

EXPLANATORY STATEMENT

Issued by authority of the Minister for Finance and Administration

Superannuation Act 1990

Twenty-ninth Amending Deed to the Trust Deed to establish an occupational superannuation scheme for Australian Government employees and certain other persons pursuant to section 5 of the Superannuation Act 1990 (1990 Act).

The Minister for Finance, for and on behalf of the Commonwealth, established an occupational superannuation scheme to provide benefits for certain of the Commonwealth's employees and for certain other people by Trust Deed dated 21 June 1990 under section 4 of the 1990 Act. The occupational superannuation scheme is called the Public Sector Superannuation Scheme (PSS).

Section 5 of the 1990 Act provides that the Minister for Finance and Administration may amend the Trust Deed by signed instrument, subject to obtaining the consent of the Australian Reward Investment Alliance (ARIA) to the amendment where necessary. ARIA is the trustee for the PSS.

Twenty-ninth Amending Deed

On 28 August 2007 the Minister amended the Trust Deed and Rules for the PSS set out in the Schedule to the Trust Deed by signed instrument. That instrument is called the Twenty-ninth Amending Deed in this statement.

The purpose of the Twenty-ninth Amending Deed is to amend the Trust Deed and Rules to make enhancements to the PSS. Background information on the changes and the details of the Twenty-ninth Amending Deed are set out in the Attachment.

Approval by ARIA

Section 5 of the 1990 Act deals with amendments made to the Trust Deed. That section allows the Minister to amend the Trust Deed provided, in respect of certain amendments that ARIA has consented to or where the amendment relates to a payment by an employer-sponsor (within the meaning of the *Superannuation Industry (Supervision) Act 1993* (the SIS Act) that will, after the making of the amendment, be required or permitted to be made under the 1990 Act.

ARIA has consented to all the amendments included in the Twenty-ninth Amending Deed except the amendment set out in subclause 3.21 which was included in the Amending Deed after it was provided to ARIA for their consent. Subclause 3.21 does not require the consent of ARIA as the amendment relates to a payment by an employer - sponsor.

Legislative Instruments Act 2003

The Amending Deed is a legislative instrument for the purposes of the *Legislative Instruments Act 2003* (LIA). Although section 44 of the LIA exempts superannuation instruments from disallowance, the Amending Deed is subject to possible disallowance in accordance with section 45 of the 1990 Act.

Section 17 of the LIA specifies that rule-makers should consult before making legislative instruments. The Executive Unit of ARIA and ComSuper (who administer the PSS) were consulted about the Amending Deed. ARIA is a trustee board including representatives of both scheme members and their employers.

Commencement

Unless otherwise provided, the amendments in the Deed come into effect on the day after the Deed is registered on the Federal Register of Legislative Instruments.

The amendments relating to reform of the maximum benefit limits and the early release of benefits come into effect on 1 January 2008.

The amendments relating to making member contributions voluntary come into effect on 1 July 2008.

The amendments relating to providing choice of funds come into effect immediately after Schedule 2 of the *Superannuation Legislation Amendment Act 2007 (SLA Act)* commences which is 1 July 2008. This linking is necessary because the amendments in the Deed in relation to choice of funds cannot operate without the corresponding amendments set out in Schedule 2 of the SLA Act coming into effect.

The amendments relating to the *Better Super* reforms and technical changes come into effect as follows:

- amendments in relation to release authority payments, tax offset amount(s) and technical matters commence on the day after the Deed is registered on the Federal Register of Legislative Instruments (subclauses 7.1, 7.2, 7.4, 7.6, 7.17, 7.18, 7.20, 7.21 and 7.22);
- amendments in relation to the roll-over of superannuation benefits commence on 1 July 2007 (subclauses 7.7 and 7.19). This is to ensure that PSS members will not be disadvantaged by the change in the terminology, from 1 July 2007, that is used to describe amounts that can be accepted by a superannuation fund; and
- amendments to provide for an employer accrual for members who cannot make contributions to the PSS because they have not provided their tax file number (subclauses 7.3, 7.5, 7.8, 7.9, 7.10, 7.11, 7.12, 7.13, 7.14, 7.15 and 7.16) commence immediately after the commencement of Part 1 of Schedule 5 of the SLA Act. Linking these commencement dates will ensure consistent treatment between members of the PSS and the Commonwealth Superannuation Scheme. Part 1 of Schedule 5 of the SLA Act commences on a single day to be fixed by Proclamation or if there has been no Proclamation, then on 1 July 2008.

ATTACHMENT

BACKGROUND TO AND DETAILS OF THE TWENTY-NINTH AMENDING DEED**Background*****Reform of the Maximum Benefit Limits***

The maximum benefit limit (MBL) in the PSS operates as a cap on the benefit multiple. The benefit multiple is applied to the member's final average salary to calculate their benefit and is generally derived from the member's period of membership and the rate at which the member contributes. PSS members cease to make member contributions when they reach their MBL, and employer (productivity) contributions also cease to be paid.

2. The amendments introduce a higher MBL structure allowing members to work for a longer period before reaching their MBL, thus removing the incentive for some members who reach their MBL before their retirement age to leave employment early. The amendments also remove the taper from the current MBL structure and simplify the arrangements by providing a two-tier MBL that retains the current protection for lower-paid members.

3. Special transitional provisions are included for members who have reached their MBL prior to 1 January 2008, essentially allowing them to pay member contributions at 0% from that date unless they elect to pay at another rate permitted under the Rules.

Making Member Contributions Voluntary

4. In the PSS, members are required to pay member contributions at a rate of between 2% and 10% of their salary for superannuation purposes. The amendments will effectively make member contributions voluntary from 1 July 2008 by allowing contributors in most cases to elect to pay member contributions at 0%. Some special provisions apply to persons on certain categories of leave without pay for a period exceeding 12 weeks.

Choice of Funds

5. These amendments support proposed amendments made to the *Superannuation Act 1990* (1990 Act) by the Superannuation Legislation Amendment Bill 2007 (the Bill). The 1990 Act provides the eligibility requirements for the PSS and generally only allows members to cease contributing to the scheme on leaving employment or on retirement. The Bill proposes amendments to the 1990 Act to allow eligible members to elect to cease membership of the PSS, preserve their accumulated benefit in the scheme and have their future employer contributions paid to an alternative accumulation scheme. The amendments to the Rules define who is covered by the reference in the Bill to a "PSS member who is making member contributions". The amendments also provide that a member who elects to cease membership to have a preserved benefit in the PSS with the same rights and obligations (including benefit options) as other preserved benefit members (except for the ability to return to contributory membership of the PSS, which is covered in the Bill).

Early Release of Benefits on Severe Financial Hardship and Compassionate Grounds

6. These amendments will enable PSS members to obtain early release of their funded account balances on severe financial hardship or compassionate grounds, to the extent allowed under the regulatory framework established under the *Superannuation Industry (Supervision) Act 1993* (SIS Act).

- Early release on severe financial hardship grounds is specified in Regulation 6.01(5) of the *Superannuation Industry (Supervision) Regulations 1994*. Circumstances covered by this regulation might include, for example, to prevent foreclosure by a mortgagee.

- Early release on compassionate grounds is specified in Regulation 6.19A of the *Superannuation Industry (Supervision) Regulations 1994* (SIS Regulations). Circumstances covered by this regulation might include, for example, to treat life threatening illnesses, for palliative care, funeral and burial expenses.

7. Analogous amendments are proposed to be made to the *Superannuation Act 1976* in respect of the Commonwealth Superannuation Scheme (CSS) by the Bill.

Better Super and technical amendment

8. The Deed includes amendments to the PSS Rules as a consequence of the Government's *Better Super* reforms. The main amendments will provide for the accrual of PSS benefits for a member who cannot make member contributions because they have not provided their tax file number (TFN). This is consistent with the arrangements in the broader community where employer contributions would still be payable even though the member has not provided their TFN.

9. The Amending Deed also includes amendments to take account of the payment of amounts from the PSS Fund in relation to release authorities issued by the Commissioner of Taxation and to reflect changed superannuation terminology.

10. The *Better Super* reforms generally commence from 1 July 2007. The amendments in relation to the PSS Rules may commence between 1 July 2007 and 1 July 2008 depending on the particular amendment.

11. Analogous amendments are proposed to be made to the *Superannuation Act 1976* in respect of the CSS by the Bill.

12. A technical amendment is also being made to the definition of Board.

Details of the Amending Deed

Commencement

13. **Clause 1** specifies the commencement date for the amendments to the Rules made by the Deed.

Context

14. **Clause 2** indicates that, unless a contrary intention appears, a word or phrase in the Amending Deed has the same meaning that it has in the Trust Deed.

Details of amendments

Clause 3 – Amendments to the Maximum Benefit Limits rules

15. **Subclauses 3.1 to 3.3** relate to the transitional provisions applying to members who had reached their MBL prior to 1 January 2008. The additional paragraph in **Rule 4.1.2** provides that the default contribution rate where a member does not choose a contribution rate will not apply to members paying 0% under special transitional arrangements under new **Rule 4.1.9** applying to former maximum benefits members. In Rule 4.1.8, the ability of the Board to allow a member to choose to pay contributions at a percentage rate not less than 2% in certain circumstances is made subject to new Rule 4.1.9 below.

16. The effect of the new **Rule 4.1.9** is to provide that, from 1 January 2008, relevant members will be taken to be paying member contributions at a rate of 0% unless they elect another percentage permitted under the Rules. This will allow such members flexibility in cases where other financial commitments would not permit them to make contributions from

1 January 2008. Alternatively, if members wish to contribute at a rate between 2% and 10% (inclusive), they will also be able to do so.

17. **Subclause 3.4** adds the reference to a Former MBL Multiple to the *Quick Guide to the Components of a Benefit Accrual Multiple* chart in **Rule 5.2.1**.

18. **Subclause 3.5** amends the chart in **Rule 5.2.3** to provide an approximate percentage of average salary that would be accrued if contributions were paid at the rate of 0% for a whole year by a full-time regular member. This is relevant for the transitional provisions, referred to in relation to **Rule 4.1.9** (above), which apply to members who were a maximum benefits member immediately before 1 January 2008.

19. **Subclause 3.6** inserts a new **Rule 5.2.9A** to allow the number of contribution days that a member was a maximum benefits member prior to 1 January 2008 to be subtracted from the 260 contribution days referred to in **Rule 5.2.4**. The effect of this amendment is that when the member is no longer a maximum benefits member after 1 January 2008, the time that they were at their MBL and unable to make contributions prior to that date will not count towards the 260 contribution days used in the Average Accrual provisions.

20. **Subclause 3.7** inserts a new **Rule 5.2.27** to define a Former MBL Multiple.

21. **Subclauses 3.8 to 3.11** make similar amendments in relation to **Rules 5.3.1**, the addition of a new **Rule 5.3.9A and Rule 5.3.27** applying to casual members, as apply to regular members.

22. **Subclauses 3.12 and 3.13** substitute the old MBL structure with the new enhanced MBL structure in **Rule 6.5.1**. For lower paid members (on an average salary of less than \$50,000) the maximum benefit is expressed as a dollar amount. For all other members, the maximum benefit is expressed as 10 times the average salary. References to the new “10 times” MBL are also included in relation to calculating a maximum benefit in relation to invalidity retirement or death in **Rule 5.6.2**.

23. **Subclause 3.14** amends an incorrect reference in **Rule 5.6.3**.

24. **Subclause 3.15** updates **Rule 5.6.5** which provides for the indexation of the average salary amounts by Average Weekly Ordinary Time Earnings (AWOTE). The changes provide for the new maximum limit of 10 and rounding of the indexed salary amounts in the MBL table in order to simplify the dollar amounts going forward. The salary levels are indexed and rounded down to the nearest \$500. The maximum dollar benefit for lower paid members is then calculated by multiplying the rounded salary amount by 10. Despite the amendments commencing on 1 January 2008, the indexation factor for rounding in the first year will not be subject to a pro-rata adjustment.

25. In each year following 1 July 2008, the AWOTE index will be applied to the un-rounded amount calculated (in paragraph (a)) in the previous year. This will ensure that the salary levels increase with a cumulative effect despite the rounding down in paragraph (b). An example of the operation of the new Rule 5.6.5 is as follows:

- If on 1 July 2008 the March-to-March AWOTE was 4.5%, the base average salary amount of \$50,000 would be indexed to \$52,250 before being rounded down to the nearest multiple of \$500 – that is, \$52,000. Accordingly, the maximum dollar amount for the first tier of the table would become \$520,000.
- In the subsequent year, commencing 1 July 2009, the relevant March-to-March AWOTE indexation factor would be applied to the un-rounded amount from the previous year – \$52,250 (not \$52,000). Say in 2009, the new AWOTE indexation factor applied to the \$52,250 from the previous year produced a result of \$52,475. For

the purposes of the MBL table, this amount would be rounded down to the nearest multiple of \$500 (that is, \$52,000) and the maximum dollar amount for the first tier of the table would remain at \$520,000.

- However, for the next year's indexation (2010), the relevant new March-to-March AWOTE indexation factor would be applied to the un-rounded amount from the previous year – which was \$52,475.

26. **Subclause 3.16** inserts new **Rules 5.6.7** and **5.6.8** which provide special arrangements for members that are MBL members immediately before 1 January 2008. The effect of new **Rule 5.6.7** is to allow members who had reached their MBL prior to 1 January 2008 under the former arrangements, to fall out of those arrangements and become subject to the new MBL arrangements, like other members, from 1 January 2008.

27. **Rule 5.6.8** provides for the Board to determine a Former MBL Multiple for each relevant member as at 31 December 2007. In making such a determination the Board will need to have reference to the maximum benefit applicable to the member under the Rules as they applied immediately before 1 January 2008. It is intended that, in most cases, the Former MBL Multiple would be determined as the maximum benefit applicable to the member on 31 December 2007, divided by their Average Salary at 31 December 2007. The Former MBL Multiple is a fixed multiple that crystallises the member's total benefit as at 1 January 2008. In going forward, a relevant member will accrue an On-going Multiple.

28. **Subclauses 3.17** to **3.20** relate to Australian Federal Police (AFP) Maximum Benefits. Subclause 3.17 substitutes the old MBL structure for AFP Preliminary Maximum Benefits – Lump Sums in **Rule 5.7.1** with the new enhanced MBL structure. For lower paid members (on an average salary of less than \$50,000) the maximum benefit is expressed as a dollar amount. For all other members, the maximum benefit is expressed as 10 times the average salary.

29. Subclause 3.18 relates to the higher AFP Preliminary Benefits – Pensions MBL in **Rule 5.7.2** and substitutes the old structure with the new enhanced MBL structure. Again, for lower paid members (on an average salary of less than \$50,000) the maximum benefit is expressed as a dollar amount. For all other members, the maximum benefit is expressed as 14 times the average salary.

30. References to the new “10 times” MBL are also included in relation to calculating a maximum benefit in relation to invalidity retirement or death in **Rule 5.7.5**.

31. Subclause 3.20 replaces **Rule 5.7.7** which provides for the indexation of the average salary amounts by AWOTE. The changes provide for the new maximum limits of 10 and 14 and the rounding of the indexed salary amounts in the AFP MBL tables in order to simplify the dollar amounts going forward. The salary levels are indexed and rounded down to the nearest \$500. The maximum dollar benefit for lower paid members is then calculated by multiplying the rounded salary amount by 10 in relation to the “Lump Sums” table and 14 in relation to the “Pensions” table. Despite the amendments commencing on 1 January 2008, the indexation factor for rounding in the first year will not be subject to a pro-rata adjustment.

32. In each subsequent year following 1 July 2008, the AWOTE index will be applied to the un-rounded amount calculated (in paragraph (a)) in the previous year. This will ensure that the salary levels increase with a cumulative effect despite the rounding down in paragraph (b) – see the worked example in paragraph 25 above.

33. **Subclause 3.21** inserts a new Rule 12.2.1A to allow the Board a limited discretion to adjust the benefit of a former MBL member to achieve an equitable result in the event that a particular set of circumstances applies to the member. Such circumstances arising in practice would be less common and would depend upon the date that a benefit becomes payable to the

member (due to their retirement, for example) relative to the date of an adjustment in the member's annual rate of salary for average salary purposes (due to the date of their particular birthday, for example).

34. In applying its discretion, the Board is required to have regard to, and is limited by, the benefit that would have applied to the member under the Rules had the amendments in Clause 3 of the Twenty-ninth PSS Amending Deed not come into effect.

Clause 4 – Amendments to Member Contributions rules

35. **Subclauses 4.1 and 4.2** relate to allowing a member to pay member contributions at 0% from 1 July 2008. Rule 4.1.2 is amended to provide for a member to make such a choice. Members will also be able to continue to pay contributions at any whole percentage rate between 2% and 10% (inclusive). A member who does not choose a contribution rate will be taken to be paying 5% unless certain circumstances apply, including where the member has a Former MBL Multiple and is paying 0% in accordance with new Rule 4.1.9. The amendment to Rule 4.1.3 provides for a member to change his/her rate of contributions to a rate of 0%, as well as other rates between 2% and 10% (inclusive).

36. **Subclause 4.3** amends **Rule 4.1.4** which relates to what rate of contributions can be paid by a member on compensation leave. The amendments provide that where a member has contributed at 0% for each of the four contribution days immediately prior to the leave, then the minimum rate payable during the period of the leave is 2%. The member can elect, however, to contribute at another rate up to and including 10%.

37. **Subclauses 4.4 to 4.6** relate to certain periods of leave without pay in excess of 12 weeks that are excluded periods of leave. Subclause 4.4 amends **Rule 4.2.1** to essentially provide that a member on this category of leave must pay member contributions at a rate between 2% and 10% despite any current choice they have made to pay 0%. Former maximum benefit members who are paying 0% and who subsequently commence a period of leave are also subject to the rule. However, one exception to the rule is where a former maximum benefits member had already commenced a period of leave when the transitional arrangements in Rule 4.1.9 (which effectively deem that those members will be paying member contributions at a rate of 0% from 1 January 2008 unless they chose another rate).

38. The insertion of a new note at the end of **Rule 4.2.1** clarifies, among other things, that a choice to pay 0% is effectively suspended during the period of relevant leave and, therefore, after the leave has ended the member can re-commence to pay 0% without having to make a further request to choose that contribution rate. This effectively retains the status quo for these categories of leave and ensures that persons on sick leave without pay and compensation leave do not receive a further reduced benefit because of that leave. The note also clarifies the exception in relation to certain former maximum benefits members.

39. New **Rule 4.2.1A** covers members who are paying 0% before the relevant period of leave, but are required to pay at another rate as a result of **Rule 4.2.1**. Where a member does not choose a rate, they will be taken to have chosen the rate of 5%.

40. **Subclauses 4.7 and 4.8** relate to maternity and parental leave without pay. Subclause 4.7 amends **Rule 4.2.4** to essentially provide that where a member on this category of leave chooses to pay member contributions (thus triggering the requirement for their employer to make employer contributions), they must pay those contributions at a rate between 2% and 10% despite any current choice they have made to pay 0%. Former maximum benefits members who are paying 0% and who subsequently commence a period of leave are also subject to the rule. However, one exception to the rule is where a former maximum benefits member had already commenced a period of leave when the transitional arrangements in Rule 4.1.9 (which effectively deem that those members will be paying member contributions at

a rate of 0% from 1 January 2008 unless they chose another rate).

41. The insertion of a new note at the end of **Rule 4.2.4** clarifies, among other things, that a choice to pay 0% is effectively suspended during the period of relevant leave and, therefore, after the leave has ended the member can re-commence to pay 0% without having to make a further request to choose that contribution rate. This effectively retains the status quo for this category of leave. The note also clarifies the exception in relation to certain former maximum benefits members.

42. **Subclause 4.9** makes appropriate amendments to the table at the end of Division 2 of Part 4 of the Rules in relation to contributions during periods of leave without pay.

Clause 5 – Amendments relating to Choice of Funds

43. **Subclauses 5.1 to 5.3** amend paragraphs (a) and (e) of Rule 2.1.1A to clarify the membership arrangements provided in the 1990 Act in relation to members who elect to leave the PSS under “choice of fund”. Those membership arrangements essentially provide that where a member makes an election to cease PSS membership under section 6B of the 1990 Act, that election applies in respect of all memberships (including where they have a preserved benefit from a period of past membership) and the member will, therefore, not be able to recommence contributory membership of the PSS.

44. **Subclause 5.4** inserts a new **Rule 2.1.8** to define the phrase in the 1990 Act that relates to which members are eligible to make an election to leave the PSS. Essentially, the reference to “*a member who is making member contributions*” includes a member who is making member contributions (whether at a rate of 0% or at a rate between 2% and 10%) and also includes a maximum benefits member, but does not include a person with only one or more preserved benefits in the scheme.

45. The new note under **Rule 2.1.8** further clarifies the membership arrangements for those making an election to leave the PSS.

46. **Subclause 5.5** inserts a new Division 10 Part 6 of the Rules to specify benefits that are payable to members who choose to cease membership of the scheme, including where the person’s employment ceases before their minimum retiring age for a reason other than death or invalidity retirement.

Clause 6 – Early release of benefits

47. **Subclause 6.1** inserts a number of new definitions into Rule 1.2.1. These new definitions relate to provisions contained in new Division 4 of Part 12 of the Rules.

48. **Subclause 6.2** inserts a new Division 4 in Part 12 of the Rules to provide for the early release of benefits on severe financial hardship and compassionate grounds.

49. New **Rule 12.4.1** provides that for the purposes of the SIS Regulations a lump sum equal the “early release lump sum” is available to be paid on severe financial hardship or compassionate grounds. The amount payable to or in respect of the member is the amount of the member’s funded benefit that the SIS Act and SIS Regulations permit to be paid.

50. The early release of superannuation benefits is currently provided for under Schedule 1 to the SIS Regulations. “Severe financial hardship” is defined at SIS Regulation 6.01(5) and “compassionate grounds” are described at SIS Regulation 6.19A.

51. These amendments are required as the early release provisions of the SIS Act and SIS Regulations do not operate automatically on their own terms. That is, to operate in a particular scheme, the rules of that scheme must explicitly allow for early release.

52. New **Rule 12.4.2** puts it beyond any doubt that, consistent with the SIS Regulations, early release lump sum benefits may be paid to a member on more than one occasion.

53. New **Rule 12.4.3** ensures that the amount that can be paid on early release on the grounds of severe financial hardship or compassionate grounds is limited to the amount that is available to be released, that is the “available early release amount”, at that time.

54. New **Rule 12.4.4** ensures that where a member who has obtained early release becomes a preserved benefit member, that they retain all their available options notwithstanding that part of their funded benefits have been provided on early release.

55. New **Rule 12.4.5** provides a person’s benefit must be reduced where an early release amount has been paid previously. That is, the Board must reduce a person’s benefit to take into account the member’s “early release deduction amount”, and has no discretion not to do so.

56. New **Rule 12.4.5** also provides the Board with the discretion to determine the method for calculating the amount of the reduction to the benefit. This discretion will enable the Board to consider the appropriate way of reducing a benefit to reflect the “early release deduction amount”.

57. New **Rule 12.4.6** provides that the reduction of benefits described in new Rule 12.4.5 does not occur until the final benefit is paid. For example, where a member resigns and takes part of their “accumulated member contributions” there would be no reduction to that benefit. The person’s benefit would be reduced at the time they take their final benefit.

58. New **Rule 12.4.7** provides that the amount payable is to take into account the “early release deduction amount” where part or all of the member’s “accumulated member contributions” and “accumulated productivity contributions” remain in the PSS Fund after the payment of a benefit. That is, in the example, outlined in paragraph 55 above, whilst the amount of the “accumulated member contributions” payable to the person would not be reduced, the amount available to be paid to the person would need to take account of the “early release deduction amount”. This is necessary to ensure that where a member has had an early release amount that any funded amounts paid before the member’s final benefit is paid cannot exceed the amount the member has in the PSS Fund.

59. New **Rule 12.4.8** provides, for the avoidance of doubt, that where an early release lump sum has been paid to a member out of the PSS Fund, then the amount payable out of the Fund to the Consolidated Revenue Fund is to be reduced to take into account the early release deduction amount.

60. **Subclause 6.3** amends Rule 16.1.2 by inserting the definition of the term “ERDA” which is used in Rules 16.8.1 and 16.8 .3 to work out superannuation interests for family law purposes.

61. **Subclause 6.4** amends Rule 16.1.2 by amending the definition of “funded component” for family law purposes to ensure that any early release amount is taken into account.

62. **Subclause 6.5** amends Rule 16.8.1 to provide that any early release deduction amount be subtracted from the value of a member’s superannuation interest for family law purposes.

63. **Subclause 6.6** amends Rule 16.8.3 to provide that an early release deduction amount be subtracted from a preserved benefit member's superannuation interest for family law purposes.

Clause 7 – Better superannuation reforms

64. **Subclause 7.1** updates the definition of “accumulated funded productivity contributions” to allow the Board to apply a tax offset amount to a PSS member's account. This could occur following the *Better Super* reforms, for example, when a member or their employer has not provided a tax file number (TFN) and so additional tax is payable on their concessional contributions. The additional tax will be refunded (as a tax offset) where a valid TFN is provided to the Board within a four year period.

65. **Subclause 7.2** amends the definition of “Board” as a consequence of the *Superannuation Legislation Amendment (Trustee Board and Other Measures) Act 2006* and the Twenty-seventh Amending Deed for the PSS.

66. **Subclause 7.3** updates the definition of a “contribution due day” to include a contribution day where a no-TFN member would have been required to pay contributions under Part 4 if they were a not a no-TFN member. This amendment will allow no-TFN members to receive fortnightly contribution accruals notwithstanding they are unable to make member contributions on a contribution due day.

67. **Subclause 7.4** deletes the definition of “eligible termination payment”. The *Better Super* reforms replace the previous “eligible termination payment” concept with two new concepts: “superannuation lump sum” and “employment termination payment”.

68. **Subclause 7.5** inserts a definition of “no-TFN member”. It defines a member for whom the PSS Fund cannot accept contributions because the member or their employer have not supplied their TFN number, in accordance with subregulation 7.04(2) of the *Superannuation Industry (Supervision) Regulations 1994* (SIS regulations).

69. **Subclause 7.6** inserts a definition of “release authority”. This includes a release authority under section 292-410 of the *Income Tax Assessment Act 1997* (ITAA 1997) and a transitional release authority under section 292-80B of the *Income Tax (Transitional Provisions) Act 1997*. Release authorities are used to release superannuation benefits (other than defined benefit interests) to enable a person's excess contributions tax liability to be discharged, or to reduce their excess contributions tax liability.

70. **Subclause 7.7** inserts a new definition of “roll-over” as a result of the *Better Super* reforms.

71. **Subclause 7.8** inserts a new Rule 2.1.3 to provide that a regular member or a casual member can be further classified as a no-TFN member.

72. **Subclause 7.9** replaces the note at the end of Rule 4.3.1 to reflect the amendment to the definition of “contribution due day” made by subclause 7.3.

73. **Subclause 7.10** amends Rule 5.2.3 to allow a regular member, who is a no-TFN member and would have been required to pay contributions if they were not a no-TFN member, to receive fortnightly contribution accruals.

74. **Subclause 7.11** replaces the definition of “Contribution Paid” in Rule 5.2.3 for regular members to recognise no-TFN members. A “Contribution Paid” on a contribution due day is to be 0% for a no-TFN member.

75. **Subclause 7.12** replaces the chart at the end of Rule 5.2.3 to include the percentage of Average Salary that would be accrued by a no-TFN member who cannot make member contributions under the SIS regulations. Subclause 7.11 also adds note immediately after the updated chart.

76. **Subclause 7.13** amends Rule 5.3.3 to allow a casual member, who is a no-TFN member and would have been required to pay contributions if they were not a no-TFN member, to receive fortnightly contribution accruals.

77. **Subclause 7.14** replaces the definition of “Contribution Paid” for casual members in Rule 5.3.3. A “Contribution Paid” on a contribution due day is to be 0% for a no-TFN member.

78. **Subclause 7.15** amends the definition of “Previous Paydays Contributions Paid” in Rule 5.5.3 to include contribution days where a former member was a no-TFN member and had a fortnightly contribution salary greater than nil on a contribution day. Rule 5.5.3 provides a formula to determine the number of contribution days for the purpose of calculating an invalidity multiple of a casual member. The amendment has the effect of including in the multiple, the contribution due days where the member was a no-TFN member and had received a fortnightly contribution salary.

79. **Subclause 7.16** also amends Rule 5.5.3 to ensure that the number of Previous Period Paydays for a casual member who was previously a regular member are not reduced by the number of contribution days on which the member (when a regular member) could not make contributions because they were a no-TFN member.

80. **Subclause 7.17** replaces the term “undeducted contributions” with “non-concessional contributions” in Rule 5.7.2, consistent with amendments made to the ITAA 1997 under the *Better Super* reforms.

81. **Subclause 7.18** replaces the term “undeducted contributions” with “non-concessional contributions” in Rule 5.7.3, consistent with amendments made to the ITAA 1997, following the *Better Super* reforms.

82. **Subclause 7.19** replaces Rule 11.1.1 to ensure that the terminology used to describe the amounts that can be accepted by the PSS Fund is consistent with the changes made by the *Better Super* reforms. The new Rule 11.1.1 also takes account that it will no longer be possible to identify whether an amount paid from a superannuation entity as a result of a person’s physical or mental incapacity to perform his or her duties. As under the previous Rule 11.1.1, an amount paid to or in respect of a person in accordance with the *Superannuation Guarantee (Administration) Act 1992* or an amount payable in respect of a person under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003* will be able to be paid into the PSS Fund.

83. **Subclause 7.20** inserts a new Rule 11.2.5 to provide that “accumulated transfer amounts” transferred to the PSS Fund under Rule 11.1.1 can be paid by the Board upon receiving a release authority. New Rule 11.2.5 also provides that a member’s “accumulated transfer amounts” are to be reduced to take into account the payment of any amount in respect of a release authority.

84. **Subclause 7.21** inserts a new Rule 11.4.11 to provide that “accumulated additional contributions” paid by a member after age 70 under Rule 11.4.1 can be paid by the Board upon receiving a release authority. New Rule 11.4.11 also provides that a member’s “accumulated additional contributions” are to be reduced to take account of the payment of any amount in respect of a release authority.

85. **Subclause 7.22** inserts a new Rule 11.5.5 to provide that “accumulated performance pay” and “productivity contributions” transferred to the PSS under Rule 11.1.2 can be paid by the Board upon receiving a release authority. New Rule 11.5.5 also provides that a member’s “accumulated performance pay” and “productivity contributions” are to be reduced to take into account the payment of any amount in respect of a release authority.