
TWENTY-NINTH AMENDMENT
of the
PUBLIC SECTOR SUPERANNUATION SCHEME TRUST DEED

THIS DEED is made on 28 August 2007 by THE COMMONWEALTH OF AUSTRALIA.

WHEREAS section 4 of the *Superannuation Act 1990* (the Act) provides for the Minister to establish an occupational superannuation scheme to be administered by the Board established under section 20 of the Act (the Board);

AND WHEREAS the Public Sector Superannuation Scheme (the PSS) was established by a Trust Deed dated 21 June 1990 (the Trust Deed)¹;

AND WHEREAS the Schedule to the Trust Deed contains Rules for the administration of the PSS (the Rules);

AND WHEREAS the Trust Deed and the Rules have been amended from time to time by various Deeds;

AND WHEREAS section 5 of the Act provides for the Minister, by instrument in writing, to amend the Trust Deed, and requires the consent of the Board to amendments in certain circumstances;

AND WHEREAS the Board has consented to the amendments provided for in this Deed as required by the Act.

NOW THIS DEED WITNESSES as follows:

1. Commencement of amendments

The amendments in this Deed take effect as follows:

- (a) subject to paragraphs (b), (c), (d), (e), (f) and (g) on the day after this Deed is registered on the Federal Register of Legislative Instruments;
- (b) in relation to clause 3, on 1 January 2008;
- (c) in relation to clause 4, on 1 July 2008;
- (d) in relation to clause 5, immediately after Schedule 2 of the *Superannuation Legislation Amendment Act 2007* commences;

¹ Section 3 of the Act defines “Trust Deed” to include that deed as subsequently amended. A note listing particulars of the Trust Deed and the amending deeds is set out at the end of this Deed.

- (e) in relation to clause 6, on 1 January 2008;
- (f) in relation to subclauses 7.3, 7.5, 7.8, 7.9, 7.10, 7.11, 7.12, 7.13, 7.14, 7.15 and 7.16 immediately after Part 1 of Schedule 5 of the *Superannuation Legislation Amendment Act 2007* commences; and
- (g) in relation to subclauses 7.7 and 7.19, on 1 July 2007.

2. Interpretation

Unless a contrary intention appears, a word or phrase in this Deed has the same meaning that it has in the Trust Deed and the Rules.

3. Amendments to the Maximum Benefit Limits rules

The Rules are amended as follows:

- 3.1 Rule 4.1.2 is amended by deleting the full stop at the end of paragraph (b) and inserting in its place the symbol and word "; or" and inserting a new paragraph (c) immediately after paragraph (b), as follows:

" (c) the transitional arrangements in Rule 4.1.9 apply to the member. "

- 3.2 Rule 4.1.8 is amended by deleting the word "The" and inserting in its place the words "Subject to Rule 4.1.9, the".

- 3.3 The following heading and Rule is inserted immediately after Rule 4.1.8:

" **Transitional arrangements for members who were maximum benefits members immediately before 1 January 2008**

4.1.9 A **member** who was a **maximum benefits member** immediately before 1 January 2008 will pay contributions at the rate of 0% of his/her **fortnightly contribution salary** from 1 January 2008 until a change to the member's rate of contributions takes effect in accordance with Rule 4.1.3 (if any). "

- 3.4 The table in Rule 5.2.1 is amended by adding the following row immediately after the last row in the table:

" Former MBL Multiple A **member** who was a **maximum benefits member** immediately before 1 January 2008 5.2.27 "

- 3.5 Rule 5.2.3 is amended by replacing the chart at the end of the Rule with the following chart:

" The following chart shows the approximate percentage of average salary that would be accrued if contributions were paid at the same rate for a whole year by a full-time **regular member** "

% Paid	% of AS	% Paid	% of AS	% Paid	% of AS	% Paid	% of AS
		2	15 %	5	21 %	8	27 %
0	11 %	3	17 %	6	23 %	9	29 %
		4	19 %	7	25 %	10	31 %

- 3.6 The following Rule is inserted immediately after Rule 5.2.9:

"5.2.9A The Average Accrual applicable to a **regular member** who has a Former MBL Multiple (because the **member** was a **maximum benefits member** immediately before 1 January 2008) is the multiple that would have accrued under Rule 5.2.4 if the 260 contribution due days referred to in that rule were reduced by the number of contribution due days occurring before 1 January 2008 while the **member** was a **maximum benefits member**."

- 3.7 The following heading and Rule is inserted immediately after Rule 5.2.26:

" **Former MBL Multiple**

5.2.27 A Former MBL Multiple applies to a **member** who, immediately before 1 January 2008, was a **maximum benefits member** and is calculated under Rule 5.6.8. "

3.8 The table in Rule 5.3.1 is amended by adding the following row immediately after the last row in the table:

"	Former MBL Multiple	A member who was a maximum benefits member immediately before 1 January 2008	5.3.27	"
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3.9 The following note is added at the end of Rule 5.3.3:

" **Note:** References to a **contribution due day** on which a casual member pays, or is required to pay, fortnightly contributions, or to contributions paid, include where such a member has chosen paying contributions at 0% in accordance with the Rules. "

3.10 The following Rule is inserted after Rule 5.3.9:

"5.3.9A The Average Accrual applicable to a **casual member** who has a Former MBL Multiple (because the **member** was a **maximum benefits member** immediately before 1 January 2008) is the multiple that would have accrued under Rule 5.3.4 if the 260 contribution due days referred to in that rule were reduced by the number of contribution due days occurring before 1 January 2008 while the **member** was a **maximum benefits member**."

3.11 The following heading and Rule is inserted immediately after Rule 5.3.26:

" **Former MBL Multiple**

5.3.27 A Former MBL Multiple applies to a **member** who, immediately before 1 January 2008, was a **maximum benefits member** and is calculated under Rule 5.6.8."

3.12 Rule 5.6.1 is amended by replacing the table and note at the end of the Rule with the following table and note:

Table – Maximum Benefits	
Average Salary	Maximum Benefit
Less than \$50,000	\$500,000
\$50,000 or more	10 times average salary

Note: Table updated by the Board under Rule 5.6.5."

3.13 Rule 5.6.2(a) is amended by deleting the term "8 times" and inserting in its place the term "10 times".

3.14 Rule 5.6.3 is amended by deleting the term "Rule 5.6.2" immediately after the words "Table *Maximum Benefits* in", and inserting in its place the term "Rule 5.6.1".

3.15 Rule 5.6.5 is replaced with the following Rule:

"5.6.5 The **Board** will, by determination, amend the dollar amounts shown in the Table *Maximum Benefits* in Rule 5.6.1 with effect from 1 July 2008, and then each subsequent year with effect from 1 July, by:

- (a) first, applying an indexation factor to the average salary amount to reflect the immediately preceding March-to-March movement in Average Weekly Ordinary Time Earnings in Australia;
- (b) next, rounding the results in paragraph (a) down to the nearest multiple of \$500;
- (c) then, multiplying the results in paragraph (b) by 10 to determine the maximum benefit quoted as a dollar amount in the first row of the Table;
- (d) ensuring that, on 1 July each year following 1 July 2008, the indexation factor referred to in paragraph (a) is applied to the average salary amount that was calculated by applying the indexation factor to the average salary amount in the previous year."

3.16 The following heading, Rules and note are inserted immediately after Rule 5.6.6:

" Special Arrangements for members who are maximum benefits members immediately before 1 January 2008

5.6.7 A **member** who was a **maximum benefits member** immediately before 1 January 2008 will cease to be a **maximum benefits member** from that date. To avoid doubt, this Rule does not prevent such a **member** again becoming a **maximum benefits member** on or after that date under the other provisions of the Rules.

5.6.8 The **Board** will determine a Former MBL Multiple as at 31 December 2007 in respect of each **member** who was a **maximum benefits member** immediately before 1 January 2008. In making such a determination, the **Board** will have reference to the maximum benefit applicable to the **member** under the Rules as at that date.

Note: The Former MBL Multiple will crystallise the total benefit of a former **maximum benefits member** as at 31 December 2007, and will be fixed. For example, if a member had a Former MBL Multiple of 6 as at 31 December 2007, and then accrues a further On-going Multiple of 2 during the period from 1 January 2008 to 31 December 2016, their Benefit Accrual Multiple would be the sum of the multiples, that is, $6 + 2 = 8$.

"

3.17 The table in Rule 5.7.1 is replaced with the following table:

Table – AFP Preliminary Maximum Benefits – Lump Sums	
Average Salary	Preliminary Maximum Benefit
Less than \$50,000	\$500,000
\$50,000 or more	10 times average salary

Note: Table updated by the Board under Rule 5.7.7

3.18 The table in Rule 5.7.2 is replaced with the following table:

Table – AFP Preliminary Maximum Benefits – Pensions	
Average Salary	Preliminary Maximum Benefit
Less than \$50,000	\$700,000
\$50,000 or more	14 times average salary

Note: Table updated by the Board under Rule 5.7.7

3.19 Rule 5.7.5(d)(A) is amended by deleting the term "8 times" and inserting in its place the term "10 times".

3.20 Rule 5.5.7 is replaced with the following Rule:

"5.7.7 The **Board** will, by determination, amend the dollar amounts shown in the Table *Maximum Benefits* in Rules 5.7.1 and 5.7.2 with effect from 1 July each year by:

- (a) first, applying an indexation factor to the average salary amounts to reflect the immediately preceding March-to-March movement in Average Weekly Ordinary Time Earnings in Australia;
- (b) next, rounding the results in paragraph (a) down to the nearest multiple of \$500;
- (c) then:
 - (i) in relation to the table in Rule 5.7.1, multiplying the results in paragraph (b) by 10 to determine the preliminary maximum benefit quoted as a dollar amount in the first tier of the table; or
 - (ii) in relation to the table in Rule 5.7.2, multiplying the results in paragraph (b) by 14 to determine the preliminary maximum benefit quoted as a dollar amount in the first tier of the table;
- (d) ensuring that, on 1 July each year following 1 July 2008, the indexation factor referred to in paragraph (a) is applied to the average salary amount that was calculated by applying the indexation factor to the average salary amount in the previous year."

3.21 The following heading and Rule are inserted immediately after Rule 12.2.1:

" **Transitional arrangements for benefits in relation to members who were maximum benefits members immediately before 1 January 2008**

12.2.1A If a benefit becomes payable to a **member** and:

- (a) the **member** was a **maximum benefits member** immediately before 1 January 2008; and
- (b) the **member's** annual rate of salary for average salary purposes had remained at the same level it was at 1 January 2008, whether because his/her anniversary of birth had not yet occurred or for another reason,

the **Board** may vary any of the components or factors applicable to the determination of the **member's** benefit in the interest of maintaining equity between **members**. In exercising this discretion, the **Board** must have reference to and is limited by the benefit that would have been applicable to the **member** under the Rules as if the amendments to the Rules in Clause 3 of the Twenty-ninth Amendment of the Public Sector Superannuation Scheme Trust Deed had not come into effect. "

4. Amendments to Member Contributions rules

The Rules are amended as follows:

4.1 Rule 4.1.2 is replaced with the following Rule:

"4.1.2 A **member** may choose to pay contributions at 0% or at any whole percentage rate that is between 2% and 10% (inclusive), of his/her **fortnightly contribution salary**, unless he/she is on **compensation leave** (*see Rule 4.1.4*). A **member** who does not choose a contribution rate will be deemed to have chosen the rate of 5% except where:

- (a) the member is entitled to a CSS Transfer Multiple (*see Rule 14.4.4*); or
- (b) the **Board** allows the **member** to choose a different contribution rate for arrears; or
- (c) immediately before 1 July 2008, he/she was paying contributions at 0% as a result of transitional arrangements applying in respect of a **member** with a Former MBL multiple.

Note: The transitional arrangements referred to in paragraph (c) were in force for the period 1 January 2008 to 30 June 2008 to effectively provide that a member who was a **maximum benefits member** immediately before 1 January 2008 (but is no longer a **maximum benefits member** as at that date) will be taken to be paying contributions at 0% unless they choose to pay contributions at another rate permitted by the Rules as they applied at the relevant time.

On or after 1 July 2008, **members** can generally choose to pay contributions at 0%, or at any whole percentage rate between 2% and 10% inclusive, under Rules 4.1.2 and 4.1.3.

4.2 Rule 4.1.3 is replaced with the following Rule:

"4.1.3 A **member** may change his/her rate of contributions at any time to 0% or to another whole percentage rate that is between 2% and 10% (inclusive) of his/her **fortnightly contribution salary**. Changes take effect on the **contribution day** occurring immediately after the date of the member's request to change his/her rate of contributions."

4.3 Rule 4.1.4 is replaced with the following Rule:

"4.1.4 A **member** on **compensation leave** may choose to pay contributions at any whole percentage rate that is between 5% and 10% (inclusive) of his/her **fortnightly contribution salary**, except where:

- (a) he/she contributed below 5% on each of the four contribution due days immediately preceding the period of compensation leave - in which case, subject to paragraph (b), the minimum rate payable is the highest rate at which contributions were paid on any of those four contribution days; or
- (b) he/she contributed 0% on each of the four contribution due days immediately preceding the period of compensation leave - in which case, the minimum rate payable is 2%.

EXAMPLES – Contributions % Range Allowed on Compensation Leave					
	Contribution Due Days Before Leave				% Range allowed
	1st	2nd	3rd	4th	
% Paid	7%	7%	8%	9%	5% to 10%
% Paid	3%	6%	2%	3%	5% to 10%
% Paid	2%	4%	3%	2%	4% to 10%
% Paid	3%	0%	0%	0%	3% to 10%
% Paid	0%	0%	0%	0%	2% to 10%

- 4.4 Rule 4.2.1 is amended by replacing the words "A **member** on leave of absence without pay for a continuous period exceeding 12 weeks that is an **excluded period of leave of absence** as set out in the following subparagraphs is required to pay contributions on each **contribution day** occurring during the period of leave on which the **SIS Act** does not prohibit the **PSS Fund** from receiving those contributions" with the following:

"Except where Rule 4.1.4 applies, subject to the **SIS Act**, a **member** on leave of absence without pay for a continuous period exceeding 12 weeks that is an **excluded period of leave of absence** as set out in the following paragraphs, is required to pay contributions at any whole percentage rate that is between 2% and 10% (inclusive) of his/her **fortnightly contribution salary** on each **contribution day** occurring during the period of leave. For the avoidance of doubt, this Rule applies despite any current choice of the **member** for his/her rate of contributions to be 0% under Rule 4.1.3, or where Rule 4.1.9 applies to the **member**, before the period of leave of absence, but does not apply where Rule 4.1.9 applies to the member where the period of leave of absence had already commenced."

- 4.5 Rule 4.2.1 is further amended by inserting the following note at the end of the Rule:

" **Note:** The effect of this rule is that where a **member** is on a leave of absence without pay for a continuous period exceeding 12 weeks that is an **excluded period of leave of absence**, the **member** must pay contributions at a rate of between 2% and 10% (inclusive), even though the **member** may be paying contributions at 0% just prior to the period of leave. However, in relation to **compensation leave**, the requirements in Rule 4.1.4 will also apply in relation to the contributions percentage rate allowed.

After the relevant period of leave has ended, the **member** will be able to recommence paying 0% without having to make a further request to choose that contribution rate.

One exception to the rule is in relation to where a former **maximum benefits member** had already commenced a relevant period of leave without pay at the time the transitional arrangements in Rule 4.1.9 come into effect.

 "

4.6 The following Rule is inserted immediately after the note at the end of Rule 4.2.1:

"4.2.1A A **member** who was paying contributions at 0% but is required to pay contributions at another rate under Rule 4.2.1, and does not choose a contribution rate, will be taken to have chosen to contribute at a rate of 5%."

4.7 Rule 4.2.4 is amended by inserting the following at the end of the Rule:

"A **member** who chooses to pay contributions on a **contribution day** under this Rule, must choose to pay those contributions at any whole percentage rate that is between 2% and 10% (inclusive) of his/her **fortnightly contribution salary**. This requirement applies despite any current choice of the **member** for his/her rate of contributions to be 0% under Rule 4.1.3, or where Rule 4.1.9 applies to the **member**, before the period of maternity or parental leave, but does not apply where Rule 4.1.9 applies to the member where the period of maternity or parental leave had already commenced."

4.8 Rule 4.2.4 is further amended by inserting the following note at the end of the Rule:

" **Note:** The effect of this rule is that where a **member** is on maternity or parental leave and elects to pay contributions, the **member** must pay contributions at a rate of between 2% and 10% (inclusive), even though the **member** may be paying contributions at 0% just prior to the period of leave.

After the relevant period of leave has ended, the **member** will be able to recommence paying 0% without having to make a further request to choose that contribution rate.

One exception to the rule is in relation to where a former **maximum benefits member** had already commenced a relevant period of leave without pay at the time the transitional arrangements in Rule 4.1.9 come into effect.

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4.9 The table immediately after Rule 4.2.8 is replaced with the following table:

<p style="text-align: center;">Need more help with contributions?</p>	
<p>In certain circumstances, a member may be able to choose to pay contributions at 0%. However, this will not be the case in all circumstances – see Notes below.</p>	
<p><i>Contributions have to be paid</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> while the member is working with his/her normal employer <input type="checkbox"/> for sick leave whether on full pay, half pay or without pay <input type="checkbox"/> for compensation leave <input type="checkbox"/> for leave without pay for less than 12 weeks, other than maternity leave or parental leave 	<p><i>Contributions usually cannot be paid</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> for leave without pay for personal or recreational reasons exceeding 12 weeks
<p><i>Contributions usually have to be paid</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> for leave granted specifically to work with another employer when granted in the interests of the permanent employer and the temporary employer meets the employer liability 	<p><i>Contributions can be paid</i></p> <ul style="list-style-type: none"> <input type="checkbox"/> for maternity or parental leave <input type="checkbox"/> for study leave <p>Premiums for any additional death and invalidity cover arranged under Part 10 do not affect the maximum % rate payable, ie, the member can still pay 10% as well as contributing for additional cover premium.</p>
<p>Note: For sick leave, compensation leave and leave granted to work with another employer (as above), members are <u>not</u> able to choose to pay contributions at 0%.</p>	<p>Note: For maternity/parental leave and study leave, members who elect to pay contributions are <u>not</u> able to choose to pay those contributions at 0%</p>

5. Amendments relating to Choice of Funds

The Rules are amended as follows:

5.1 Rule 2.1.1A is amended by replacing paragraph (a) with the following:

"(a) at the time they would become a **PSS member**, they are already:

- (i) a **member**, including if they are already a **member** in respect of a different instance of employment or another office, and have not previously made an election under section 6B of the *Superannuation Act 1990*; or
- (ii) a **preserved benefit member** and have not made any election under section 6B of the *Superannuation Act 1990*; or
- (iii) an **invalidity pensioner**; or "

5.2 Rule 2.1.1A is further amended in the table after paragraph (e) immediately before the semi-colon in the first dash point, adding the following words:

"and who has not made any election to cease PSS membership under section 6B of the *Superannuation Act 1990*. An election under section 6B of the *Superannuation Act 1990* applies in respect of all memberships, including each membership where a person has concurrent instances of employment or concurrently holds two or more offices"

5.3 Rule 2.1.1A is further amended in the table after paragraph (e) immediately before the semi-colon in the second dash point, adding the following words:

"and who has not made an election to cease PSS membership under section 6B of the *Superannuation Act 1990*. An election under section 6B of the *Superannuation Act 1990* applies in respect of all memberships, including where the person is also a former **member** with a **preserved benefit** in the PSS arising from a previous instance of membership"

- 5.4 The following heading, Rule and note are inserted immediately after Rule 2.1.7:

" **Choosing to cease PSS membership**

2.1.8 For the purposes of subsection 6B(1) of the *Superannuation Act 1990*, the phrase *a member who is making member contributions* includes, but is not limited to:

- (a) a **member** who is making **member contributions** to the PSS Fund at a rate of between 2% and 10% (inclusive);
- (b) a member who is not contributing to the PSS Fund because they are permitted to contribute at a rate of 0% in accordance with the Rules; and
- (c) a **maximum benefits member**,

but does not include a **preserved benefit member**.

Note: Section 6B of the *Superannuation Act 1990* generally allows a "contributory" **member** (but also includes a **maximum benefits member**) of the PSS to make an election to cease to be a **member** of the scheme. A **member** who is on a period of leave without pay who cannot pay contributions under the Rules may be able to make such an election when the relevant period of leave has ended. A **preserved benefit member** may also be able to make such an election if they return to contributory membership in the future.

Where a **member** or a **maximum benefits member** makes such an election, they will not be able to return to membership of the PSS in respect of any current membership, or any former membership where they have a preserved benefit in the scheme.

- 5.5 The following Division 10 is inserted immediately after Division 9 of Part 6:

Division 10	Benefit options on choosing to cease to be a member
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Benefit options on choosing to cease to be a member

6.10.1 A person who elects to cease to be a **member** of the **PSS scheme** under section 6B of the *Superannuation Act 1990* is entitled to a **preserved benefit** equal to his/her **final benefit accrual**.

6.10.2 If, before the **preserved benefit** ceases to be applicable to the person:

- (a) the person's employment ceases, otherwise than because of the person's death or retirement on the grounds of invalidity, before the person reaches his/her **minimum retiring age**; and
- (b) but for the election under section 6B of the *Superannuation Act 1990*, the person would have been a **member** continuously from the date he/she elected to cease to be a **member** of the **PSS scheme** until his/her last day of employment,

the person may choose to have the benefit paid in accordance with any one of the benefit options that would have been available if he/she had been a **member** of the **PSS scheme** on the date his/her employment ceased. When applying the benefit option chosen by the person, any references in the Rules to the person's **final benefit accrual** are taken to be references to the person's **preserved benefit** on the date his/her employment ceased."

Clause 6 – Early Release of benefits

6. The Rules are amended as follows:

6.1. Rule 1.2.1 is amended by inserting each of the following definitions, in its appropriate alphabetical order (determined on a letter-by-letter basis):

"available early release amount	in relation to a member at a particular time, means the difference between the member's early release amount at that time and the member's early release deduction amount at that time."
"compassionate ground	has the same meaning as in regulation 6.01 of the <i>Superannuation Industry (Supervision) Regulations 1994</i> ."
"early release amount	in relation to a member at a particular time, means the sum of the following amounts: <ul style="list-style-type: none"> (a) the member's accumulated member contributions at that time; (b) the member's accumulated funded productivity contributions at that time; (c) the accumulated transfer amount, or if there are 2 or more such amounts, the sum of those amounts, in respect of the person at that time; (d) the member's Accumulated Additional Contributions, as defined in Rule 11.4.8."
"early release deduction amount	in relation to a member at a particular time, means the total of the following: <ul style="list-style-type: none"> (a) the amount of each early release lump sum previously paid to or for the benefit of the member; (b) interest (if any) on the amount of each such early release lump sum for the period beginning at the time the early release lump sum is paid and ending at the particular time, in accordance with a determination or determinations by the Board as to rates of interest and method of allocation."
"early release lump sum	has the meaning given by Rule 12.4.1."

"severe financial hardship

has the same meaning as in regulation 6.01 of the *Superannuation Industry (Supervision) Regulations 1994*."

6.2. Part 12 is amended by inserting the following after Division 3:

"

Division 4

Early Release to Members of Benefits on Severe Financial Hardship and Compassionate Grounds

Note: Early Release of preserved benefits to preserved benefit members is provided for in Division 3 of Part 8 of the Rules

A member may obtain early release of benefits on grounds of severe financial hardship or compassionate grounds

12.4.1 For the purposes of the *Superannuation Industry (Supervision) Regulations 1994*, a lump sum (the **early release lump sum**) may be paid to or for the benefit of a **member** on the grounds of **severe financial hardship** or on **compassionate grounds** in accordance with those regulations.

Note: The components that make up the member's **early release amount** are not reduced when an **early release lump sum** is paid. However, when a benefit to which a person is entitled under the Rules becomes payable to the person, the amount of the benefit is reduced to reflect any previous **early release lump sums** paid to or for the benefit of the person (see Rule 12.4.5).

12.4.2 To avoid doubt, more than one **early release lump sum** can be paid to or for the benefit of a **member**.

Early release lump sum must not exceed available early release amount

12.4.3 In addition to any requirements in the *Superannuation Industry (Supervision) Regulations 1994*, the amount of an **early release lump sum** paid to or for the benefit of a **member** at a particular time must not exceed the person's **available early release amount** at that time.

Preserved benefits and early release

12.4.4 To avoid doubt, if an **early release lump sum** is paid to or for the benefit of a **member**, any **preserved benefit** that later becomes applicable in respect of that **member** is taken to include all of his/her **accumulated member contributions** and **accumulated productivity contributions** for the purpose of determining the available benefit options.

Final benefits must be reduced to take account of early release

12.4.5 Subject to Rule 12.4.6, if:

- (a) an **early release lump sum** has been paid to or for the benefit of a **member**; and
- (b) a benefit becomes payable to a person under the Rules at a particular time;

the amount of the benefit to which the person is entitled to be paid at that time must be reduced to reflect the member's **early release deduction amount** at that time. However, the method of working out the amount of the reduction is to be determined by the **Board**.

12.4.6 Rule 12.4.5 does not apply if, after a payment, part or all of the member's **accumulated member contributions** and **accumulated productivity contributions** will remain in the **PSS Fund**.

Note: This Rule provides that the reduction of benefits described in 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.

12.4.7 Where a benefit becomes payable to a person and part or all of the member's **accumulated member contributions** and **accumulated productivity contribution** will remain in the **PSS Fund** after the payment then the amount payable to the person is to take into account the **early release deduction amount**.

Note: This Rule is necessary to ensure that, where a **member** has had an **early release amount**, any funded amounts paid before the member's final benefit is paid cannot exceed the amount the **member** has in the **PSS Fund**.

Amounts payable to Commonwealth to take into account amounts paid on early release

12.4.8 To avoid doubt, if an **early release lump sum** has been paid to or for the benefit of a **member**, then the amount payable out of the **PSS Fund** to the Commonwealth in respect of that person's benefit, in accordance with section 16 of the *Superannuation Act 1990*, is reduced to take into account the **early release deduction amount**."

6.3 Rule 16.1.2 is amended by inserting the following definition after the definition of **base amount**:

<p>"ERDA</p>	<p>in relation to a member spouse who is, or has been at any time, a member, is the amount, if any, of the early release deduction amount at the operative time."</p>
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6.4 Rule 16.1.2 is further amended by replacing the first dot point of the definition of **funded component** with the following dot point:

- "• where the original interest is not an entitlement to **associate preserved benefit** — the sum of the following amounts:
 - the **member contributions component**;
 - the **productivity contributions component**;
 - the **additional accumulation component**;

less the **ERDA**; or"

6.5 Rule 16.8.1 is amended by:

- (a) replacing the first-mentioned formula with the following formula:

" $ABM \times AS \times ABF_{y+m,s} \times AMC \times (1 - MCF_{y+m,s}) + APC \times (1 - PCF_{y+m,s}) + ATA - ERDA$ "

- (b) inserting the following definition after the definition of **ATA**:

"ERDA (see Rule 16.1.2)"

6.6 Rule 16.8.3 is amended by replacing the first-mentioned formula with the following formula:

- (a) replacing the first-mentioned formula with the following formula:

" $UBD \times UDBF_{y+m,s} \times FDB + ATA - ERDA$ "

- (b) inserting the following definition after the definition of **ATA**:

"ERDA (see Rule 16.1.2)"

7. Amendments relating to the Government's Better Super Reforms

The Rules are amended as follows:

- 7.1 Rule 1.2.1 is amended by replacing the first dot point of the definition of **accumulated funded productivity contributions** with the following dot point:

- "● the **funded productivity contributions** that have been, or are deemed to have been, paid or have become payable, in respect of the **person** on or after his/her **first day of membership** less income tax plus any tax offset amount(s) as determined by the **Board**; and"

- 7.2 Rule 1.2.1 is further amended by replacing the definition of **Board** with the following definition:

"Board means the Australian Reward Investment Alliance, established under section 20 of the *Superannuation Act 1990*."

- 7.3 Rule 1.2.1 is further amended by replacing the definition of **contribution due day** with the following definition:

"contribution due day means:

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

- 7.4 Rule 1.2.1 is further amended by deleting the definition of **eligible termination payment**.

- 7.5 Rule 1.2.1 is further amended by inserting the following definition in alphabetical order:

"no-TFN member means a member for which the PSS Fund cannot accept certain contributions because the Board does not hold the member's tax file number, in accordance with subregulation 7.04(2) of the *Superannuation Industry (Supervision) Regulations 1994*. "

- 7.6 Rule 1.2.1 is further amended by inserting the following definition in alphabetical order:

"release authority means:

- a release authority received from a **member** or **preserved benefit member** or the Commissioner of Taxation under section 292-410 of the *Income Tax Assessment Act 1997*; or

- a transitional release authority received from a **member** or **preserved benefit member** under section 292-80B of the *Income Tax (Transitional Provisions) Act 1997*. "

7.7 Rule 1.2.1 is further amended by replacing the definition of **roll-over** and the accompanying note with the following definition and note:

"roll-over means payment by the **Board** as a roll-over superannuation benefit (as defined in the *Income Tax Assessment Act 1997*) within the superannuation system (as defined in the SIS Act).

Note:

The term "roll-over superannuation benefit" is defined in Division 306 of the *Income Tax Assessment Act 1997* and includes a superannuation benefit paid from one superannuation plan to another. The term "superannuation system" is defined in regulations made under the SIS Act and includes regulated superannuation funds, approved deposit funds, annuities, deferred annuities and Retirement Savings Accounts.

7.8 Rule 2.1.3 is replaced with the following Rule:

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

7.9 The note at the end of Rule 4.3.1 is replaced with the following note:

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

7.10 Rule 5.2.3 is amended by replacing the words "A Fortnightly Contribution Accrual is applicable to a **regular member** on each **contribution due day** he/she pays, or is required to pay, fortnightly contributions. " with the following:

"A Fortnightly Contribution Accrual is applicable to a **regular member** on each **contribution due day** he/she pays, or is required to pay, fortnightly contributions or is a **no-TFN member** and would have been required to pay contributions if they were not a **no-TFN member**."

7.11 Rule 5.2.3 is further amended by replacing the definition of "Contribution Paid" with the following definition:

"Contribution Paid is the amount of contributions paid, or payable, by the **member** on the **contribution due day**, or on each **contribution due day** that a **member** is a **no-TFN member**, 0%; and"

7.12 Rule 5.2.3 is further amended by replacing the chart at the end of the Rule with the following chart and adding a note immediately following the chart:

" The following chart shows the approximate percentage of average salary that would be accrued if contributions were paid at the same rate for a whole year by a full-time **regular member** "

% Paid	% of AS	% Paid	% of AS	% Paid	% of AS	% Paid	% of AS
		2	15 %	5	21 %	8	27 %
0	11 %	3	17 %	6	23 %	9	29 %
		4	19 %	7	25 %	10	31 %

"Note – Where a **member** is a **no-TFN member** on a **contribution due day** the contribution is taken to be 0% for that **contribution due day**."

- 7.13 Rule 5.3.3 is amended by replacing the words "A Fortnightly Contribution Accrual is applicable to a **casual member** on each **contribution due day** he/she pays, or is required to pay, fortnightly contributions. " with the following:

"A Fortnightly Contribution Accrual is applicable to a **casual member** on each **contribution due day** he/she pays, or is required to pay, fortnightly contributions or is a **no-TFN member** and would have been required to pay contributions if they were not a **no-TFN member**. "

- 7.14 Rule 5.3.3 is further amended by replacing the definition of "Contribution Paid" with the following definition:

"Contribution Paid is the amount of contributions paid by the member in respect of that **contribution due day**, or on each **contribution due day** that a **member** is a **no-TFN member**, 0%; and"

- 7.15 Rule 5.5.3 is amended by replacing the definition of "Previous Paydays Contributions Paid" with the following definition:

"Previous Paydays Contributions Paid is the sum of the:

- (a) number of contribution days the former **member** paid contributions; and
- (b) number of contribution days on which the former **member** was a **no-TFN member** and had a fortnightly contribution salary greater than nil on that contribution day,

during the lesser of the 78 contribution days immediately before he/she ceased membership or, if less, his/her period of membership; and"

- 7.16 Rule 5.5.3 is further amended by replacing the words "was not allowed to pay contributions, eg. while on leave without pay." in the definition of "Previous Period Paydays" with the following:

"was not allowed to pay contributions but not including because he/she was a **no-TFN member**, eg. while on leave without pay."

7.17 Subparagraph (B)(ii) of Rule 5.7.2 is replaced with the following subparagraph:

"(ii) the member's non-concessional contributions as defined in the *Income Tax Assessment Act 1997*; and"

7.18 Subparagraph (B)(ii) of Rule 5.7.3 is replaced with the following subparagraph:

"(ii) the member's non-concessional contributions as defined in the *Income Tax Assessment Act 1997*; and"

7.19 Rule 11.1.1 is replaced with the following Rule:

"11.1.1 A **member** may transfer:

- (a) the amount of any **roll-over superannuation benefit** (within the meaning of the *Income Tax Assessment Act 1997*) payable to, or in respect of, him/her; or
- (b) the amount of any **directed termination payment** (within the meaning of the *Income Tax (Transitional Provisions) Act 1997*), payable to, or in respect of him/her; or
- (c) an amount payable to, or in respect of, him/her in accordance with the *Superannuation Guarantee (Administration) Act 1992*; or
- (d) an amount payable in respect of the person under the *Superannuation (Government Co-contribution for Low Income Earners) Act 2003*;

into the **PSS scheme** as a **transfer amount**. "

7.20 The following heading and rule is inserted immediately after Rule 11.2.4:

" **Payment of accumulated transfer amount in relation to a release authority**

11.2.5 Subject to the **SIS Act**, where a **member** or former **member** has transferred a **transfer amount** into the PSS scheme under Rule 11.1.1, and the **Board** receives a **release authority** in respect of the **member** or **preserved benefit member**, the **Board**, must pay a lump sum amount in respect of the **member** or **preserved benefit member** equal to the lesser of:

- (a) the amount (if any) requested by the **member** or **preserved benefit member** or the Commissioner of Taxation;
- (b) the amount specified in the **release authority**; or
- (c) the **accumulated transfer amount** in respect of the **member** or **preserved benefit member**.

The **accumulated transfer amount** for the **member** or **preserved benefit member** is to be reduced to take into account the payment of any amount under this Rule."

7.21 The following heading and rule is inserted immediately after Rule 11.4.10:

" **Payment of Accumulated Additional Contributions in relation to a release authority**

11.4.11 Subject to the **SIS Act**, where the **Board** receives a **release authority** in respect of a **member** or **preserved benefit member** who has Accumulated Additional Contributions, the **Board** must pay a lump sum amount in respect of the **member** or **preserved benefit member** equal to the lesser of:

- (a) the amount (if any) requested by the **member** or **preserved benefit member** or the Commissioner of Taxation;
- (b) the amount specified in the **release authority**; or
- (c) the Accumulated Additional Contributions in respect of the **member** or **preserved benefit member**.

The Accumulated Additional Contributions for the **member** or **preserved benefit member** is to be reduced to take into account the payment of any amount under this Rule."

7.22 The following heading and rule is inserted immediately after Rule 11.5.4:

" **Payment of accumulated transfer amount in relation to a release authority**

11.5.5 Subject to the **SIS Act**, where a **member** or **preserved benefit member** has transferred a **transfer amount** into the **PSS scheme** pursuant to Rule 11.1.2, and the **Board** receives a **release authority** in respect of the **member** or **preserved benefit member**, the **Board**, must pay a lump sum amount in respect of the **member** or **preserved benefit member** equal to the lesser of:

- (d) the amount (if any) requested by the **member** or **preserved benefit member** or the Commissioner of Taxation;
- (e) the amount specified in the **release authority**; or
- (f) the **accumulated transfer amount** in respect of the **member** or **preserved benefit member**.

The **accumulated transfer amount** for the **member** or **preserved benefit member** is to be reduced to take into account the payment of any amount under this Rule."

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

SIGNED, SEALED AND DELIVERED)	
)	
by the Honourable NICK MINCHIN)	Nick Minchin
)	
Minister for Finance and Administration)	
)	
for and on behalf of)	
)	
THE COMMONWEALTH OF)	
)	
AUSTRALIA, in the presence of:)	David Wawn
)	
)	
(name))	DAVID WAWN
)	
)	
(address))	PARLIAMENT HOUSE
)	
)	
(description))	CHIEF OF STAFF
)	

Note to the Deed: TABLE LISTING TRUST DEED AND AMENDING DEEDS

Before 1 January 2005, section 45 of the *Superannuation Act 1990* provided, in part, that instruments under subsection 5(1) amending the Trust Deed were disallowable instruments for the purposes of section 46A of the *Acts Interpretation Act 1901*. The effect of these provisions was that amending instruments were required to be notified in the *Gazette* and take effect from the date of gazettal (unless the instrument provided otherwise).

From 1 January 2005, paragraph 6(d) of the *Legislative Instruments Act 2003* declared disallowable instruments (such as the instruments amending the Trust Deed) to be legislative instruments. Legislative instruments are registered on the Federal Register of Legislative Instruments instead of being notified in the *Gazette*.

Date	Number	<i>Gazette</i> details/ <i>Registration</i> details
21 June 1990	Trust Deed	GN 25, 27 June 1990, p1728
21 June 1990	First	GN 25, 27 June 1990, p1728
1 July 1991	Second	S 180, 1 July 1991
30 June 1992	Third	S 181, 1 July 1991
21 December 1992	Fourth	GN 1, 13 January 1993, p110
16 June 1993	Fifth	S 181, 18 June 1993
24 January 1994	Sixth	GN 4, 2 February 1993, p366
7 March 1994	Seventh	S 89, 15 March 1994
28 June 1993	Eighth	S 246, 29 June 1994
22 June 1995	Ninth	GN 25, 28 June 1995, p2285
29 January 1996	Tenth	S 41, 1 February 1996
10 December 1996	Eleventh	GN 50, 18 December 1996
25 March 1998	Twelfth	GN 13, 1 April 1998, p901
5 December 1999	Thirteenth	S 590, 6 December 1999
20 August 2001	Fourteenth	S 342, 22 August 2001
25 September 2001	Fifteenth	GN 39, 3 October 2001, p2972
26 June 2002	Sixteenth	S 225, 27 June 2002

3 April 2003	Seventeenth	GN 17, 30 April 2004, p 1398
27 June 2003	Eighteenth	S 245, 27 June 2003
26 November 2003	Nineteenth	S 446, 1 December 2003
23 March 2004	Twentieth	S 89, 24 March 2004
9 May 2004	Twenty-first	S 146, 11 May 2004
5 July 2004	Twenty-second	S 277, 9 July 2004
9 August 2004	Twenty-third	S 330, 12 August 2004
8 June 2005	Twenty-fourth	F2005L01613, 27 June 2005
24 June 2005	Twenty-fifth	F2005L01860, 29 June 2005
22 August 2005	Twenty-sixth	F2005L02372, 25 August 2005
20 June 2006	Twenty-seventh	F2006L01969, 26 June 2006
21 June 2007	Twenty-eighth	F2007L01943, 28 June 2007