

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

THIS DEED is made on June 22nd 2009 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 under section 46 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.

NOW THIS DEED WITNESSES as follows:

1. Commencement of amendments

The amendments in this Deed take effect as follows:

- (a) clause 5: immediately after Schedule 22 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* commences;
- (b) in all other cases: the day after this Deed is registered on the Federal Register of Legislative Instruments.

2. Interpretation

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

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.

3. Application of Amendments – public employment requirement

The amendments made by clause 7 of this Deed apply in relation to choices to transfer benefits to an eligible superannuation scheme made on or after the day on which the amendments commence.

4. Application of Amendments – transfer of Government Co-contributions

The amendments made by clause 9 of this Deed apply in relation to transfer amounts received on or after the day on which the amendments commence.

5. Amendment – payment of contributions on leave without pay

5. The Rules are amended as follows:

5.1 **Rule 4.2.1** is amended by deleting the existing subparagraph (f)(i) and substituting it with the following new subparagraph (f)(i):

“(i) an organisation or association registered or recognised under the *Fair Work (Registered Organisations) Act 2009* the membership of which includes people who are members of the **CSS scheme** or of the **PSS scheme** or of the **PSSAP**; or”

6. Amendment – previously misdescribed amendment to a Maximum Benefit Limits rule

6. The Rules are amended as follows:

6.1 **Rule 5.7.7** 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; and

- (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.”

7. Amendments – public employment requirement

7. The Rules are amended as follows:

7.1 The heading to **Rule 6.8.8** is replaced with the following heading:

Conditions of transfer to an eligible superannuation scheme

7.2 **Rule 6.8.8** is replaced with the following rule:

“6.8.8 A choice made under Rule 6.8.6 or 6.8.7 to transfer benefits to an **eligible superannuation scheme** will only have effect if:

- (a) the former **member** or **preserved benefit member** becomes employed in public employment; and
- (b) joins an **eligible superannuation scheme** that is applicable in relation to people employed in that employment; and
- (c) the administrators of the **eligible superannuation scheme** accept the benefit.

Otherwise, the Rules are to be applied as if the choice had not been made.”

7.3 The following Rule is to be inserted immediately following **Rule 6.8.8**:

“6.8.8A Public employment for the purposes of Rule 6.8.8 is employment, whether within or outside Australia, by:

- (a) the Commonwealth; or
- (b) the States; or
- (c) the Administration of a Territory; or
- (d) an authority or other body, being:

- (i) a body corporate incorporated for a public purpose by an Act, or State Act, regulations made under an Act, or State Act, or a law of a Territory; or
- (ii) an authority or body, not being a body corporate, established for a public purpose by, or in accordance with, the provisions of an Act, or State Act, regulations made under an Act, or State Act, or a law of a Territory; or
- (iii) a company or other body corporate incorporated under a law of the Commonwealth, a State or a Territory, being a body corporate in which the Commonwealth, a State or a Territory has a controlling interest; or
- (iv) an authority or body established, whether by or in accordance with the provisions of an Act, regulations made under an Act or a law of a Territory or otherwise, and whether a body corporate or not, being an authority or body which is financed in whole or in substantial part, either directly or indirectly, by moneys provided by the Commonwealth.”

8. Amendments – payment of benefits for departed temporary residents

8. The Rules are amended as follows:

8.1 **Rule 8.1.1** is amended by deleting the existing paragraph (e) and substituting it with the following new paragraph (e):

“(e) the date the **Board** is satisfied that subregulation 6.20B(1A) of the *Superannuation Industry (Supervision) Regulations 1994* has been complied with, provided that the payment is permitted by the **SIS Act**; or”

8.2 The heading to **Rule 8.2.4** is replaced with the following heading:

No benefit option — departed temporary resident

8.3 **Rule 8.2.4** is replaced with the following rule:

“8.2.4 A **preserved benefit member** whose **preserved benefit** has become payable under Rule 8.1.1 on the date the **Board** is satisfied that subregulation 6.20B(1A) of the *Superannuation Industry (Supervision) Regulations 1994* has been complied with, is to be paid a lump sum of his/her **preserved benefit** plus the **superannuation guarantee additional amount** (if any) that is applicable to the **preserved benefit member**.”

- 8.4 The heading to **Rule 16.3.9** is replaced with the following heading:

Payment of lump sum — departed temporary resident

- 8.5 **Rule 16.3.9** is amended by deleting the existing paragraph (a) and substituting it with the following new paragraph (a):

“(a) the **Board** is satisfied that subregulation 6.20B(1A) of the *Superannuation Industry (Supervision) Regulations 1994* has been complied with; and”

9. Amendments – transfer of Government Co-contributions

9. The Rules are amended as follows:

- 9.1 The following Rule is to be inserted immediately following **Rule 11.1.1**:

“**11.1.1A** A **preserved benefit member** may transfer 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** where the amount, in total or part, relates to a period where the person was a **member**.”

- 9.2 **Rule 1.2.1** is amended by replacing the definition of **transfer amount** with the following definition:

“**transfer amount** means an amount transferred by:

- (a) a **member** into the **PSS scheme** under Rule 11.1.1 or 11.1.2; or
- (b) a **preserved benefit member** into the **PSS scheme** under Rule 11.1.1A;

less income tax payable by the **PSS Fund** in relation to that amount.”

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

SIGNED, SEALED AND DELIVERED)	Lindsay Tanner
)	
by the Honourable LINDSAY TANNER)	
)	
Minister for Finance and Deregulation)	
)	
for and on behalf of)	
)	
THE COMMONWEALTH OF)	
)	
AUSTRALIA, in the presence of:)	
)	
)	
(name))	Miss Annette Lancy
)	
)	
(address))	Parliament House,
)	Canberra
)	
(description))	Policy Advisor
)	

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

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

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

Date of making	Number	<i>Gazette</i> details / Registration details
21 June 1990	Trust Deed	GN 25, 27 June 1990, p1728
21 June 1990	First	GN 25, 27 June 1990, p1728
1 July 1991	Second	S 180, 1 July 1991
30 June 1992	Third	S 181, 1 July 1991
21 December 1992	Fourth	GN 1, 13 January 1993, p110
16 June 1993	Fifth	S 181, 18 June 1993
24 January 1994	Sixth	GN 4, 2 February 1993, p366
7 March 1994	Seventh	S 89, 15 March 1994
28 June 1993	Eighth	S 246, 29 June 1994
22 June 1995	Ninth	GN 25, 28 June 1995, p2285
29 January 1996	Tenth	S 41, 1 February 1996
10 December 1996	Eleventh	GN 50, 18 December 1996
25 March 1998	Twelfth	GN 13, 1 April 1998, p901
5 December 1999	Thirteenth	S 590, 6 December 1999
20 August 2001	Fourteenth	S 342, 22 August 2001
25 September 2001	Fifteenth	GN 39, 3 October 2001, p2972
26 June 2002	Sixteenth	S 225, 27 June 2002
3 April 2003	Seventeenth	GN 17, 30 April 2004, p 1398

Date of making	Number	<i>Gazette details / Registration details</i>
27 June 2003	Eighteenth	S 245, 27 June 2003
26 November 2003	Nineteenth	S 446, 1 December 2003
23 March 2004	Twentieth	S 89, 24 March 2004
9 May 2004	Twenty-first	S 146, 11 May 2004
5 July 2004	Twenty-second	S 277, 9 July 2004
9 August 2004	Twenty-third	S 330, 12 August 2004
8 June 2005	Twenty-fourth	F2005L01613, 27 June 2005
24 June 2005	Twenty-fifth	F2005L01860, 29 June 2005
22 August 2005	Twenty-sixth	F2005L02372, 25 August 2005
20 June 2006	Twenty-seventh	F2006L01969, 26 June 2006
21 June 2007	Twenty-eighth	F2007L01943, 28 June 2007
28 August 2007	Twenty-ninth	F2007L03519, 31 August 2007
19 December 2007	Thirtieth	F2007L04993, 24 December 2007
29 July 2008	Thirty-first	F2008L02863, 1 August 2008
16 December 2008	Thirty-second	F2008L04706, 18 December 2008