHEREAS by Deeds dated 21 June 1990, 1 July 1991, 30 June 1992, 21 December 1992 and 16 June 1993 (the First, Second, Third, Fourth and Fifth Amending Deeds, respectively) the Minister amended the Trust Deed and the Rules for the administration of the Superannuation Scheme set out in the Schedule to the Trust Deed;

NOW THIS DEED WITNESSES that the Trust Deed and the Rules for the administration of the Superannuation Scheme set out in the Schedule to the Trust Deed are amended as follows:

1. The Trust Deed is amended as follows:
  - 1.1 Clause 8 is amended by replacing "shall require a majority of 4 votes" in subclause 8(4) with "must be affirmed by at least 4 votes".
  
2. The Rules are amended as follows:
  - 2.1 Rule 1.1.1 is amended by adding the following definition after the definition of "period of membership":

**"permanent employer"** in relation to a person who is on a period of leave of absence without pay is the employer by whom the person would normally be employed if not for the period of leave of absence without pay;

2.2 Rule 1.3.27 is deleted, and the following rule is inserted in its place:

**"1.3.27.** Where a transfer value of the kind referred to in paragraph 8.1.1(a) or (b) is accepted by the Board, the relevant day for the calculation of the transfer multiple in respect of that transfer value is to be:

- (a) the day of receipt by the Board of the transfer value; or
- (b) where, in the opinion of the Board, the use of the average salary on the day referred to in paragraph (a) would lead to inequitable treatment between members, another day as determined by the Board that is no later than 12 months after the day referred to in paragraph (a)."

2.3 Rule 2.1.1 is amended by:

- (a) replacing "day," with "day; and" in subparagraph (b)(ii) in the second definition of **"annual rate of superannuation salary"** and adding a new paragraph (c) as follows:

"(c) if he or she is receiving compensation payments in respect of hours not being worked, his or her hours of duties shall be deemed to include those hours;"; and

- (b) adding at the end of the third definition of **"annual rate of superannuation salary"** the following:

"provided that where the person is receiving compensation in respect of days not being worked applicable to that office or position, the number of days on which the person is paid or is expected to be paid shall be deemed to include those days;".

2.4 Rule 2.3.1 is amended by replacing "Subject to rules 2.3.2 and 2.4.2," with "Subject to rules 2.3.2, 2.3.2A and 2.4.2,".

2.5 Rule 2.3.2A is added to Division 3 of Part 2 of the rules after rule 2.3.2, as follows:

**" 2.3.2A.** Where paragraph 2.3.1(a) applies to a member and he or she is on compensation leave on that contribution due day, the fortnightly contribution salary in respect of the contribution due day shall be the superannuation salary that would have applied had the person been working the hours or days applicable to his or her employment or office before going on compensation leave and he or she is not receiving compensation payments in respect of hours or days not being worked."

2.6 Rule 2.4.1 is amended by deleting in paragraph (b) the second "the" in "the the annual rate of salary".

2.7 Rule 3.1.5 is deleted, and the following rule is inserted in its place:

**"3.1.5.** Where a person is on compensation leave, he or she shall contribute during that period of compensation leave at:

- (a) where he or she contributed at a rate of 5 per cent of salary or at a higher rate on any one of the 4 contribution due days immediately before commencing that period of compensation leave:
  - (i) where the last rate of contribution elected by the member was 5 per cent or a lower rate - a rate of 5 per cent; or
  - (ii) where the last rate of contribution elected by the member was higher than 5 per cent - the higher rate:

and the member may elect to vary the rate of contribution from time to time in accordance with rule 3.1.2 provided the rate is not lower than 5 per cent of salary;  
or

- (b) where he or she contributed at a rate or rates less than 5 per cent of salary on each of the 4 contribution due days immediately before commencing that period of compensation leave - a rate being no less than the highest rate of contribution on those contribution due days and the member may

elect to contribute at a higher rate than that rate from time to time in accordance with rule 3.1.2."

- 2.8 Rule 3.1.7A is added to Division 1 of Part 3 of the rules after rule 3.1.7, as follows:

**"3.1.7A.** Where a person:

- (a) is on a period of leave of absence without pay to engage in other employment either on a full-time or part-time basis; and
- (b) the period of leave of absence without pay is a period in respect of which the Board directs that rule 3.1.7 does not apply;

then for the purposes of rules 1.3.4 and 2.3.1 the hours being worked by the person on his or her last occurring anniversary of birth with his or her permanent employer must be used for each of the contribution due days during the period of leave of absence without pay."

- 2.9 Rule 3.4.1 is amended by replacing "Part 10." in subparagraph (b)(ii) with "Part 10;" and adding the following at the end of the rule:

"provided that where the member is not required or permitted to make contributions in accordance with rule 3.1.10 and the member does not elect to cease additional death and invalidity cover under paragraph 10.1.5(b) then the member shall pay the entire amount of the fortnightly premium applicable to the cover."

- 2.10 Rule 3.4.2 is amended by replacing "Part 10." in paragraph (b) with "Part 10;" and adding the following at the end of the rule:

"provided that where the member is not required or permitted to make contributions in accordance with rule 3.1.10 then the designated employer of the member shall pay none of the fortnightly premium applicable to the cover."

- 2.11 Rule 3.4.4 and its heading are deleted, and the following rule and heading are inserted in their place:

**"Board may determine alternative arrangements for payments of premiums for additional cover by and on behalf of certain members**

**3.4.4. Where a member is:**

- (a) a casual employee; or
- (b) on leave of absence without pay;

and has elected for additional death and invalidity cover, the Board may determine arrangements for the payment by the member and by the employer on behalf of the member (if applicable) of the respective portion of the premium for additional death and invalidity cover and for the payment of those premiums to the relevant life office in lieu of the arrangements set out in rules 3.4.1, 3.4.2 and 3.4.3."

2.12 Division 4 is added after Division 3 of Part 6 as follows:

**"Division 4 - Access to preserved benefits for certain former members employed by the new owners of Repatriation General Hospital, Hollywood.**

**Applicability of Division**

**6.4.1. Where a person:**

- (a) was employed by the Commonwealth at the Repatriation General Hospital, Hollywood immediately before the date of the sale of the hospital by the Commonwealth; and
- (b) accepted an offer of employment made by the purchaser of the hospital from the Commonwealth; and
- (c) became entitled to a preserved benefit under rule 4.8.5; and
- (d) remains continuously in employment with either the purchaser in paragraph (b) or a subsequent purchaser; and

- (e) is subsequently retired by the purchaser in paragraph (b) or subsequent purchaser on involuntary grounds similar to that provided under paragraph 4.2.1 (a) within a period of three years after the date of the sale of the hospital by the Commonwealth;

the person shall be entitled to the benefits in accordance with rule 6.4.2 or rule 6.4.3.

**Benefits where person is less than minimum retiring age**

**6.4.2.** Where rule 6.4.1 applies to a person who is retired in accordance with paragraph 6.4.1 (e) before minimum retiring age, he or she can elect to have one of the following benefits apply:

- (a) to continue to have the amount of his or her preserved benefit to be applicable; or
- (b) where the amount of his or her accumulated employer contributions is \$500 or more:
- (i) payment of the amount of his or her accumulated employer contributions to a preservation fund, or used to purchase a deferred annuity, specified in the election; and
- (ii) payment to him or her of a lump sum equal to the amount of his or her preserved benefit less the amount of the payment under subparagraph 6.4.2 (b) (i); or
- (c) where the amount of his or her accumulated employer contributions is less than \$500, payment of a lump sum of the amount of his or her preserved benefit; or
- (d) to have his or her preserved benefit paid by the Board to a preservation fund or used to purchase a deferred annuity, specified in the election; or
- (e) to:
- (i) be paid a lump sum of such amount (not being more than his or her accumulated member contributions) as is specified in the election; and

- (ii) have applicable to him or her a preserved benefit of his or her preserved benefit less the amount of the lump sum in subparagraph 6.4.2 (e) (i); or
- (f) to:
  - (i) be paid a lump sum of such amount (not being more than his or her accumulated member contributions) as is specified in the election; and
  - (ii) have his or her preserved benefit, less the amount of the lump sum in subparagraph 6.4.2 (f) (i), paid to a preservation fund, or used to purchase a deferred annuity, specified in the election; or
- (g) to:
  - (i) be paid a lump sum amount (not being more than his or her accumulated member contributions) as is specified in the election; and
  - (ii) have his or her preserved benefit, less the amount of the lump sum in subparagraph 6.4.1 (g) (i), converted into a pension.

**Benefits where person has reached minimum retiring age**

**6.4.3.** Where rule 6.4.1 applies to a person who is retired in accordance with subparagraph 6.4.1 (e) on or after attaining minimum retiring age he or she can elect to have one of the following benefits apply:

- (a) to continue to have the amount of his or her preserved benefit to be applicable; or
- (b) payment of a lump sum of the amount of his or her preserved benefit; or
- (c) to have:
  - (i) such amount (not less than half), as is specified in the election, of his or her preserved benefit converted into a pension; and
  - (ii) the remainder of the preserved benefit paid to him or her as a lump sum.

**Basis for conversion of lump sum to pension**

**6.4.4.** A person who has made an election under subparagraph 6.4.2 (g) (ii) or subparagraph 6.4.3 (c) (i) to have an amount of his or her preserved benefit converted into a pension is entitled to pension at an annual rate calculated in the same way as set out in rule 6.1.8 for a pension under paragraph 6.1.7 (a)."

2.13 Rule 8.2.3 is deleted.

2.14 Rule 8.2.12 is amended by replacing "the Board shall pay a transfer value in respect of the person to the administrators of that scheme." with "the Board shall pay to the Commonwealth an amount equal to the sum of the person's accumulated member contributions and accumulated funded employer contributions and the Commonwealth shall pay a transfer value in respect of the person to the administrators of that scheme."

2.15 Rule 8.2.15 is amended by:

(a) replacing "Subject to rules 8.2.16, 8.2.17 and 8.2.20," with "Subject to rules 8.2.16 and 8.2.17,"; and

(b) replacing "the Board shall pay a transfer value in respect of the person to the administrators of that scheme." with "the Board shall pay to the Commonwealth an amount equal to the sum of the person's accumulated member contributions and accumulated funded employer contributions and the Commonwealth shall pay a transfer value in respect of the person to the administrators of that scheme."

2.16 Rule 12.1.8 is amended by replacing "shall decide whether or not to approve the invalidity retirement of the person." with "shall decide whether or not to approve the invalidity retirement of the person unless it defers its decision under rule 12.1.8AA."

2.17 Rule 12.1.8AA and its heading are added to Division 1 of Part 12 after rule 12.1.8A as follows:



**"Deferral of Board's decision on invalidity retirement**

**12.1.8AA.** If after having regard to the matters contained in rule 12.1.8 the Board requires further time within which to make a decision on whether or not to approve the invalidity retirement of a person, the Board may:

- (a) defer making such a decision until such time as appears to the Board to be appropriate; and
- (b) if it considers it to be desirable in the circumstances, have the matter again considered by the panel referred to in rule 12.1.5 within a period set by the Board and the Board shall then have regard to the recommendation made by the panel when making its decision."

[NOTE: This Deed commences on gazettal: see *Acts Interpretation Act 1901*, ss.46A and 48.]

IN WITNESS whereof the Honourable Kim Beazley, Minister for Finance, has hereunto set the name of the Commonwealth of Australia and affixed his own seal the day and year first above written.

SIGNED, SEALED AND DELIVERED )

by the Honourable KIM C. BEAZLEY, )

Minister for Finance, for and on behalf of )

THE COMMONWEALTH OF )

AUSTRALIA, in the presence of: )

DAVID JOHN PHILLIPS )  
..... )  
(name) )

35 FROME ST GRIFFITH ACT )  
..... )  
(address) )

MINISTERIAL CONSULTANT )  
..... )  
(description) )

