

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

THIS DEED is made on 17th May, 2011 by THE MINISTER FOR FINANCE AND DEREGULATION.

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 subsection 5(1A) requires the consent of the Board (the Australian Reward Investment Alliance (ARIA)) to amendments in certain circumstances;

AND WHEREAS the consent of the Board is required in relation to the amendment in subclause 5.6, and the Board has consented to this amendment;

NOW THIS DEED WITNESSES as follows:

1. Commencement of amendments

The amendments in this Deed take effect on 1 July 2011.

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. Application of amendments – contributions after age 70

The amendments made by clause 5 of this Deed apply in relation to contribution days occurring on or after 1 July 2011.

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.

4. Amendments – references to the Minister for Finance and Administration

4. The Trust Deed is amended as follows:

4.1 Subclause 1.3 is amended by deleting the existing subclause and replacing it with the following new subclause:

“1.3 In this Deed “Minister” means:

- (a) the Finance Minister;
- (b) if 2 or more Commonwealth Ministers administer Departments which have functions in relation to the administration of matters to which the Deed relates, the Minister who administers the Department which has the function in relation to each of those matters; or
- (c) a member of the Executive Council acting for the time being for and on behalf of any of those Ministers; or
- (d) a person, as defined in clause 13, to whom the Finance Minister has delegated his or her powers.”

4.2 The following subclause is to be inserted immediately following subclause 1.3:

“1.3AA In this Deed “Finance Minister” means the Minister administering the *Financial Management and Accountability Act 1997*.

4.3 The heading to clause 13 is replaced with the following heading:

“Delegations by the Finance Minister”

4.4 Subclause 13.1 is amended by omitting the words “Minister for Finance and Administration” and replacing them with “Finance Minister”.

5. Amendments – contributions after age 70

5. The Rules are amended as follows:

5.1 **Rule 4.1.1** is amended by deleting the number “70” in paragraph (f) and replacing it with the number “75”.

5.2 **Rule 4.1.2** is amended by deleting the existing paragraph (c) and replacing it with the following new paragraph (c):

“(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; or”

- 5.3 **Rule 4.1.2** is amended by inserting the following new paragraph (d) and note immediately after the note to paragraph (c):

“(d) he/she reached age 70 before 1 July 2011.

Note: Before 1 July 2011 members aged 70 or over could not make contributions under Part 4. However, they could choose to pay additional contributions at any whole percentage rate between 2% and 10% inclusive under Division 4 of Part 11.

From 1 July 2011, members aged 70 or over must contribute 0% or between 2% and 10% of fortnightly contribution salary under Part 4 until age 75. However, members aged 70 or over cannot make additional contributions under Division 4 of Part 11.

Rule 4.1.10 provides that those members aged 70 or over who chose to pay additional contributions before 1 July 2011, and were doing so immediately before 1 July 2011, will contribute under Part 4 at the same rate from 1 July 2011 (unless or until a different rate is chosen).

Rule 4.1.11 provides that those members aged 70 or over who chose not to pay additional contributions before 1 July 2011 will contribute at the rate of 0% of fortnightly contribution salary from 1 July 2011 (unless or until a different rate is chosen).

- 5.4 **Rule 4.1.5** is amended by deleting the number “70” in paragraph (c) and replacing it with the number “75”.

- 5.5 The following heading and Rules are inserted immediately after Rule 4.1.9:

“ **Transitional arrangements for members who reached age 70 before 1 July 2011**

4.1.10 A **member** who has reached age 70 before 1 July 2011, and who was paying additional contributions (*see Division 4 of Part 11*) immediately before 1 July 2011, will pay contributions from 1 July 2011 at the rate applicable to those additional contributions (*see Rule 11.4.3*) until a change to the member’s rate of contributions takes effect in accordance with Rule 4.1.3 (if any).

4.1.11 A **member** who has reached age 70 before 1 July 2011, and who was not paying additional contributions (*see Division 4 of Part 11*) immediately before 1 July 2011, will pay contributions from 1 July 2011 at the rate of 0% of his/her **fortnightly contribution salary** until a change to the member’s rate of contributions takes effect in accordance with Rule 4.1.3 (if any).”

- 5.6 The heading to Division 4 of Part 11 of the Rules is amended by deleting the heading and replacing it with the following new heading:

Division 4

Additional contributions after age 70 before 1 July 2011

5.7 Rule **11.4.1** is amended by deleting the existing rule and replacing it with the following new rule:

“11.4.1 For **contribution days** occurring before 1 July 2011, a **member** may choose to pay additional contributions on each **contribution day** occurring during the period commencing on the date he/she reaches age 70 and ending on his/her last day of membership, except **contribution days** occurring when the PSS Fund is prohibited by the **SIS Act** from receiving those contributions (see Rule 11.4.5). A **member** may choose to cease paying additional contributions at any time.”

6. Amendments – references to the Minister for Finance and Administration

6. The Rules are amended as follows:

6.1 The table immediately following Rule 6.8.12 is amended by omitting the words “Minister for Finance”, wherever occurring, and replacing them with “Minister”.

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

SIGNED, SEALED AND DELIVERED)

by)

Senator the Hon PENELOPE YING YEN WONG)

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Minister for Finance and Deregulation)

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)

in the presence of:)

)

Anthony Baker)

(name))

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Chief of Staff)

(description))

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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	Gazette 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
22 June 2009	Thirty-third	F2009L02530, 25 June 2009