TENTH AMENDING DEED TO THE

DEED

TO ESTABLISH AN OCCUPATIONAL

SUPERANNUATION SCHEME FOR COMMONWEALTH

EMPLOYEES AND CERTAIN OTHER PERSONS

Pursuant to

SECTION 5 OF THE

SUPERANNUATION ACT 1990

Australian Government Solicitor

Robert Garran Offices

BARTON ACT 2600

THIS DEED is made on 29 JAN 1996 by THE COMMONWEALTH OF AUSTRALIA (in this Deed called “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 “Public Sector 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 by signed instrument, amend the Trust Deed;

AND WHEREAS by Deeds dated 21 June 1990, 1 July 1991, 30 June 1992, 21 December 1992, 16 June 1993, 24 January 1994, 7 March 1994, 28 June 1994 and 22 June 1995 (the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Amending Deeds, respectively) the Minister amended the Trust Deed and the Rules for the administration of the Public Sector 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 Public Sector Superannuation Scheme set out in the Schedule to the Trust Deed are amended as follows:

1. This Deed has effect from the date of gazettal [see the *Acts Interpretation Act 1901,* ss 46A and 48].

2. The Trust Deed is amended:

2.1 Clause 2 is deleted and replaced by:

“2.1 There is hereby established an occupational superannuation scheme (in this Deed called “the Public Sector Superannuation Scheme”) to come into force on 1 July 1990 for the benefit of:

(a) persons employed by the Commonwealth and approved authorities;

(b) holders of statutory offices; and

(c) other persons who, under Part 3 of the Act, will be required to be, or may become, members of the Public Sector Superannuation Scheme;

to be administered in accordance with the Deed by the Commonwealth Superannuation Board of Trustees No. 1 and after 23 June 1995 by the PSS Board established by the Act (in this Deed called “the Board”).

2.2 For the purposes of the Public Sector Superannuation Scheme there is hereby established and vested in the Board a fund to be known as the Superannuation Fund No. 1 and after 23 June 1995 to be known as the PSS Fund.”

3. The Rules are amended as follows:

3.1 Rule 1.2.1 is modified by deleting the last two dot points of the definition of **“accumulated funded productivity contributions”** and substituting the following three dot points:

“• any amount that is funded productivity contributions and interest under the *Superannuation Act 1976,* as defined in section 110Q of that Act, included in a transfer of assets in respect of him/her to the **Board** under section 248 of that Act; and

• the amount calculated under paragraph 11.3.29(a) (if any); and

• the interest (if any) in respect of these amounts in accordance with a determination or determinations by the **Board** as to rates of interest and method of allocation;”

3.2 Rule 1.2.1 is modified by deleting the last two dot points of the definition of **“accumulated member contributions”** and substituting the following three dot points:

“• any amount that is the member’s paid accumulated contributions under the

*Superannuation Act 1976* included in a transfer of assets in respect of him/her to the **Board** under section 248 of that Act; and

• the amount calculated under paragraph 11.3.29(b) (if any); and

• the interest (if any) in respect of these amounts in accordance with a determination or determinations by the **Board** as to rates of interest and method of allocation.”

3.3 Rule 3.1.2 is modified by deleting sub-paragraph (a)(i) and replacing it with:

“(i) the sum of his/her annual **basic salary** and **recognised allowances,** if any, payable as for full time work on his/her **last birthday;** and”

3.4 Rule 3.1.3 is modified by deleting sub-paragraph (a)(i) and replacing it with:

“(i) if the **partial invalidity pension** became applicable when maintained basic salary and maintained recognised allowances *(see Division 3 of this Part)* or CSS salary *(see Division 4 of this Part)* were not applicable, the sum of his/her annual **basic salary** and **recognised allowances,** if any, payable as for full time work on his/her **last birthday;** or”

3.5 Rule 3.1.4 is modified by deleting sub-paragraph (a)(i) and replacing it with:

“(i) the sum of his/her annual **basic salary** and **recognised allowances,** if any, payable as for full time work on the day he/she last commenced as a **regular member;** or”

3.6 Rule 3.1.5 is modified by deleting paragraph (a) and replacing it with:

“(a) ACS is the sum of his/her annual **basic salary** and **recognised allowances,** if any, payable as for full time work on the day he/she last commenced as a **regular member;”**

3.7 Rule 3.4.1 is deleted and the following Rule is inserted in its place:

**“3.4.1** Where a **regular member** elected to cease to be an eligible employee under:

(a) section 244 of the *Superannuation Act 1976;* or

(b) paragraph 4(1)(zo) of the *Superannuation (CSS) Eligible Employees Regulations* or subregulation 4A(1) of the *Superannuation (CSS) Continuing Contributions for Benefits Regulations;*

a CSS salary applies if, on the anniversary of his/her birth on or after that election:

(i) if he/she was not in receipt of partial invalidity pension under that Act, his/her annual rate of salary under that Act, or the salary that would have applied but for the election, was greater than the sum of his/her **basic salary** and **recognised allowances,** if any; or

(ii) if he/she was in receipt of partial invalidity pension under that Act at the time of making the election, or would have been in receipt of such partial invalidity pension under that Act but for the election, his/her annual rate of salary under that Act, calculated as though the anniversary of birth was the date of the election, was greater than the sum of his/her **basic salary** and **recognised allowances,** if any.”

3.8 Rule 3.4.3 is deleted and the following Rule is inserted in its place:

“**3.4.3** On a particular day, the amount of a CSS salary is:

(a) if the **regular member** was not in receipt of partial invalidity pension under the *Superannuation Act 1976* at the time of electing to cease to be an eligible employee, the amount of the annual rate of salary for basic contribution purposes that would have applied to the member if he/she had not ceased to be an eligible employee; or

(b) if the **regular member** was in receipt of partial invalidity pension under the *Superannuation Act 1976 at* the time of electing to cease to be an eligible employee, or would have been in receipt of partial invalidity pension but for the election, his/her annual rate of salary under that Act.”

3.9 Rule 3.5.1 is deleted and the following Rule is inserted in its place:

“**3.5.1** The **average** **salary** on any day of a **regular** **member** is calculated by the following formula:

$$average salary =\frac{X + B\_{1} + B\_{2} + B\_{3} + E}{n}$$

where the factors are defined in the following Table *Average Salary Factors* according to the mode of cessation of membership:

|  |
| --- |
| Average Salary Factors |
| Cessation otherwise than on **involuntary retirement** | Cessation on **involuntary** **retirement** |
| NOTE: The factors defined for the case of not ceasing on **involuntary** **retirement** are used to calculate **average salary** on cessation on **involuntary** **retirement**, if the date of cessation is an anniversary of the regular member’s birth, or is treated as such under Rule 3.5.4. |
| Three [or more](http://pr_m.org) anniversaries of birth in **period** **of membership** *(see also Rule 3.5.5)* |
| X is 0. | X is the amount calculated by the following formula:$$\left(\frac{D}{365}\right) × O +\left(\frac{365-D}{365}\right) × P$$where:D is 1 plus the number of days between the date of the regular member’s cessation on **involuntary retirement** and the date of the anniversary of his/her birth immediately preceding the date of cessation; andO is the regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the date of his/her cessation on **involuntary** **retirement**, andP is the regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the anniversary of his/her birth immediately preceding the anniversary in B2 below. |
|  | Continued … |

|  |
| --- |
| Average Salary Factors - Continued |
| Cessation otherwise than on **involuntary retirement** | Cessation on **involuntary retirement** |
| B1 isthe regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the anniversary of his/her birth immediately preceding the day at which the calculation is made, or on that day if it is an anniversary of his/her birth. | B1 isthe regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the anniversary of his/her birth immediately preceding the date of cessation on **involuntary retirement.** |
| B2 isthe regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the anniversary of his/her birth immediately preceding the anniversary in the definition of B1. |
| B3 isthe regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the anniversary of his/her birth immediately preceding the anniversary in the definition of B2. | B3 is 0. |
| E is 0. |
| n is 3. |
| Two anniversaries of birth in period of membership *(see also Rule 3.5.5)* |
| X is 0. | X is the amount calculated by the following formula:$$\left(\frac{D}{365}\right) × O +\left(\frac{365-D}{365}\right) × P$$where:D is 1 plus the number of days between the date of the regular member’s cessation on **involuntary retirement** and the date of the anniversary of his/her birth immediately preceding the date of cessation; andO is the regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the date of his/her cessation on **involuntary** **retirement**, andP is the regular member’s salary for average salary purposes *(see Rule 3.5.2)* on his/her **first day of membership.** |
| B1 isthe regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the anniversary of his/her birth immediately preceding the day at which the calculation is made, or on that day if it is an anniversary of his/her birth. | B1 isthe regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the anniversary of his/her birth immediately preceding the date of cessation on involuntary retirement. |
| B2 isthe regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the anniversary of his/her birthimmediately preceding the anniversary in the definition of B1. |

|  |
| --- |
| [Average](file:///vernae) Salary Factors - Continued |
| Cessation otherwise than on **involuntary retirement** | Cessation on **involuntary retirement** |
| B3 is 0. |
| E is the regular member’s salary for average salary purposes *(see Rule 3.5.2)* on his/her **first day of membership.** | E is 0. |
| n is 3. |
| One anniversary of birth in **period of membership** *(see also Rule 3.5.5)* |
| X is 0. | X is the amount calculated by the following formula:$$\left(\frac{D}{365}\right) × O +\left(\frac{365-D}{365}\right) × P$$where:D is 1 plus the number of days between the date of the regular member’s cessation on **involuntary retirement** and the date of the anniversary of his/her birth immediately preceding the date of cessation, andO is the regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the date of his/her cessation on **involuntary retirement**, andP is the regular member’s salary for average salary purposes *(see Rule 3.5.2)* on his/her **first day of membership.** |
| B1 isthe regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the anniversary of his/her birth immediately preceding the day at which the calculation is made, or on that day if it is an anniversary of his/her birth. | B1 isthe regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the anniversary of his/her birth immediately preceding the date of cessation on involuntary retirement. |
| B2 is 0. |
| B3 is 0. |
| E is the regular member’s salary for average salary purposes *(see Rule 3.5.2)* on his/her **first day of membership.** | E is 0. |
| n is 2. |
|  | Continued … |

|  |
| --- |
| Average Salary Factors - Continued |
| Cessation otherwise than on **involuntary retirement** | Cessation on **involuntary** **retirement** |
| No anniversaries of birth in **period of membership** *(sec also Rule 3.5.5)* |
| X is 0. | X is the amount calculated by the following formula:$$\left(\frac{D}{365}\right) × O +\left(\frac{365-D}{365}\right) × P$$where:D is 1 plus the number of days between the date of the regular member’s cessation on **involuntary retirement** and the date of his/her **first day of membership**; andO is the regular member’s salary for average salary purposes *(see Rule 3.5.2)* on the date of his/her cessation on **involuntary** **retirement**; andP is the regular member’s salary for average salary purposes *(see Rule 3.5.2)* on his/her **first** **day** **of membership**. |
| B1 is 0. |
| B2 is 0. |
| B3 is 0. |
| E is the regular member’s salary for average salary purposes *(see Rule 3.5.2)* on his/her **first day of membership.** | E is 0. |
| n is 1. |

3.10 Rules 3.5.2, 3.5.3 and 3.5.4 are renumbered as Rules 3.5.4, 3.5.5 and 3.5.6. The following Rules and headings are inserted after Rule 3.5.1:

|  |
| --- |
| **Salary for average salary purposes** |

**“3.5.2** On the day on which the calculation under Rule 3.5.1 is made, the salary for average salary purposes of a **regular member** is the greater of:

(a) the sum of his/her annual rate of **basic salary** and **recognised allowances,** if any, payable as for full time work; and

(b) the sum of his/her annual maintained basic salary and maintained recognised allowances, if any *(see Division 3 of this Part);* and

(c) his/her annual CSS salary, if any *(see Division 4 of this Part)* calculated as though he/she had continued to be an eligible employee under the *Superannuation Act 1976* until ceasing to be an eligible employee on the day at which the calculation is made; and

(d) if he/she was a **casual member** paid fees on a per diem basis in respect of an office or position during his/her **period of membership,** the highest of the amounts in respect of any 12 months preceding an anniversary of birth while such a **casual member** calculated by multiplying the per diem fee applicable to him/her on that anniversary of birth by:

(i) the number of days in that 12 months on which he/she was paid for holding that office or position, including days not worked in the office or position that attracted compensation payments; or

(ii) if the office or position had been held for less than 12 months preceding that anniversary of birth:

(A) the number of days, if any, on which he/she was paid for holding that office or position, including days not worked in the office or position that attracted compensation payments; and

(B) the number of days in the remainder of a 12 month period on which either the per diem fee would have been paid if the pattern of expected fees applied in the remainder of a 12 month period, or that would attract compensation payments in respect of days not worked in the office or position.

|  |
| --- |
| **Board may use alternative salary for average salary purposes** |

**3.5.3** The Board may use an alternative average salary in circumstances where it considers that the **average salary** calculated in Rule 3.5.1 is not in accordance with the spirit of the Rules and would lead to inequitable treatment between members.”

3.11 Rule 3.6.2 is amended by replacing sub-paragraph (d)(i) with the following sub-paragraph:

“(i) the sum of his/her annual **basic salary** and **recognised allowances,** if any, payable as for full time work; and”

3.12 Rule 3.6.3 is amended by replacing sub-paragraph (d)(i) with the following sub-paragraph:

“(i) the sum of his/her annual **basic salary** and **recognised allowances,** if any, payable as for full time work; and”

3.13 Rule 4.3.2 is deleted and replaced with the following Rule:

**“4.3.2** The amount of the fortnightly productivity contribution payable in relation to a **member** is to be determined in accordance with Rules 4.3.5 to 4.3.7, having regard to the Fortnightly Amount shown opposite the Amount of Applicable Fortnightly Rate of Salary in the following Table (as amended by determination of the **Board** under Rule 4.3.3 from time to time).”

|  |
| --- |
| **Table - Productivity Contribution Rates** |
| Amount of Applicable Fortnightly Rate of Salary | Fortnightly Amount |
| Less than $985.33 | $29.56 |
| $985.33 or more but less than $1,587.33 | The amount that is 3% of the member’s salary per fortnight |
| $1587.33or more but less than $2,381.00 | $47.62 |
| $2,381.00 or more | The amount that is 2% of the member’s salary per fortnight |

3.14 Rules 4.3.5, 4.3.6 and 4.3.7 and their headings are deleted and replaced with the following rules and headings:

|  |
| --- |
| **Regular member now - regular member last birthday** |

**“4.3.5** The amount of the fortnightly productivity contribution payable in relation to a **member** on a **contribution due day** who:

(a) is a **regular member** on the **contribution due day;** and

(b) was a **regular member** on his/her **last birthday;**

is determined in accordance with;

(i) the Applicable Fortnightly Rate of Salary and the corresponding Applicable Fortnightly Rate of Productivity Contribution that was applicable to the **member** on his/her **last birthday** as determined from the following Table; and

(ii) the associated Amount of Applicable Fortnightly Rate of Salary and Fortnightly Amount in the Table - *Productivity Contribution Rates* (as amended by determination of the **Board** under Rule 4.3.3 from time to time) in Rule 4.3.2.

|  |
| --- |
| **Table - Applicable Fortnightly Salary and Fortnightly Amount - Productivity Contributions - Regular Member Now and Regular Member Last Birthday** |
| Membership Status | Applicable Fortnightly Rate of Salary | Applicable Fortnightly Rate of Productivity Contributions |
| **permanent full-time employee** or **temporary full-time employee,** not receiving **partial invalidity pension** | one 26th of his/her salary for average salary purposes under Rule 3.5.2 on the later of:(a) his/her **last** **birthday**; or(b) the date of first becoming a **member**: or(c) the date of last becoming a **member**, if he/she has become a **member** on more than one occasion. | the Fortnightly Amount opposite the Amount of Applicable Fortnightly Rate of Salary in the Table - *Productivity Contribution Rates* in Rule 4.3.2 |
|  |  | Continued… |

|  |
| --- |
| Continued**Table - Applicable Fortnightly Salary and Fortnightly Amount - Productivity Contributions - Regular Member Now and Regular Member Last Birthday** |
| Membership Status | Applicable Fortnightly Rate of Salary | Applicable Fortnightly Rate ofProductivity Contributions |
| **permanent full-time employee** or **temporary full-time employee,** receiving **partial invalidity pension** | one 26th of the maintained basic salary and maintained recognised allowances, if any, applicable to the **member** on his/her **last** **birthday** *(for maintained salary see Division 3 of Part 3)* | the Fortnightly Amount opposite the Amount of Applicable Fortnightly Rate of Salary in the Table - *Productivity Contribution Rates* in Rule 4.3.2 |
| **permanent part-time employee** or **temporary part-time employee,** not receiving **partial invalidity pension** | the **fortnightly contribution salary** that would have been applicable if the **member** had been working full-time on his/her **last birthday** | the Fortnightly Amount opposite the Amount of Applicable Fortnightly Rate of Salary in the Table - *Productivity Contribution Rates* in Rule 4.3.2 multiplied by$$\frac{PTH}{FTH}$$ |
| **permanent part-time employee** or **temporary part-time employee,** receiving **partial invalidity pension** | one 26th of the greater of:(a) the sum of his/her annual rate of **basic-salary** and **recognised** **allowances**, if any, payable as for full-time work: or(b) the sum of his/her maintained basic salary and maintained recognised allowances, **if** **any** *(for maintained salary see Division 3 of Part 3):* or(c) his/her annual CSS salary, if any *(see Division 4 of Part 3);*applicable to the **member** on his/her **last birthday** | the Fortnightly Amount opposite the Amount of Applicable Fortnightly Rate of Salary in the Table - *Productivity Contribution Rates* in Rule 4.3.2multiplied by$$\frac{PTH}{FTH}$$ |
| Where:PTH is the number of hours being worked part-time (including any hours not being worked that attracted compensation payments, or in respect of which a **partial invalidity pension** was payable) on the member’s **last birthday**; andFTH is the number of hours that would have been worked on the member’s **last** **birthday** if he/she had been working full-time. |

|  |
| --- |
| **Regular member now - casual employee last birthday** |

**4.3.6** The amount of the fortnightly productivity contribution payable in relation to a **member** on a **contribution due day** who:

(a) is a **regular member** on the **contribution due day;** and

(b) was a **casual member** on his/her **last birthday;**

is determined in accordance with:

(i) the Applicable Fortnightly Rate of Salary and the corresponding Applicable Fortnightly Rate of Productivity Contribution that was applicable to the **member** on his/her **last birthday** as determined from the following Table; and

(ii) the associated Amount of Applicable Fortnightly Rate of Salary and Fortnightly Amount in the Table - *Productivity Contribution Rates* (as amended by determination of the **Board** under Rule 4.3.3 from time to time) in Rule 4.3.2.

|  |
| --- |
| **Table** - **Applicable Fortnightly Salary and Fortnightly Amount - Productivity Contributions - Regular Member Now and Casual Member Last Birthday** |
| Membership Status | Applicable Fortnightly Rate of Salary | Applicable Fortnightly Rate of Productivity Contributions |
| **permanent full-time employee, temporary full-time employee, permanent part-time employee,** or **temporary part-time employee,** who was a **casual member** not paid on a per diem basis on his/her **last birthday** | one 26th of his/her salary for average salary purposes under Rule 3.6.2 on the later of:(a) his/her **last** **birthday;** or(b) the date of first becoming a **member**; or(c) the date of last becoming a **member** if he/she has become a **member** on more than one occasion. | the Fortnightly Amount opposite the Amount of Applicable Fortnightly Rate of Salary in the Table - *Productivity Contribution Rates* in Rule 4.3.2multiplied by$$\frac{RFCS}{AFR}$$ |
|  |  | Continued … |

|  |
| --- |
| Continued**Table** - **Applicable Fortnightly Salary and Fortnightly Amount** - **Productivity Contributions - Regular Member Now and Casual Member Last Birthday** |
| **permanent full-time employee, temporary full-time employee, permanent part-time employee,** or **temporary part-time employee,** who was a **casual member** paid on a per diem basis on his/her **last birthday** | one 26th of his/her salary for average salary purposes under Rule 3.6.3 on the later of.(a) his/her **last** **birthday**: or(b) the date of first becoming a **member**: or(c) the date of last becoming a **member**, if he/she has become a **member** on more than one occasion. | the Fortnightly Amount opposite the Amount of Applicable Fortnightly Kate of Salary in the Table - *Productivity Contribution Rates* in Rule 4 3.2 multiplied by$$\frac{RFCS}{AFR}$$ |
| Where:AFR is the Applicable Fortnightly Rate of Salary for the member;RFCS is the member’s **fortnightly contribution salary** on last becoming a **regular** **member**. |

|  |
| --- |
| **Casual member now** |

**4.3.7** The amount of the fortnightly productivity contribution payable in relation to a **member** on a **contribution due day** who is a **casual member** is the fortnightly amount that is determined in accordance with:

(i) the Applicable Fortnightly Rate of Salary and the corresponding Applicable Fortnightly rate of Productivity Contribution applicable to the **member** on his/her **last birthday** as determined from the following Table; and

(ii) the associated Amount of Applicable Fortnightly Rate of Salary and Fortnightly Amount in the Table - *Productivity Contribution Rates* (as amended by determination of the **Board** under Rule 4.3.3 from time to time) in Rule 4.3.2.

|  |
| --- |
| **Table - Applicable Fortnightly Salary and Fortnightly Amount - Productivity Contributions - Casual Member Now** |
| Membership Status | Applicable Fortnightly Rate of Salary | Applicable Fortnightly Rate of Productivity Contributions |
| **casual member** not paid on a per diem basis | one 26th of his/her salary for average salary purposes under Rule 3.6.2 on the later of:(a) his/her **last** **birthday**; or(b) the date of first becoming a **member**; or(c) the date of last becoming a **member**, if he/she has become a **member** on more than one occasion. | the Fortnightly Amount opposite the Amount of Applicable Fortnightly Rate of Salary in the Table - *Productivity Contribution Rates* in Rule 4.3.2 multiplied by$$\frac{FCS}{AFR}$$ |
| **casual member** paid on a per diem basis | one 26th of his/her salary for average salary purposes under Rule 3.6.3 on the later of:(a) his/her **last** **birthday**; or(b) the date of first becoming a **member**; or(c) the date of last becoming a **member**, if he/she has become a **member** on more than one occasion. | the Fortnightly Amount opposite the Amount of Applicable Fortnightly Rate of Salary in the Table - *Productivity Contribution Rates* in Rule 4.3.2 multiplied by$$\frac{FCS}{AFR}$$ |
| Where:FCS is the member’s **fortnightly contribution salary;**AFR is the Applicable Fortnightly Rate of Salary. |

3.15 Rules 4.3.8, 4.3.9 and 4.3.10 and headings are deleted.

3.16 Rule 5.2.3 is amended by deleting the definition of “Annual Contribution Salary” and inserting the following definition:

“Annual Contribution Salary is the member’s **fortnightly contribution salary** on his/her **last birthday** multiplied by:

(i) if the **member** was a **permanent full-time employee** or a **temporary full-time employee** - 26; or

(ii) if the member was a **permanent part-time employee** or a **temporary part-time employee,** in receipt of **partial invalidity pension** - 26; or

(iii) if the **member** was a **permanent part-time employee** or a **temporary part-time employee,** not in receipt of **partial invalidity pension** - 26 and by the ratio that the hours a **permanent full-time employee** performing duties of a similar nature to the member would have worked bears to the part-time hours worked (including hours not being worked that attract a compensation payment) by the **member** on that day.”

3.17 Rule 5.3.3 is amended by deleting the definition of “Annual Contribution Salary” and inserting the following definition:

“Annual Contribution Salary is the member’s salary for average salary purposes on his/her **last birthday** under:

(a) Rule 3.6.2 if the **casual member** is not paid on a per diem basis; or

(b) Rule 3.6.3 if the **casual member** is paid on a per diem basis.”

3.18 Rule 5.4.2 is amended by deleting the definition of “Annual Contribution Salary” and inserting the following definition:

“Annual Contribution Salary is the member’s **fortnightly contribution salary** on his/her **last birthday** multiplied by:

**•** if the **member** was a **permanent full-time employee** or a **temporary full-time employee** - 26; or

**•** if the **member** was a **permanent part-time employee** or a **temporary part-time employee,** in receipt of **partial invalidity pension** - 26; or

**•** if the **member** was a **permanent part-time employee** or a **temporary part-time employee,** not in receipt of **partial invalidity pension** - 26 and by the ratio that the hours a **permanent full-time employee** performing duties of a similar nature to the **member** would have worked bears to the part-time hours worked (including hours not being worked that attract a compensation payment) by the **member** on that day.”

3.19 Rules 5.7.1 and 5.7.2 are deleted and replaced with the following Rules:

**“5.7.1** A **maximum benefit** in relation to a **member** who has received, or is entitled to receive, an adjustment payment under the *Australian Federal Police Act 1979* is an amount calculated from the following Table (as amended by determination of the **Board** under Rule 5.7.7 from time to time) according to the member’s **average** **salary** less the sum of:

(a) the value of any adjustment payments received, as updated by the **Board;** and

(b) the amount of any adjustment payments to be received;

unless the **member:**

(A) ceases membership on or after **minimum retiring age,** but not on **invalidity retirement,** and chooses to be paid half or more of his/her **final benefit accrual** as a **pension** *(see Rule 5.7.2);* or

(B) ceases membership, before 1 July 2000, on **involuntary retirement** before **minimum retiring age** and chooses to be paid half or more of his/her **final benefit accrual** as a **pension** *(see Rule 5.7.2);* or

(C) ceases membership on **invalidity retirement** and, because the **Board** is not satisfied that he/she is suffering from a **terminal medical condition,** is not able to choose to be paid his/her **invalidity benefit accrual** wholly as a lump sum, or is able to choose but does not do so, and accordingly is paid benefits predominantly in the form of a **pension** *(see Rule 5.7.3);* or

(D) ceases membership on death and his/her **average salary** equals or is more than the minimum shown in the following Table - *AFP Preliminary Maximum Benefits - Lump Sums (see also Rule 5.7.4);* or

(E) ceases membership on **invalidity retirement** or death and his/her **average salary** is less than the minimum shown in the following Table - *AFP Preliminary Maximum Benefits - Lump Sums (see also Rule 5.7.5);* or

(F) is entitled to his/her **preserved benefit** and chooses to take all or some of that benefit as a **pension** *(see Rule 5.7.6);* or

(G) transferred a **transfer amount** into the **PSS Scheme** before 1 January 1996 and chooses a pension conversion option under Rules 11.3.5 or 11.3.8 *(see Rule 11.3.10).*

|  |
| --- |
| **Table - AFP Preliminary Maximum Benefits - Lump Sums** |
| Average Salary | Preliminary Maximum Benefit |
| Less Than $30,489 | $243,909 |
| $30,489 or more but less than $48,750 | 8 times average salary |
| $48,750 or more but less than $90,520 | $97,500 plus6 times average salary |
| $90,520 or more | $369,060 plus3 times average salary |

**5.7.2** A **maximum** benefit in relation to a **member** who ceases membership:

(a) on or after **minimum retiring age,** but not on **invalidity retirement,** and chooses to take half or more of his/her **final benefit accrual** as a **pension;** or

(b) before 1 July 2000 on **involuntary retirement** before **minimum retiring age,** and chooses to take half or more of his/her **final benefit accrual** as a **pension;** and

has received, or is entitled to receive, an adjustment payment under the *Australian Federal Police Act 1979* is the lesser of:

(A) the amount shown opposite the member’s **average salary** in the Table *AFP Preliminary Maximum Benefits - Lump Sums* in Rule 5.7.1 (as amended by determination of the **Board** under Rule 5.7.7 from time to time); or

(B) the sum of:

(i) the amount calculated from the following Table - *AFP Preliminary Maximum Benefits - Pensions* according to the member’s **final average salary;** and

(ii) the member’s undeducted contributions as defined in the *Income Tax Assessment Act 1936*;and

(iii) 20% of the amount of the member’s **unfunded benefit accrual** to be taken as a **pension,** calculated on the basis that he/she is not a **maximum benefits member;** and

(iv) 15% of the balance of the member’s **unfunded benefit accrual** (if any), calculated on the basis that he/she is not a **maximum benefits member;**

less the sum of:

(v) the value of any adjustment payments received, as updated by the **Board;** and

(vi) the amount of any adjustment payments to be received.

|  |
| --- |
| **Table - AFP Preliminary Maximum Benefits - Pensions** |
| Final Average Salary | Preliminary Maximum Benefit |
| Less Than $30,489 | $343,001 |
| $30,389 or more but less than $48,750 | 11.25 times average salary |
| $48,750 ormore but less than $90,520 | $146,250 plus8.25 times average salary |
| $90,520 or more | $417,810 plus5.25 times average salary |

3.20 Paragraph 6.3.1(a) is deleted and replaced with the following paragraph:

“(a) be paid a lump sum of that part of his/her **final benefit accrual** that is permitted to be paid in cash under the **SIS** **Act**, or a lump sum of less than that part, and:

(i) leave the balance of his/her **final benefit accrual** in the scheme as a **preserved benefit;** or

(ii) **roll-over** the balance of his/her **final benefit accrual;** or

(iii) if the balance is 50% or more of his/her **final benefit accrual,** convert the balance into a **pension;** or”

3.21 Rule 6.3.2 is deleted and replaced with the following Rule:

**“6.3.2** A **member** who, on or after 1 July 2000, ceases membership on **involuntary retirement** before **minimum retiring age** is entitled to a **preserved benefit** of his/her **final benefit accrual** or may choose any one of the options in Rule 6.3.1. The lump sum under Rule 6.3.1(a) is limited to that part of his/her **final benefit accrual** that does not exceed that part of his/her **accumulated member contributions** that the **SIS** **Act** permits to be paid in cash. A **preserved benefit** or the choice of options is not available if the **member** transfers his/her benefits to an **eligible superannuation scheme** *(see Rule 6.8.6),* or joins an **approved superannuation scheme** *(see Rule 6.8.10).* The choice of options is not available if the **member** joins an **authorised superannuation scheme** *(see Rule 6.8.11).*”

3.22 Rule 6.6.3 is amended by deleting paragraph (a) and inserting the following:

“(a) continues in employment in that sold or transferred organisation, business, service, asset or function, but changes employer; and”

3.23 Rule 6.8.9 and its heading are deleted.

3.24 Rules 7.1.5 and 7.1.6 are deleted and replaced by the following Rule:

“7.1.5 If a **deceased member** is not survived by a **spouse** or children eligible for benefits, including partially dependent children, the **Board** may pay the **death benefit accrual:**

(a) to any child or children (as apportioned by the **Board)** of the **deceased member** who would otherwise be ineligible for benefits; or

(b) the **legal personal representative** of the **deceased member.**

If after making reasonable enquiries the **Board** is unable to find the **legal personal representative** of a **deceased member** the **Board** may pay the **death benefit accrual** to an individual or apportion it between two or more individuals.”

3.25 Rules 7.2.4 and 7.2.5 are deleted and replaced by the following Rule:

“7.2.4 If a **deceased limited benefits member** is not survived by a **spouse** or children eligible for benefits, including partially dependent children, the **Board** may pay the **final benefit accrual:**

(a) to any child or children (as apportioned by the **Board)** of the **deceased limited benefits member** who would otherwise be ineligible for benefits; or

(b) the **legal personal representative** of the **member.**

If after making reasonable enquiries the **Board** is unable to find the **legal personal representative** of a **deceased limited benefits member** the **Board** may pay the **final benefit accrual** to an individual or apportion it between two or more individuals.”

3.26 Rules 7.3.3, 7.3.4, 7.3.5 and 7.3.6 are deleted and replaced by the following Rules:

“**7.3.3** A lump sum of the amount, if any, by which the sum of a deceased pensioner’s:

(a) **accumulated member contributions;** and

(b) **accumulated productivity contributions;**

exceeds the total amount of benefits in the form of **pension** or lump sum paid to the **deceased pensioner** since his/her **last day of membership** is payable if the **deceased pensioner:**

(i) did not retire on invalidity grounds *(see instead Rule 7.3.4);* and

(ii) was not a **preserved benefit member** immediately before becoming a **pensioner** *(see instead Rule 7.3.5);* and

(iii) had not transferred a **transfer amount** into the **PSS** **scheme** before 1 January 1996 *(see instead Rule 11.3.26);* and

(iv) is not survived by a **spouse** or children eligible for benefits, including partially dependent children.

**7.3.4** A lump sum of the amount, if any, by which the **final benefit accrual** of a deceased **pensioner** exceeds the total amount of benefits in the form of **pension** or lump sum paid to the **deceased pensioner** since his/her **last day of membership** is payable if the **deceased pensioner**:

(a) retired on invalidity grounds; and

(b) was not a **preserved benefit member** immediately before becoming a **pensioner** *(see instead Rule 7.3.5);* and

(c) had not transferred a transfer **amount** into the **PSS** **scheme** before 1 January 1996 *(see instead Rule 11.3.26);* and

(d) is not survived by a **spouse** or children eligible for benefits, including partially dependent children.

**7.3.5** A lump sum of the amount, if any, by which the sum of a deceased pensioner’s:

(a) **accumulated member contributions** included in a **preserved benefit** at the date it became payable; plus

(b) **accumulated productivity contributions** included in a **preserved benefit** at the date it became payable;

exceeds the total amount of benefits in the form of **pension** or lump sum paid to the **deceased pensioner** since the **preserved benefit** became payable if the **deceased pensioner:**

(i) was a preserved benefit member immediately before becoming a pensioner; and

(ii) had not transferred **a** transfer amount into the PSS scheme before 1 January 1996 (see instead Rule 11.3.27); and

(iii) is not survived by a **spouse** or children eligible for benefits, including partially dependent children.

**7.3.6** The **Board** may pay the lump sums under Rules 7.3.3, 7.3.4 and 7.3.5:

(a) to any child or children (as apportioned by the **Board)** of the **deceased pensioner** who would otherwise be ineligible for benefits; or

(b) the **legal personal representative** of the **deceased pensioner.**

If after making reasonable enquiries the **Board** is unable to find the **legal personal representative** of a **deceased pensioner** the **Board** may pay the lump sums under Rules 7.3.3, 7.3.4 and 7.3.5 to an individual or apportion it between two or more individuals.”

3.27 Rules 7.4.7 and 7.4.8 are deleted and replaced by the following Rule:

**“7.4.7** If a **deceased preserved benefit member** is not survived by a **spouse** or children eligible for benefits, including partially dependent children, the **Board** may pay the **preserved benefit:**

(a) to any child or children (as apportioned by the **Board)** of the **deceased preserved benefit member** who would otherwise be ineligible for benefits; or

(b) the **legal personal representative** of the **deceased preserved benefit member.**

If after making reasonable enquiries the **Board** is unable to find the **legal personal representative** of a **deceased preserved benefit member** the **Board** may pay the **preserved benefit accrual** to an individual or apportion it between two or more individuals.”

3.28 Rule 8.5.3 is deleted and replaced by the following Rule:

“8.5.3 Where, under Division 9 of Part 10 of these Rules, the **Board** is satisfied a **preserved benefit member** should be regarded as having ceased membership on **invalidity retirement** he/she is entitled to benefits payable under Division 5 of Part 6 of these Rules on his/her **last day of membership,** and:

(a) his/her **invalidity benefit accrual** or **final benefit accrual** as appropriate, is to be reduced by any amount or amounts already paid; and

(b) his/her **accumulated member contributions** are to be reduced by any amount or amounts of his/her **accumulated member contributions** already paid.”

3.29 The table in Rule 9.2.1 is deleted and replaced with the following table:

|  |
| --- |
| **Table - Pension Conversion Factors** |
| Age(Whole Years) | Factor | **Ages Less Than 55**The Factors for ages less than 55 are 12.0 increased by 0.2 for each whole year the age is less than 55 |
| 65 | 10 |
| 64 | 10.2 |  |
| 63 | 10.4 | **Ages More Than 65**The Factors for ages more than 65 are 10.0 decreased by 0.2 for each whole year the age is more than 65 |
| 62 | 10.6 |
| 61 | 10.8 |
| 60 | 11 | **Age Not In Whole Years**Where age is not in whole years, the Factor is calculated in accordance with the following formula:$$\frac{F - (0.2 × Y)}{D}$$ |
| 59 | 11.2 |
| 58 | 11.4 |
| 57 | 11.6 |
| 56 | 11.8 | Where F is the factor for whole years from the table, Y is the number of days in excess of the whole years and D is the number of days in the year next following the whole years. |
| 55 | 12 |

3.30 Rule 9.2.3 is deleted and replaced by the following Rule:

**“9.2.3** If the **invalidity retirement** of a **member** in receipt of **pre-assessment payments** is backdated, the **Board** may deduct from the arrears of **pension** due to be paid, the lesser of:

(a) the amount of any **pre-assessment payments** paid after the first **pension payday** occurring on or after the date from which the member’s **invalidity retirement** commences; and

(b) the amount of **pension** payable to the date any **pre-assessment payments** ceased.”

3.31 Rules 9.5.4 and 9.5.5 are renumbered as Rules 9.5.3 and 9.5.4. The following Rule and heading is inserted after Rule 9.5.4:

|  |
| --- |
| **Final benefits when no remaining eligible beneficiaries** |

“**9.5.5** When no further benefits are payable in respect of a **deceased** **member** or **deceased** **pensioner,** a lump sum is payable of the amount, if any, by which the sum of the:

(a) **accumulated member contributions;** and

(b) **accumulated productivity contributions;**

applicable to the **deceased member** or **deceased pensioner** exceeds the total amount of benefits in the form of **pension** or lump sum paid in respect of him/her, and paid to a **deceased pensioner,** since his/her **last day of membership**. The **Board** may pay the lump sum:

(i) to any child or children (as apportioned by the **Board**) of the **deceased member** or **deceased pensioner** who would otherwise be ineligible for benefits; or

(ii) the **legal personal representative** of the **deceased member** or **deceased pensioner.**

If after making reasonable enquiries the **Board** is unable to find the **legal personal representative** of a **deceased member** or **deceased pensioner** the **Board** may pay the lump sum to an individual or apportion it between two or more individuals.”

3.32 Rule 9.6.1 is amended by re-lettering paragraphs (B), (C) and (D) as paragraphs (C), (D) and (E). The following new paragraph (B) is inserted:

“(B) the factor that results from division of New CPI less Old CPI by Old CPI is to be rounded up or down to the nearest one thousandth; and”

3.33 Rule 10.10.7 is deleted and replaced by the following Rule:

**“10.10.7** If the **member** does not receive sick leave pay at any time during the first six months of being off work, pre-assessment payments are payable during that period at the fortnightly rate calculated using the formula below, provided that the rate is greater than zero:

**Half Salary – (Partial Invalidity Pension + Other Compensation Payments)**

where:

$$Half Salary is \frac{Superannuation Salary}{2 × 26} per fortnight and$$

Superannuation Salary is the greater of:

(i) the sum of the annual **basic salary** and **recognised allowances,** if any; or

(ii) the sum of the annual maintained basic salary and maintained recognised allowances, if any; or

(iii) his/her annual CSS Salary, if any;

applicable to the **member** on his/her first day off work, proportionately adjusted by the **Board** in the same manner as in Rule 5.4.2 for a **permanent part-time employee** or a **temporary part-time employee,** or as in **Rule** 5.5.2 for a **casual member,** to take account of:

(a) his/her work pattern over the lesser of his/her:

(i) previous 78 contribution due days; or

(ii) number of contribution due days; and

(b) any hours not worked in which a **partial invalidity pension** or compensation payment was applicable to the **member.**

Partial Invalidity Pension is the fortnightly amount of any **partial invalidity pension** payable to the **member;** and

Other Compensation Payments is the fortnightly amount of any compensation payments payable to the **member** in relation to a condition that is not the condition causing the **member** to be off work.”

3.34 Rules 10.11.1 and 10.11.2 are deleted and replaced with the following Rules:

**“10.11.1** An **invalidity pensioner** who:

(a) is under age 60; and

(b) begins to receive **personal earnings;**

must give to the **Board** particulars in writing of these **personal earnings** and an estimate of expected **personal earnings** during the next 12 months. A person acting on the invalidity pensioner’s behalf may provide this information.

**10.11.2** The **Board** may require an **invalidity pensioner** who is under age 60 to give in writing, within the period specified by the **Board** which must end before the **invalidity pensioner** attains age 60, either or both:

(A) such information as the **Board** requires relating to any employment, or work on the pensioner’s own account, in which the **pensioner** has been engaged during a period specified by the **Board;** or

(B) particulars of the pensioner’s **personal earnings** and an estimate of the expected **personal earnings** during the next 12 months.

A person acting on the invalidity pensioner’s behalf may give this information.”

3.35 Rule 10.11.8 is deleted and replaced with the following Rule:

**“10.11.8** If an invalidity **pension** has been suspended under Rule 10.11.5 for a period of 12 months the **Board** may cancel the entitlement to invalidity **pension,** unless the **invalidity pensioner** had reached age 59 before his/her **pension** was lastsuspended. The **Board** must notify in writing the **invalidity pensioner,** or the person acting on his/her behalf, of the cancellation.”

3.36 Rule 10.11.9 is amended by replacing paragraph (a) of the definition of the term “Notional Income” with the following:

“(a) $25,626, increased on 1 July 1991, and compounded each subsequent 1 July, in accordance with the increases, if any, applying to pensions under Rule 9.6.1; or”

3.37 Rule 11.1.2 is deleted and replaced by the following:

**“11.1.2** The **Board** must pay any **transfer amount** into the **PSS Fund** except amounts received after the six months or the further period referred to in Rule 11.1.1.”

3.38 Rule 11.2.1 is amended by deleting the words “unless the **member** ceased membership on electing to have the *Judges’ Pensions Act 1968* apply *(see Rule 11.2.3)*.”

3.39 Rule 11.2.3 and its heading are deleted.

3.40 Rule 11.3.1 is deleted and replaced with the following rule:

**“11.3.1** On cessation of membership, a **member** who transferred a **transfer amount** into the **PSS** **scheme** before 1 January 1996 *(see also Rule 11.3.4)* is, in respect of that **transfer amount,** entitled, to whichever is the greater of his/her:

(a) Accumulated Transfer Amount; or

(b) Transfer Multiple Amount calculated by the formula:

$$\frac{FAS × TA}{AS}$$

where:

FAS is the member’s **final average salary;** and

TA is the:

(i) if the **transfer amount** was received by the **Board** before 2 February 1994, the **transfer amount** plus interest, if any, accumulated to the day 12 months after the **transfer amount** was received; or

(ii) if the **transfer amount** was received by the **Board** after 1 February 1994:

(A) the **transfer amount** paid into the **PSS Fund** by the **Board;** or

(B) if the **Board** decides to use a later date under paragraph (ii)(B) of the definition of AS that follows, the amount equal to the total of the **transfer amount** paid into the **PSS Fund** by the **Board** and any interest accrued on that **transfer amount** to that later date; and

AS is the member’s **average salary** on:

(i) if the **transfer amount** was received by the **Board** before 2 February 1994, the day 12 months after the **transfer amount** was received; or

(ii) if the **transfer amount** was received by the **Board** after 1 February 1994:

(A) the date of receipt of the **transfer amount;** or

(B) any later date decided by the **Board** as necessary to promote equitable treatment between members, but not a date later than 12 months after the date the **transfer amount** was received.”

3.41 Rule 11.3.3 and its heading are deleted.

3.42 Rule 11.3.4 is deleted and replaced with the following rule:

**“11.3.4** A **member** is taken for the purposes of this Division to have transferred a **transfer amount** into the **PSS scheme** before 1 January 1996 if he/she:

(a) was on leave of absence without pay on 31 December 1995 and, on return from that leave of absence without pay, transferred into the **PSS scheme** a **transfer amount,** the entitlement to which arose from employment during the period of leave of absence without pay; or

(b) transferred into the **PSS scheme** after 31 December 1995 a **transfer amount** to which his/her entitlement arose from employment during **a** period of leave of absence without pay that ceased on or before that date; or

(c) joined the **PSS scheme** before 1 January 1996 but transferred into the **PSS scheme** on or after that date a **transfer amount** to which his/her entitlement arose from employment that ceased before that date; or

(d) joined the **PSS scheme** before 1 January 1996 but transferred into the **PSS scheme** on or after that date a **transfer amount** that became payable in respect of the **member** before that date; or

(e) joined the **PSS scheme** before 6 July 1996 and transferred in a **transfer amount** that became payable as a result of membership, which ceased on joining the **PSS Scheme,** of the CAA Staff Superannuation Fund, or that Fund and its successor, the AvSuper Fund.”

3.43 Rule 11.3.8 is amended by deleting paragraph (ii) and inserting the following:

“(ii) if he/she chooses to be paid a lump sum of some or all of his/her **accumulated member contributions** - to choose to be paid a lump sum of some or all of that part of his/her Transfer Multiple Amount that is not required under the **SIS Act** to be preserved and to convert the balance of the Transfer Multiple Amount that was not paid as a lump sum into additional **pension,** calculated by dividing the balance of the Transfer Multiple Amount by 11.”

3.44 Rule 11.3.10 is amended by deleting paragraph (ii) and inserting the following:

“(ii) in the relevant Table in Division 7 of Part 5 (as amended by determination of the **Board** under Rule 5.7.7 from time to time) applicable in that year, less, if the **member** has received or is entitled to receive an adjustment payment under the *Australian Federal Police Act 1979,* the adjustment payment received, or entitled to be received;”

3.45 Rule 11.3.14 is amended by deleting paragraph (B) and inserting the following:

“(B) if the entitlement to payment arises on invalidity grounds, at least all of that part of the Accumulated Transfer Amount, as accumulated, that is required to be preserved under the **SIS Act** is converted to **pension;** and”

3.46 Rule 11.3.15 is amended by deleting paragraph (ii) and inserting the following:

“(ii) in the relevant Table in Division 7 of Part 5 (as amended by determination of the **Board** under Rule 5.7.7 from time to time), less, if the **member** has received or is entitled to receive an adjustment payment under the *Australian Federal Police Act 1979,* the adjustment payment received, or entitled to be received;”

3.47 Rule 11.3.25 is deleted and replaced with the following Rule:

**“11.3.25** On the death of a **pensioner** in receipt of additional **pension** under Rule 11.3.5 or Rule 11.3.8, additional reversionary **pension** is payable under the same conditions and to the same person or persons and, where relevant, in the same proportions as are payable to those persons, as reversionary **pension** is payable under Part 7. The additional reversionary **pension** is calculated in accordance with the provisions of Division 3 of Part 9 relevant to the relationship(s) to the **deceased pensioner.”**

3.48 Rules 11.3.26 and 11.3.27 are deleted and replaced with the following Rules:

**“11.3.26** If additional reversionary **pension** is not payable on the death of a **pensioner** in receipt of additional **pension,** or additional reversionary **pension** ceases to be payable, a lump sum is payable of the amount, if any, by which the sum of the greater of either the Accumulated Transfer Amount or the Transfer Multiple Amount at the date the additional **pension** became payable and:

(a) if the **deceased pensioner** did not retire on invalidity grounds and was not a **preserved benefit member** immediately before becoming a **pensioner,** his/her

(i) **accumulated member contributions;** and

(ii) **accumulated productivity contributions;**

or

(b) if the **deceased pensioner** retired on invalidity grounds and was not a **preserved benefit member** immediately before becoming a **pensioner,** his/her **final benefit accrual;**

exceeds the total amount of benefits in the form of **pension** or lump sum paid to, or in respect of, the **deceased** **pensioner,** including to a **spouse** or children entitled to benefits, since his/her **last day of membership.**

11.3.27 If additional reversionary **pension** is not payable on the death of a pensioner in receipt of additional **pension** who was a **preserved benefit member** immediately before becoming a **pensioner,** or additional reversionary **pension** ceases to be payable, a lump sum is payable of the amount, if any, by which the sum of the greater of either the Accumulated Transfer Amount or the Transfer Multiple Amount at the date the additional **pension** became payable and the:

(a) **accumulated member contributions** included in the **preserved benefit** at the date it became payable; and

(b) **accumulated productivity contributions** included in the **preserved benefit** at the date it became payable;

exceed the total amount of benefits in the form of **pension** or lump sum paid to, or in respect of, the **deceased pensioner,** including to a **spouse** or children entitled to benefits, since the **preserved benefit** became payable.”

3.49 New rule 11.3.29 is added:

**“11.3.29** If an additional pension is payable to a **member** under Rules 11.3.5 or 11.3.8, or an additional reversionary pension is payable in respect of a former **member** under Rule 11.3.16:

(a) an amount, if any, calculated by using the following formula shall be included in the member’s or former member’s **accumulated funded productivity contributions:**

$$(ATM - TMA) × \frac{PA}{TA}$$

(b) an amount, if any, calculated by using the following formula shall be included in the member’s or former member’s **accumulated member contributions:**

$$(ATM - TMA) × \frac{NPA}{TA}$$

where:

|  |  |
| --- | --- |
| ATM | is the member’s Accumulated Transfer Amount; and |
| TMA | is the member’s Transfer Multiple Amount; and |
| TA | is the member’s **transfer amount;** and |
| PA | is that part of the member’s **transfer amount** that was required to be compulsorily preserved under the **SIS Act;** |
| NPA | is that part of the member’s **transfer amount** that was not required to be compulsorily preserved under the **SIS Act.**” |

3.50 Divisions 14.1 and 14.2 are deleted and the following Divisions are inserted in their place:

|  |  |
| --- | --- |
| **Division 1** | **Commencement of Membership** |

|  |
| --- |
| **Day on which membership commences** |

**“14.1.1** The **first day of membership** of the **PSS scheme** for a **member** who had previously been an eligible employee under the *Superannuation Act 1976* is:

(a) 1 July 1990 - if the person:

(i) had been a member of the **CSS scheme** on 30 June 1990; and

(ii) was not on leave without pay, or was not deemed by section 87C(6) of the *Public Service Act 1922* to be absent from duty on leave without pay from the Australian Public Service, at that date; and

(iii) remained a member of the **CSS scheme** until the date of his/her election to join the **PSS scheme;** and

(iv) elected before 1 July 1991 under the provisions of section 244 of the *Superannuation Act 1976* to join the **PSS scheme;** or

(b) 1 July 1990 - if the person had been a member of the **CSS scheme** on 30 June 1990, and:

(i) was on leave without pay from his/her employer, or was deemed by section 87C(6) of the *Public Service Act 1922* to be absent from duty on leave without pay from the Australian Public Service, for the period 1 July 1990 to 31 March 1991 or any later date (and was not engaged in employment with another employer whose staff were covered by the **PSS scheme);** and

(ii) recommenced duty with his/her employer before 1 July 1991; and

(iii) elected under the provisions of section 244 of the *Superannuation Act 1976* before 1 July 1991 or, if later, within three months of recommencing duty, to join the **PSS scheme;** and

(iv) remained a member of the **CSS scheme** until the date of his/her election; or

(c) 1 March 1996 - if the person was a member of the **CSS scheme** on 30 June 1990 and:

(i) remained a member of the **CSS scheme** until the date of his/her election to join the **PSS scheme;** and

(ii) was not on leave without pay, or was not deemed by section 87C(6) of the *Public Service Act 1922* to be absent from duty on leave without pay from the Australian Public Service, at 1 March 1996; and

(iii) elected after 29 February 1996 but before 1 September 1996 under paragraph 4(1) (zo) of the *Superannuation (CSS) Eligible Employees Regulations* or subregulation 4A(1) of the *Superannuation (CSS) Continuing Contributions for Benefits Regulations* to join the **PSS** **scheme**; or

(d) 1 March 1996 - if the person:

(i) was member of the **CSS** **scheme** until the date of his/her election to join the **PSS scheme**; and

(ii) was on leave without pay at 1 March 1996; and

(iii) while on leave without pay, elected after 29 February 1996 but before 1 September 1996 under paragraph 4(1) (zo) of the *Superannuation (CSS) Eligible Employees Regulations* or subregulation 4A(1) of the *Superannuation (CSS) Continuing Contributions for Benefits Regulations* to join the **PSS scheme;** or

(e) 1 March 1996 - if the person had been a member of the **CSS scheme** on 29 February 1996, and:

(i) was on leave without pay from his/her employer, or was deemed by section 87C(6) of the *Public Service Act 1922* to be absent from duty on leave without pay from the Australian Public Service, on 1 March 1996 (and was not engaged in employment with another employer whose staff were covered by the **PSS scheme);** and

(ii) recommenced duty with his/her employer before 1 September 1996; and

(iii) not having elected to join the PSS while on leave without pay, elected under paragraph 4(1) (zo) of the *Superannuation (CSS) Eligible Employees Regulations* or subregulation 4A(1) of the *Superannuation (CSS) Continuing Contributions for Benefits Regulations* before 1 September 1991 or, if later, within three months of recommencing duty, to join the **PSS scheme;** and

(iv) remained a member of the **CSS scheme** until the date of his/her election; or

(f) the date the person rejoined his/her employer - if the person had been a member of the **CSS scheme** on 30 June 1990, and:

(i) was on leave without pay from his/her employer, or was deemed by section 87C(6) of the *Public Service Act 1922* to be absent from duty on leave without pay from the Australian Public Service, for the period 1 July 1990 to 30 June 1991 or any later date (and was not engaged in employment with another employer whose staff were covered by the **PSS scheme);** and

(ii) recommenced duty with his/her employer after 30 June 1991; and

(iii) remained a member of the **CSS scheme** until the date of his/her election under section 244 of the *Superannuation Act 1976* to join the **PSS scheme;** or

(g) the date the person rejoined his/her employer - if the person had been a member of the **CSS scheme** on 29 February 1996, and:

(i) was on leave without pay from his/her employer, or was deemed by section 87C(6) of the *Public Service Act 1922* to be absent from duty on leave without pay from the Australian Public Service, during the period from 1 March 1996 to any later date (and was not engaged in employment with another employer whose staff were covered by the **PSS scheme);** and

(ii) remained a member of the **CSS scheme** until the date of his/her election after 31 August 1996 under paragraph 4(1) (zo) of the *Superannuation (CSS) Eligible Employees Regulations* or sub regulation 4A(1) of the *Superannuation (CSS) Continuing Contributions for Benefits Regulations* to join the **PSS scheme**; or

(h) the date the person last became a member of the **CSS scheme** - if the person:

(i) became a member of the **CSS scheme** after 30 June 1990; and

(ii) elected to join the **PSS scheme** under either:

(A) section 244 of the *Superannuation Act 1976;* or

(B) paragraph 4(1) (zo) of the *Superannuation (CSS) Eligible Employees Regulations* or subregulation 4A(1) of the *Superannuation (CSS) Continuing Contributions for Benefits Regulations;* or

(i) the date the person elected to join the **PSS scheme** - if the person:

(i) had been a member of the **CSS scheme** on 30 June 1990; and

(ii) was not on leave without pay, or was not deemed by section 87C(6) of the *Public Service Act 1922* to be absent from duty on leave without pay from the Australian Public Service, at that date; and

(iii) remained a member of the **CSS scheme** until the date of his/her election to join the **PSS scheme;** and

(iv) elected to join the **PSS scheme:**

(A) after 30 June 1991 under section 244 of the *Superannuation Act 1976;* or

(B) after 31 August 1996 under paragraph 4(1) (zo) of the *Superannuation (CSS) Eligible Employees Regulations* or subregulation 4A(1) of the *Superannuation (CSS) Continuing Contributions for Benefits Regulations.*

|  |
| --- |
| **Election anddeclaration under the *Superannuation Act 1976*** |

**14.1.2** For the purposes of this Part, an election to join the **PSS Scheme** by a member of the **CSS Scheme** includes a declaration that he/she wishes to join the **PSS Scheme** under:

(a) paragraph 244(1)(a) of the *Superannuation Act 1976;* or

(b) the provisions of paragraph 4(1) (zo) of the *Superannuation (CSS) Eligible Employees Regulations* or subregulation 4A(1) of the *Superannuation (CSS) Continuing Contributions for Benefits Regulations.*

|  |  |
| --- | --- |
| **Division 1** | **CSS Transfer Multiples** |

|  |
| --- |
| **Entitlement to CSS Transfer Multiple** |

**14.2.1** A **member** is entitled to a CSS Transfer Multiple if:

(a) he/she elected to cease to be an eligible employee under section 244 of the *Superannuation Act 1976,* or paragraph 4(1) (zo) of the *Superannuation (CSS) Eligible Employees Regulations* or subregulation 4A(1) of the *Superannuation (CSS) Continuing Contributions for Benefits Regulations;* and

(b) the **Board** has received a transfer of assets in respect of the **member** from the superannuation fund established under the *Superannuation Act 1976* which have become part of the **PSS Fund,** or is satisfied that such a transfer will be made.

|  |
| --- |
| **Calculation of a CSS Transfer Multiple** |

**14.2.2** A CSS Transfer Multiple is the sum of:

(a) the primary element *(see Rule 14.2.3)* which is applicable in respect of any **member** who transferred from the **CSS scheme** to the **PSS scheme;** and

(b) the accrual element *(see Rule 14.2.5),* if any, which is applicable to any **member** whose **first day of membership** is on or after 1 March 1996.

|  |
| --- |
| **Primary element of CSS Transfer Multiple** |

**14.2.3** The primary element is calculated using the following formula:

$$\frac{CSS Transfer Credit}{CSS Average Salary}$$

where:

CSS Transfer Credit is the sum of:

(a) the amount of the member’s paid accumulated contributions under the *Superannuation Act 1976*:

(i) immediately before his/her **first day of membership** if that day is before 1 March 1996; or

(ii) as at 30 June 1990, or at a later date when he/she last became a member of the CSS, if his/her **first day of membership** is on or after 1 March 1996;

For the purpose of paragraphs (a)(i) and (a)(ii), paid accumulated contributions include two-sevenths of the amount of any transfer value in respect of the **member** paid under section 128(2)(a) of the *Superannuation Act 1976* prior to his/her **first day of membership,** or 1 July 1990, respectively, whether or not the employee component of that transfer value was two-sevenths of the transfer value, and the interest that would have accumulated on the two-sevenths amount under the CSS **scheme;**

and

(b) an amount that is 2.5 times the amount of the member’s accumulated basic contributions under the *Superannuation Act 1976*

(i) immediately before his/her **first day of membership** if that day is before 1 March 1996; or

(ii) as at 30 June 1990, or at a later date when he/she last became a member of the CSS, if his/her **first day of membership** is on or after 1 March 1996;

For the purposes of paragraphs (b)(i) and (b)(ii), accumulated basic contributions include:

(A) two-sevenths of the amount of any transfer value in respect of the **member** paid under section 128(2)(a) of the *Superannuation Act 1976* prior to his/her **first day of membership,** or 1 July 1990, respectively, whether or not the employee component of that transfer value was two-sevenths of the transfer value, and the interest that would have accumulated on the two-sevenths amount under the **CSS scheme;** and

(B) the amount to which a **member** who:

• had become entitled to an invalidity benefit under section 66 of the *Superannuation Act 1976;* and

• had elected under section 68 or 71 of that Act to take part of the invalidity benefit as a lump sum; and

• had subsequently again become an eligible employee under that Act;

would have been entitled if he/she had not elected to take part of the invalidity benefit as a lump sum;

and

(c) the aggregate of whichever of the following is applicable in relation to the **member:**

(i) the amount, if any, of unfunded productivity benefits (the notional interim benefit under section 8A of the *Superannuation (Productivity Benefit) Act 1988);*

(ii) if the member’s **first day of membership** is before 1 March 1996, the amount, if any, of funded productivity contributions and interest under the *Superannuation Act 1976* immediately before his/her **first day of membership;**

(iii) if the member’s **first day of membership** is on or after 1 March 1996, the amount, if any, of funded productivity contributions and interest under the *Superannuation Act 1976* as at 30 June 1990, or at a later date when he/she last became a member of the CSS;

(iv) if the member’s **first day of membership** is before 1 March 1996, the amount, net of tax, of any transfer value in respect of the **member** paid under section 128 of the *Superannuation Act 1976* on or after his/her **first day of membership** *(see Rule 14.2.6 if the member’s* ***first day of membership*** *is on or after 1 March 1996);*

(v) the amount, net of tax, of any payment under section 110K, 110L or 110M of the *Superannuation Act 1976* by or on behalf of the **member** on or after his/her **first day of membership;** and

(vi) if the member’s **first day of membership** is before 1 March 1996, the amount of entitlement immediately before his/her **first day of membership** in relation to non-contributory units held by the **member** under the *Superannuation Act 1922* on ceasing to be a contributor under that Act;

(vii) if the member’s **first day of membership** is on or after 1 March 1996, the amount of entitlement immediately before 1 July 1990 in relation to non-contributory units held by the **member** under the *Superannuation Act 1922* on ceasing to be a contributor under that Act;

and

CSS Average Salary is:

(a) the average of the member’s annual rates of salary under the *Superannuation Act 1976* on the three birthdays preceding:

(i) his/her **first day of membership,** if that day is before 1 March 1996; or

(ii) 1 July 1990, if he/she last became a member of the **CSS scheme** before that date and his/her **first day of membership** is on or after 1 March 1996; or

(b) if the member’s period of membership of the **CSS** **scheme** (or last period of membership if he/she had been an eligible employee under the *Superannuation Act 1976* more than once) did not encompass three birthdays, the average of the member’s annual rates of salary under the *Superannuation Act 1976* on:

(i) his/her birthdays which occurred before his/her **first day of membership** while he/she was an eligible employee under the *Superannuation Act 1976* and his/her first day of service for the purposes of that Act (if not a birthday), if his/her **first day of membership** is before 1 March 1996; or

(ii) his/her birthdays which occurred before 1 July 1990 while he/she was an eligible employee under the *Superannuation Act 1976* and his/her first day of service for the purposes of that Act (if not a birthday), if his/her **first day of membership** is on or after 1 March 1996 and he/she last became a member of the **CSS scheme** before 1 July 1990; or

(c) if the **member** last became a member of the **CSS Scheme** after 30 June 1990, the annual rate of salary under the *Superannuation Act 1976* applicable on his/her first day of service for the purposes of that Act.

Provided that:

(A) for a **member** in receipt of a partial invalidity pension on a birthday (or first day of service), the annual rate of salary under the *Superannuation Act 1976* is the rate that would have applied if the **member** had ceased to be an eligible employee under that Act on that day; and

(B) the **Board** may use an alternative salary where it considers that the CSS Average Salary calculated above is not in accordance with the spirit of the Rules and would lead to inequitable treatment between members.

**14.2.4** Where the **Board** has used an alternative salary for the purposes of CSS Average Salary in the formula in Rule 14.2.3, the affected **member** is to be:

(a) advised of the use of that alternative salary and his/her resultant CSS Transfer Multiple; and

(b) given the opportunity to reconsider his/her decision to transfer to the **PSS scheme.**

|  |
| --- |
| **Accrual element of** **CSS Transfer Multiple** |

**14.2.5** The accrual element is the sum of the accruals calculated using the following formula on each of the **contribution due days** on which the **member** was an eligible employee for the purposes of the *Superannuation Act 1976* in the period from 1 July 1990 to his/her **first day of membership:**

where:

$$\left(\frac{0.11}{26} × F\right) + \left(2 ×\frac{CP}{CS}\right)$$

F (a) for a **member** who was **a permanent full-time employee** or a **temporary full-time employee** on his/her **last birthday** immediately preceding the **contribution due day** is 1; and

(b) for a **member** who was a partial contributor as defined in Regulations under the *Superannuation Act 1976* on his/her **last birthday** preceding the **contribution due day** is the ratio that the contribution under the *Superannuation Act 1976* paid or payable by him/her on that **last birthday** or the **contribution due day** immediately following if a contribution was not due on that birthday, bears to the contribution that would have been paid or payable if the person had been a **permanent full-time employee** on that day performing duties of a similar nature to the **member.**

For the purposes of paragraphs (a) and (b), contributions under the *Superannuation Act 1976* paid or payable include:

(i) if the **member** did not work on his/her **last birthday,** or the **contribution due day** immediately following, the contribution he/she would have paid if he/she had been on duty; and

(ii) if the **member** was on leave of absence without pay that is an excluded period of leave of absence under the *Superannuation Act 1976* on his/her **last birthday,** the contribution he/she would have paid if he/she had been on duty with his/her employer.

CP is the amount of the contribution paid, or payable, by the person on the **contribution due day;** and

CS is:

(a) if the **member** was not in receipt of partial invalidity pension under the *Superannuation Act 1976* on the **last birthday** immediately preceding the **contribution due day,** the person’s annual rate of salary under that Act on that **last birthday;** or

(b) if the **member** was in receipt of partial invalidity pension under the *Superannuation Act 1976* on the **last birthday** immediately preceding the **contribution due day,** 26 multiplied by the amount of the contribution paid, or payable, by the person under that Act on that **last birthday.**

|  |
| --- |
| **Additional accruals** |

**14.2.6** Any transfer value paid under section 128(2)(a) of the *Superannuation Act 1976* on behalf of a **member** whose **first day of membership** is on or after 1 March 1996 is treated as a **transfer amount** under Part 11 of the Rules. Interest is taken to accumulate on the **transfer amount** at the rates applicable to transfer values under the **CSS scheme** for the period from payment until the member’s **first day of membership.** Benefits are determined under Part 11 of the Rules in accordance with the date of payment of the transfer value.”

3.51 Rule 14.3.1 is amended by deleting “Rule 5.6.2” wherever it appears, and replacing it with “Rule 5.6.1”.

3.52 Rule 14.3.2 is amended by deleting “Rule 5.6.2” wherever it appears, and replacing it with “Rule 5.6.1”.

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

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: | ) |  |
|  | ) |  |
| OWEN COVICK | ) |  |
| (name) | ) |
|  | ) |
| 5 VALMAI AVENUE KINGS PARK SA 5034 | ) |
| (address) | ) |
|  | ) |
| MINISTERIAL CONSULTANT | ) |  |
| (description) | ) |  |
|  | ) |  |