UNITED SUPER PTY LTD

Trust Deed

Construction and Building Unions Superannuation Fund

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CBUS TRUST DEED

1. TRUSTEE

1.1 Trustee

(a) The Trustee shall be a Constitutional Corporation within the meaning of the Relevant Law.

(b) Subject to the Deed and the Relevant Law, the following provisions shall apply to the Trustee:

(i) the board of Directors of the Trustee shall comprise equal numbers of persons nominated by the Employers and the Members to represent the interests of all Members and that board of Directors in making decisions in relation to the Fund shall comply with the Relevant Law relating to decisions by trustees;

(ii) it may act through its board of Directors or otherwise as authorised by its Constitution;

(iii) whenever a vacancy occurs amongst the board of Directors of the Trustee, such vacancy shall be filled within 90 days:

(A) if the vacating board member is an Employer representative (as defined in the Relevant Law), by an Employer Body; or

(B) if the vacating board member is a member representative (as that expression is defined in the Relevant Law), by a Fund Member Body.

(c) Subject to the Relevant Law, an independent Director (within the meaning of the Relevant Law) of the Trustee may be appointed and removed in accordance with the constitution of the Trustee. An independent Director shall not exercise a casting vote in any proceedings of the board of the Trustee.

(d) The Trustee ceases to be the Trustee when:

(i) the Trustee retires after appointing its replacement; or

(ii) required under the Relevant Law.

(e) The appointment or retirement of the Trustee shall comply with the Relevant Law.

(f) Upon retirement, the Trustee shall transfer all assets of the Fund to the new Trustee or its nominee.

(g) Subject to the Relevant Law, the Trustee shall be entitled to recover costs and disbursements incurred in respect of the provision of its services as trustee of the Fund as the Trustee determines.

1.2 Trustee's Powers

(a) Notwithstanding any other provision of the Deed, the Trustee may do all acts, matters and things as in the opinion of the Trustee are:

(i) necessary or desirable in order to comply with or satisfy any Relevant Law; or

(ii) permitted by any Relevant Law.

(b) Subject to the Relevant Law, the Trustee has the complete management and control of all proceedings matters and things in connection with the Fund and may delegate any Power (including a Power which the Trustee has a duty to exercise) exercisable by the Trustee to any person upon such terms and conditions as the Trustee thinks fit. The Trustee may revoke any such delegation and may exercise any such Power itself concurrently with or to the permanent or temporary exclusion of a delegate.

(c) The Trustee and a delegate of the Trustee has, in the exercise or non-exercise or partial exercise of each Power exercisable by that Trustee, or that delegate, as the case may be, an absolute and uncontrolled discretion and is only bound to give to any person any reason for or explanation of its exercise, non-exercise or partial exercise of any such Power if required to do so under the Relevant Law.

(d) Whenever it is necessary for the Trustee or a delegate of the Trustee to decide questions of fact, it may act upon such proofs or presumptions as it thinks fit whether they are legal proofs or presumptions or not.

(e) A Member may be a delegate of the Trustee and may exercise any Power vested in the Member as a delegate without prejudice to the Member's rights as a Member of the Fund.

(f) The Trustee must if required by the Relevant Law, and may from time to time, establish committees for the purposes of the Fund comprising such persons and performing such functions and having the exercise of such Powers as the Trustee may from time to time determine in accordance with the Relevant Law. Subject to the Relevant Law, the Trustee may from time to time discontinue any such committees.

(g) The Trustee shall appoint, as officers or servants of the Fund, such persons as the Trustee shall, from time to time, require to assist in administering the Fund and to pay any remuneration and expenses from the Fund. The Trustee may appoint, in writing, any person or company to administer the Fund.

(h) The Trustee may act on the advice or opinion of any consultant, claims assessor, barrister, solicitor, broker, accountant, medical practitioner, Insurer or other professional person and, subject to sub-clause 1.3, the Trustee shall not be responsible for any loss occasioned by acting on this advice.

(i) If a provision of the Deed would otherwise be void under the Relevant Law because it:

(i) subjects the Trustee to direction by another person; or

(ii) permits a person to exercise a discretion without the consent of the Trustee,

then the Trustee's consent is required for the giving of the direction or the exercise of the discretion.

(j) (i) For the purposes of this sub-clause 1.2(j), **"Activity"** shall mean any act directly or indirectly related to or incidental to marketing, promoting, advertising or educating.

(ii) The Trustee may, subject to the Relevant Law, engage in any Activity which the Trustee determines will promote:

(A) the concept of industry-based superannuation generally; or

(B) the Fund specifically.

(iii) The Trustee may only exercise its Powers under this clause where the Trustee has determined:

(A) that the Activity is in the best interest of the present and future Members of the Fund;

(B) that the expense of the Activity is reasonable having regard to the likely benefits to the present and future Members of the Fund; and

(C) the expense is reasonable having regard to the total value of the assets of the Fund.

(iv) The Trustee may engage the services of any suitably qualified persons to advise on, be involved in or implement any Activity authorised under the Deed and may remunerate those persons, in respect of any advice, involvement or implementation, from a Reserve Account of the Fund in accordance with the Powers contained in the Deed and in accordance with the Relevant Law.

(k) The Trustee has the power to merge the Fund with an Approved Benefit Arrangement or enter into any joint venture, arrangement, strategic alliance or other such arrangement as the Trustee determines appropriate.

1.3 Limitation of Liability

(a) Subject to the Relevant Law and sub-clause 1.3(b), neither the Trustee, nor any of its Directors, is liable for or in respect of any action, claim, counter-claim, set-off, demand, liability, cost or expense whatsoever arising from any act or omission in connection with the Fund or the Deed.

(b) Sub-clause 1.3(a) does not apply where the Trustee or the Director:

(i) fails to act honestly in a matter concerning the Fund; or

(ii) intentionally or recklessly fails to exercise, in relation to a matter affecting the Fund, the degree of care and diligence that the Trustee, Director, officer or delegate is required to exercise under the Relevant Law; or

(iii) incurs a monetary penalty in respect of a civil penalty order under the Relevant Law.

1.4 Indemnity

(a) Subject to the Relevant Law and sub-clause 1.4(b), the Trustee, and each Director of the Trustee, will be indemnified out of the assets of the Fund and kept indemnified against any action, claim, counter-claim, set-off, demand, liability, cost or expense whatsoever arising in the capacity of Trustee or of a Director of the Trustee.

(b) Sub-clause 1.4(a) does not apply to the Trustee or any Director where the Trustee or Director:

(i) fails to act honestly in a matter concerning the Fund; or

(ii) intentionally or recklessly fails to exercise, in relation to a matter affecting the Fund, the degree of care and diligence that the Trustee, Director, officer or delegate is required to exercise under the Relevant Law; or

(iii) incurs a monetary penalty in respect of a civil penalty order under the Relevant Law.

(c) Where sub-clause 1.4(b) applies, the Trustee or Director will indemnify the Fund and keep it indemnified against any action, claim, counter-claim, set-off, demand, liability, cost or expense whatsoever arising from any act or omission involving fraud or wilful misconduct, wilful neglect or wilful default.

1.5 Compliance Covenant

The Trustee for itself, its successors and assigns covenants with the Members to perform and observe the covenants, trusts and conditions of this Deed and the covenants and obligations imposed under the Relevant Law so far as the same are or ought to be observed by the Trustee.

1.6 Overriding Provision

(a) The provisions of this Deed are to be read and construed on the basis that the requirements of the Relevant Law are incorporated into this Deed to the extent that they apply to the Fund.

(b) Notwithstanding any other provision of this Deed, if there is a conflict between a provision of this Deed and the Relevant Law, the Relevant Law shall prevail.

1.7 Trustee Fee

(a) For each Reference Period, a fee is payable out of the Fund to the Trustee for acting as Trustee in an amount equal to 0.10% of the net assets of the Fund (calculated as at the day immediately prior to the commencement of the relevant Reference Period).

(b) The Trustee Fee is to be paid in such periodic instalments and in such manner as determined by the Trustee from time to time.

(c) Despite anything in this clause 1.7:

(i) the Trustee may not pay any proportion of the Trustee Fee where the Trustee determines that, in the event of such proportion being paid, the Trustee Capital would exceed the greater of:

(A) 0.14% of the net assets of the Fund as the payment date; and

(B) such maximum amount (if any) of Trustee Capital (by whatever name known) as the Relevant Law requires or as a Regulator permits, recommends, requests or directs the Trustee to hold; and

(ii) the Trustee may otherwise determine in its absolute discretion to reduce, waive, suspend or postpone the Trustee Fee (or any part of it) and, subject to clause 1.7(c)(i), to cease such reduction, waiver, suspension or postponement.

(d) The Trustee must, as soon as practicable after the end of each Review Period (and in any event not later than six months after the end of the Review Period):

(i) consider whether the Trustee Fee payable under clause 1.7(a) and/or by reason of the operation of clause 1.7(c)(i)(A) remains fair and reasonable; and

(ii) in the event that the Trustee considers pursuant to clause 1.7(d)(i) that the Trustee Fee payable under clause 1.7(a) and/or by reason of the operation of clause 1.7(c)(i)(A) is no longer fair and reasonable:

(A) determine what amount would, in its opinion, be fair and reasonable (whether that amount is higher or lower than the existing Trustee Fee payable under clause 1.7(a) and/or by reason of the operation of clause 1.7(c)(i)(A)); and

(B) amend this Deed by adjusting the figures in clause 1.7(a) and clause 1.7(c)(i)(A) to accord with the determination in clause 1.7(d)(ii)(A).

In undertaking such consideration, the Trustee may (without limitation) have regard to the amount which the Trustee reasonably considers necessary to appropriately compensate the Trustee for acting as trustee of the Fund and/or the amount which the Trustee reasonably considers to appropriately compensate it for the personal financial risk it might incur in connection with its role as trustee of the Fund.

(e) For the purposes of this clause 1.7, a reference to:

(i) **Reference Period** is to each successive period of two financial years with the first Reference Period being the period of two financial years commencing on 1 July 2021;

(ii) **Review Period** is to each successive period of four financial years with the first Review Period being the period of four financial years commencing on 1 July 2021;

(iii) **Trustee Fee** is to a fee payable under this clause 1.7; and

(iv) **Trustee Capital** is to the total value of net tangible assets of the Trustee in its personal capacity as calculated in accordance with Australian accounting standards.

2. EMPLOYERS

2.1 Admission of Employers[1]

(a) Subject to sub-clauses 2.1(d) and 2.1(e), any person wishing to become an Employer within the meaning of the Deed shall deliver to the Trustee an application in a form permitted by the Relevant Law and otherwise acceptable to the Trustee, including an agreement in writing made for good consideration acknowledging itself to be bound by the Deed and setting out such information as may be required by the Trustee, which may include (without limitation):

(i) the category of persons who shall be eligible for Membership of the Fund;

(ii) the rate or amount of contributions to be paid in respect of each Member Employed by such person; and

(iii) the date from which the contributions shall be payable.

(b) The Trustee may, in its absolute discretion, accept or reject such application and if accepted, such person shall then become an Employer within the meaning of the Deed in accordance with the terms of the application under sub-clause 2.1(a).

(c) An Employer may give to the Trustee notification of variation of any of the terms in an application made by the Employer pursuant to sub-clause 2.1(a) at any time after its admission as an Employer and the Trustee may, in its absolute discretion, accept or reject such notification of variation and if accepted, such variation shall become immediately operative.

(d) If an Employer indicates or confirms, by whatever means, that it wishes to contribute to the Fund and be bound by these clauses and if the Employer is aware of both the information required pursuant to sub-clauses 2.1(a)(i) to 2.1(a)(iii) and the particulars required by the then current Employer application form, then the Trustee may resolve to admit such employer as an Employer in the Fund under this sub-clause 2.1(d) notwithstanding that an application form has not been completed. The particulars recorded by the Trustee at the time of such admission shall be deemed to be the form of application of that Employer so admitted.

(e) The Trustee may accept an Employer or class of Employers to participate in the Fund without requiring the execution of an application or agreement by that Employer or class of Employers. Any Employer or class of Employers admitted under this sub-clause 2.1(e) shall be bound by this Deed and be subject to such terms and conditions regarding the category of that Employer's Employees who are eligible for Membership of the Fund, the rate or amount of contributions payable in respect of those Employees, the commencement date of the said contributions and other matters as shall be determined by the Trustee and advised to the Employer at the date of admission of that Employer to the Fund.

(f) As at the Pool B Transfer Date, in accordance with the *Superannuation Administration (Cbus Transitional Provisions) Regulation 2022* (NSW), the following employers are accepted as Employers for the purposes of sub-clause (e)

[1] This clause 2.1 is referenced in the EISS Payment Deed (as that term is defined in the Defined Benefits Section Rules). Any future changes to this deed should seek to maintain the clause numbering for this provision.

and required to make contributions to the "Pool B Sub-Division" of the Defined Benefits Section, as specified in the Defined Benefits Section Rules:

(i) Aurecon Australasia Pty Ltd;

(ii) Ausgrid Management Pty Ltd;

(iii) Coal Services Pty Ltd;

(iv) Endeavour Energy Network Management Pty Ltd;

(v) Essential Energy;

(vi) NSW Electricity Networks Operations Pty Ltd; and

(vii) Snowy Hydro Limited.

2.2 Employer Contributions

(a) Subject to this Deed and the Relevant Law, an Employer shall contribute to the Fund, in respect of a Member (whether engaged by it as an employee, contractor, sub-contractor or in whatever other legal relationship), such amount (whether or not calculated by reference to a percentage or rate of salary, wage or earnings) as the Employer is required by an Award or enterprise agreement applicable to the Member for that Member's Benefit. The amount shall not be less than the amount required to satisfy the Employer's obligations under the SGA Act and must be paid to the Fund in the manner and at the times determined by the Trustee.

(b) Sub-clause 2.2(a) does not apply in the event that the Employer is not covered or no longer covered by an Award or enterprise agreement. In such case, the Employer shall contribute pursuant to sub-clause 2.2(c).

(c) Subject to this Deed and the Relevant Law, each Employer from whom the Trustee may accept contributions shall contribute to the Fund and in respect of each Member (whether engaged by it as an employee, contractor, sub-contractor or in whatever other legal relationship), for whom it has agreed with the Trustee to make contributions, such amount as may be agreed upon from time to time by the Trustee and the Employer.

(d) An Employer may make such other contributions to the Fund in respect of a Member as the Employer may from time to time determine and the Trustee may accept. Without limiting the generality of this clause, the Employer may make:

(i) contributions over and above the minimum contribution level provided for in sub-clause 2.2(a) or 2.2(c); or

(ii) salary sacrifice contributions in respect of a Member.

(e) The Trustee will, at all times, make all reasonable endeavours to obtain payment of contributions by Employers in accordance with their obligations under this Deed.

(f) The Trustee may accept contributions in respect of a Member if the Trustee is reasonably satisfied that the contribution is in respect of a period for which the Trustee may accept the contribution in respect of that Member, even though the contribution is actually made after that period.

(g) Any liability imposed upon an Employer by reason of the operation of the SGA Act and the *Superannuation Guarantee Charge Act 1992* does not affect an Employer's obligation to contribute to the Fund in such amounts and at such times as specified by this clause 2.2.

2.3 Information from Employers

Subject to any contrary requirements in the Defined Benefits Section Rules, where an Employer contributes to the Fund on behalf of a Member, the Employer must send to the Trustee the following information (where relevant):

(a) the name, address and date of birth of each Member;

(b) the amount of the monthly contribution to be made in respect of each Member;

(c) a completed application form by each Member;

(d) such other information from time to time as may be requested by the Trustee; and

(e) any other information required to be provided by the Employer to the Trustee under the Relevant Law, in the form and manner (if any) required under the Relevant Law.

2.4 Powers of Employers

(a) Nothing in the Deed affects, prejudices or alters in any way the powers of an Employer with regard to the dismissal or remuneration of, or any other dealings whatsoever with, any of its Employees and nothing contained in the Deed renders an Employer liable or responsible, and an Employer is not liable or responsible in any way, for any act or omission of the Trustee or any Member or other person in connection with the Fund. Any Benefit that becomes payable or would or might have become payable shall not be used as a basis for damages or for increasing damages in any proceedings against an Employer in respect of dismissal or any other matter.

(b) An Employer may exercise any Power or discretion given to it under the Deed in its own interest. It is not under any fiduciary obligation to any person in exercising that Power or discretion.

2.5 Cessation of Individual Employer's Contributions

(a) Notwithstanding sub-clauses 2.1 and 2.3, and subject to sub-clause 2.5(b), an Employer may at any time by notice in writing to the Trustee terminate its obligation to contribute to the Fund as from the date not less than one calendar year after the date such notice is given.

(b) The Trustee may agree from time to time to vary the period of notice required to be given by an Employer under sub-clause 2.5(a).

(c) Unless for the purposes of this Deed and with effect on and from the expiration of such notice a new person takes the place of the Employer giving notice then sub-clause 2.6 applies on and from the same date as if the date were the Cessation Date in sub-clause 2.6.

(d) A notice given by an Employer under sub-clause 2.5(a) may be withdrawn at any time.

2.6 Winding Up of an Employer

(a) If:

(i) where an Employer is or includes a body corporate, a resolution is passed or an order is made for the winding up thereof or a fund of arrangement providing for the dissolution thereof is approved by a Court other than for the purposes of the amalgamation or reconstruction; or

(ii) where an Employer is or includes a partnership, the partnership is dissolved other than for the purposes of the reconstruction or reconstitution; or

(iii) where an Employer is or includes a natural person or natural persons not in partnership, that person or any of those persons becomes bankrupt; or

(iv) an Employer ceases to carry on business; or

(v) where an Employer holds that office as:

(A) the trustee or trustees of a trust; or

(B) the committee or other governing body (or as the holder or holders of designated offices of the committee or other governing body) of an unincorporated association,

that trust or the unincorporated association is wound up or ceases to carry on business or ceases to exist, as the case may be,

then sub-clauses 2.6(b) and 2.6(c) apply, unless the Trustee enters into an agreement with a new person to take the place of that Employer for the purposes of the Deed with effect on and from the date the relevant event above occurs (**"Cessation Date"**).

(b) On and after the Cessation Date:

(i) no further persons who are Employed only by that Employer shall be admitted as Members;

(ii) no further contributions shall be made by that Employer except contributions that became payable by the Employer under this Deed before the Cessation Date,

and the Benefits of the Members shall remain in the Fund until transferred or paid from the Fund under this Deed.

(c) If an event referred to in sub-clause 2.6(a) has occurred in relation to an Employer who is participating in the Defined Benefits Section, the Trustee after obtaining the advice of an actuary, may adjust any Benefit which is or may become payable to or in respect of any Defined Benefit Member whom the Trustee may consider is affected by that event, to the extent and in the manner the Trustee considers appropriate and equitable.

(d) An adjusted Benefit determined in respect of a Member under sub-clause 2.6(c):

(i) may be provided in any manner or form, by way of any arrangements (including transfer to another division of the Fund) and subject to any

conditions determined by the Trustee either generally or in any particular case;

(ii) is in lieu of and in full satisfaction of any Benefit which would or might have been or become payable from the Fund but for this clause 2.6; and

(iii) must not increase the amount of any Benefit which, in the opinion of the Trustee after obtaining the advice of an actuary, has accrued in respect of a Member prior to the Cessation Date, or improve the basis upon which Benefits accrue during or in respect of any period after the Cessation Date, unless agreed with the Employer.

3. MEMBERS

3.1 Membership

(a) Upon becoming eligible for Membership of the Fund, an Eligible Person may apply to the Trustee for Membership of the Fund in a form permitted by the Relevant Law and otherwise acceptable to the Trustee. The Trustee will provide to any Eligible Person wishing to join the Fund an application for Membership in such form as the Trustee will, from time to time, determine.

(b) An Eligible Person will become:

(i) an Accumulation and Pension Member of the Accumulation and Pension Section once he or she satisfies the eligibility conditions set out in the application for Membership and a contribution is received by the Trustee in respect of an Eligible Person or such other date as determined by the Trustee; or

(ii) a Defined Benefit Member of the Defined Benefits Section in accordance with the Defined Benefits Section Rules.

(c) The Trustee may allow a person or class of persons eligible to join the Fund to become a Member without that person or class of persons having to complete or lodge an application for Membership. Any such Eligible Person will be subject to such special terms, conditions and restrictions as the Trustee will determine and who will advise the Eligible Person of such special terms, conditions or restrictions.

(d) Upon being admitted to Membership of the Fund, every Member will be deemed to have approved of, and shall be bound by, all of the provisions of the Deed.

3.2 Categories of Membership

There will be the following categories of Membership of the Fund:

(a) in the Accumulation and Pension Section:

(i) employer-sponsored membership including provisional employer-sponsored membership;

(ii) public offer membership; and

(iii) Pension membership; and

(b) Defined Benefit Members in the Defined Benefits Section,

provided that the Trustee may remove a category of membership or create such new categories of membership as the Trustee may from time to time determine.

3.2A Section rules

(a) The Trustee has the power, exercisable by resolution, to make, amend or revoke rules from time to time setting out the benefits which will be provided in the Accumulation and Pension Section or the Defined Benefits Section (subject to any contrary requirements in the Defined Benefits Section Rules), and the terms and conditions on which such benefits will be provided.

(b) The Accumulation and Pension Section and the Defined Benefits Section must, at all times, each have separately identifiable assets and separately identifiable Members.

(c) The interests of each Member in the Accumulation and Pension Section or the Defined Benefits Section, are to be determined by reference only to the provisions of the Deed governing the section relevant to the Member.

(d) Notwithstanding sub-clauses 3.2A(b) and (c), a Defined Benefit Member may also be a member of the Accumulation and Pension Section while a Defined Benefit Member. In that event, any benefit payable from the Defined Benefits Section shall be paid in accordance with the Defined Benefits Section Rules and any benefit payable from the Accumulation and Pension Section shall be paid in accordance with the Accumulation and Pension Section Rules.

3.3 Classification of Membership category

The Trustee may classify a Member into a category of Membership at the time of admission of the person to Membership of the Fund, and may reclassify a Member to other categories of Membership in its discretion.

3.4 Member to Provide Information

(a) Every Member will provide the Trustee with:

(i) such evidence of age as is required by the Trustee;

(ii) such evidence of health as is required by the Trustee and any Insurer; and

(iii) any other information that the Member is required to provide the Trustee under the Relevant Law or that may otherwise reasonably be required by the Trustee,

and the Trustee will use reasonable endeavours to obtain such information, as the circumstances warrant.

(b) Where a Member fails to provide information or, alternatively, fails to complete documentation required to be eligible for an Insured Benefit or fails to submit to medical examination when required, the Trustee will subject to the Relevant Law have no obligation to include a Member within the coverage of a Policy to provide an Insured Benefit in respect of that Member.

3.5 Cessation of Membership

A Member will cease to be a Member upon:

(a) the death of the Member; or

(b) the payment of all Benefits to which the Member has become entitled under this Deed; or

(c) a total transfer of the Member's Benefits out of the Fund in accordance with sub-clauses 4.13 and 4.14,

provided however that a Member will remain a Member of the Fund until such time as any claim for an Insured Benefit has been finalised.

3.6 Contributions by Members

(a) Subject to this Deed, and to any contributions cap under the Relevant Law which applies so as to prohibit or restrict the contribution of an amount or the acceptance by the Trustee of all or part of a contribution, a Member may make contributions to the Fund of such amounts and at such times as the Member selects and may, with the consent of the Trustee, increase or reduce the amount of contributions and vary the dates of payment.

(b) A Member may make such other contributions to the Fund of such amounts and at such times as may be agreed between the Member and the Trustee subject to any contributions cap under the Relevant Law which applies so as to prohibit or restrict the contribution of an amount or the acceptance by the Trustee of all or part of a contribution.

(c) Notwithstanding sub-clauses 3.6(a) and 3.6(b), the Trustee is not obliged to accept any Contribution by a Member if the Member's Tax File Number has not been quoted to the Trustee as required under the Relevant Law.

3.7 Other Contributions in relation to Members

(a) The Trustee may, with the consent of the Member and subject to any contributions cap under the Relevant Law which applies so as to prohibit or restrict the contribution of an amount or the acceptance by the Trustee of all or part of a contribution, accept other contributions in relation to Members made by persons other than the Member or the Member's Employer in circumstances permitted under the Relevant Law. Without limiting the generality of this clause, the Trustee may accept:

(i) contributions from the Spouse of a Member in respect of that Member, notwithstanding that the Spouse may also be a Member of the Fund in their own right;

(ii) contributions from any other Employer of a Member in respect of a Member;

(iii) Government co-contributions in respect of a Member within the meaning of the Relevant Law;

(iv) Shortfall Components in respect of a Member;

(v) contributions by any person in respect of a Member who is under the age of majority permitted by the Relevant Law.

(b) Notwithstanding sub-clause 3.7(a), the Trustee is not obliged to accept any Contribution in relation to a Member if the Member's Tax File Number has not been quoted to the Trustee as required under the Relevant Law.

4. THE FUND AND ASSETS

4.1 The Fund

(a) The Fund is vested in the Trustee and comprises all moneys, Policies and other assets and investments held by the Trustee in accordance with the Deed and shall be managed by the Trustee upon the terms and conditions and subject to the trusts, powers, authorities and discretions contained in this Deed.

(b) No Member or beneficiary shall have or acquire any beneficial or other interest in a specific asset of the Fund or the assets of the Fund as a whole whilst such asset or assets remain subject to the provisions of this Deed.

(c) The receipt of the Trustee or an authorised delegate or officer of the Trustee is a sufficient discharge to any person for money paid or other property transferred to the Fund.

4.2 MySuper Products

Notwithstanding any other provision in this Deed:

(a) The Trustee may seek authority to offer one or more classes of beneficial interest in the Fund as one or more MySuper Products.

(b) Subject to sub-clause 1.6, but notwithstanding anything else in this Deed, the Trustee may do all acts, matters and things as in the opinion of the Trustee are necessary or desirable to maintain an authorisation to offer a class of beneficial interest in the Fund as a MySuper Product.

(c) If necessary to comply with the Relevant Law, the Trustee must in relation to a MySuper Product:

(i) adopt a single diversified investment strategy in relation to assets of the Fund to the extent those assets are attributed to that MySuper Product;

(ii) provide all Members who hold that MySuper Product with access to the same options, benefits and facilities;

(iii) attribute amounts to Members who hold that MySuper Product in a way that does not stream gains or losses that relate to any assets of the Fund to only some of those Members, provided that where consistent with the Relevant Law gains and losses from different classes of assets of the Fund may be streamed to different subclasses of Members who hold that MySuper Product:

(A) on the basis, and only on the basis, of the age of those Members;

(B) on the basis of the age of those Members and other factors prescribed under the Relevant Law; or

(C) on the basis of the age of those Members and other factors prescribed under the Relevant Law in circumstances prescribed under the Relevant Law;

(iv) use the same process to attribute amounts to Members who hold that MySuper Product, except where a different process is permitted under the Relevant Law;

(v) not limit the source or kind of contributions that may be made by or on behalf of a Member who holds that MySuper Product, other than as required or permitted by the Relevant Law;

(vi) comply with any applicable requirement under the Relevant Law with respect to the charging of fees in relation to that MySuper Product;

(vii) not replace a Member's interest in that MySuper Product with a beneficial interest of another class in the Fund unless:

(A) the replacement is with an interest in another MySuper Product within the Fund;

(B) the Member who holds the MySuper Product consents in writing to that replacement;

(C) the Member who held the interest has died and the interest is replaced with a beneficial interest of another class in the Fund of a kind, and in the circumstances, permitted by the Relevant Law; or

(D) the replacement is otherwise permitted, or is required, by the Relevant Law;

(viii) not replace a Member's interest in that MySuper Product with a beneficial interest in another superannuation entity unless:

(A) the interest in that other superannuation entity is a MySuper Product and the replacement is permitted under a law of the Commonwealth;

(B) the Member who holds that MySuper Product consents in writing to the replacement and the replacement is permitted under the Relevant Law; or

(C) the replacement is otherwise permitted, or is required, under a law of the Commonwealth; and

(ix) not pay a pension out of any assets of the Fund to the extent the assets are attributable to that MySuper Product, unless permitted or required under the Relevant Law.

4.3 **Investment**

(a) The Trustee:

(i) must formulate and give effect to an investment strategy for the whole of the Fund; and

(ii) may formulate and give effect to one or more other investment strategies,

which strategies must be reviewed, formulated and effected in accordance with the Relevant Law.

(b) Where the Trustee formulates more than one investment strategy under sub-clause 4.3(a), the Trustee may make available to Members participation in the investment strategies on the following condition and on such other conditions as the Trustee may from time to time determine. It is a condition that, at any time after the Trustee has received proof to its satisfaction of the death of a Member, the Trustee may subject to the Relevant Law invest all or part of the Member's Retirement Credit and any Insured Benefits received in respect of the Member (in relation to an Accumulation and Pension Section Member), or death benefit payable under the Defined Benefits Section Rules (in relation to a Defined Benefit Member), in accordance with an investment strategy or strategies that the Trustee in its absolute discretion selects, pending payment out of the Fund under clause 5.11. This condition applies notwithstanding the fact that the Member may have previously chosen to participate in a different investment strategy or strategies.

(c) The Trustee shall invest in a manner which complies with the Relevant Law.

(d) Subject to compliance with the Relevant Law, all moneys of the Fund which are not directly required for any other purpose shall, as soon as practicable, be invested in or upon such investments or property of whatsoever nature and wheresoever and whether involving liability or not and whether producing income or not with or without security as the Trustee shall, in its absolute discretion, think fit with Power from time to time to sell or get in any such investments or property and to vary or transpose them for other investments or property including of any of the following classes:

(i) in any investment authorised by the Laws of the Commonwealth of Australia or of any of its States or Territories for the investment of trust moneys; or

(ii) on deposit with any trading or savings bank in Australia or with any dealer authorised or approved by the Reserve Bank of Australia to operate in the official short term money market, or with any company; or

(iii) in debentures of or preference or ordinary shares or stock in or registered notes (secured or unsecured) issued by any company whether quoted on the official list of any of the Australian Associated Stock Exchanges or not; or

(iv) in the units, sub-units or other fractional interests howsoever called and whether divided or undivided in any unit trust or other fund in the nature of a unit trust; or

(v) in or upon Policies of assurance or insurance on the life of any person; or

(vi) in making, drawing, accepting, endorsing, discounting and issuing promissory notes, bills of exchange and other negotiable or transferable instruments without any qualification as to bank acceptance or otherwise; or

(vii) in the acquisition or upon the security of real estate; or

(viii) in the acquisition of options to purchase or other limited interests in any real or personal property and options to sell interests in any real or personal property; or

(ix) in hedging contracts, futures contracts and other financial instruments; or

(x) in share price index futures contracts or options on share price index futures contracts; or

(xi) in currency futures contracts or options in currency futures contracts, spot and forward foreign exchange agreements; or

(xii) in swap agreements relating to income streams from physical or derivative investments, including (without limitation) interest rate or currency swaps; or

(xiii) in the hedging of any agreements contracts, financial investments or options; or

(xiv) in bonds or securities; or

(xv) in the lending of securities to a bank as defined in the *Banking Act 1959* (Commonwealth); or

(xvi) any other investment the Trustee determines as though it were a natural person.

(e) To the extent permitted by the Relevant Law, the Trustee:

(i) may mix investments with investments of other people or trusts as if it were dealing with its own property;

(ii) may make a loan or give financial assistance to a person; and

(iii) may borrow or raise money up to any amount and may secure payment or repayment in a manner which it thinks fit.

(f) The Trustee may underwrite or sub-underwrite or join with others in underwriting or sub-underwriting the subscription of any authorised investment.

4.4 Custodians and Investment Managers

(a) The Trustee shall have Power to appoint, from time to time, such one or more bodies corporate as the Trustee may think fit to act either as a custodian or investment manager or both subject to such conditions as the Trustee may, from time to time, determine. The Trustee may delegate to and confer upon each such custodian or investment manager such authorities Powers and discretions as the Trustee may think fit. Subject to sub-clause 1.3, the Trustee shall not be liable or responsible for any act, omission, error of judgment, negligence or breach of trust of any custodian or investment manager and shall not be bound to take proceedings against any custodian or investment manager in respect thereof. The Trustee shall also have Power to pay out of the Fund to any such custodian or investment manager such remuneration for its services as the Trustee considers proper. The Trustee shall also have Power to remove from time to time any such custodian or investment manager. Any appointment under this clause shall comply with the Relevant Law.

(b) The Powers of investment, sale, variation and transfer referred to in sub-clause 4.3 shall be exercised and carried out either by the Trustee or by one or more custodian or investment managers as aforesaid or partly by one and partly by the other or others of such methods as the Trustee may from time to time determine.

(c) In the exercise of the Trustee's Powers of delegation, it may give to any investment manager, appointed under sub-clause 4.4(a), general authority to enter into and carry out underwriting or sub-underwriting agreements and the like whether for the Fund alone or for the Fund in conjunction with other funds and institutions.

4.5 Insurance

(a) The Trustee shall have Power to effect or take out at the expense of the Fund, from time to time, one or more term or other Policies or contracts with one or more Insurer in regard to the management of the Fund and, subject to the Relevant Law, in regard to the provision of Insured Benefits (including without limitation Benefits in respect of death and Terminal Medical Condition, and benefits in respect of Incapacity), and to continue or renew or arrange for the continuance or renewal of all or any of such Policies or contracts for such period or periods as the Trustee may think fit. The Trustee may also agree, from time to time, with the Insurer concerned for any Policy or contract to be varied or modified. Subject to the Relevant Law, in addition to or in substitution of any contract of insurance or Annuity, the Trustee may provide for Benefits in respect of one or more of death, Terminal Medical Condition and Incapacity.

(b) A Policy shall be on such terms and conditions as may be approved by the Trustee and the Trustee shall pay all premiums, and receive from the Insurer all payments, refunds and other moneys, in respect of the Policy and shall dispose of all moneys so received in accordance with the Deed.

(c) If at any time:

(i) the Trustee is of the opinion that it is not reasonably practicable to obtain insurance or an increase in insurance or to maintain insurance in respect of a Member under a Policy or in the event that the Fund is self-insuring, to fund the Benefits it has determined to self-insure in respect of death, Terminal Medical Condition, or Incapacity, on terms acceptable to the Trustee; or

(ii) pursuant to the Policy, the Insurer, for any reason whatsoever, fails to provide or increase or reduces, terminates or withholds insurance in respect of a Member or refuses to admit a claim for the whole or part of the insurance effected in respect of a Member, or if the Trustee does not receive from the Insurer all or part of any Insurance proceeds payable in respect of a Member,

any Benefit payable to or in respect of the Member pursuant to the Deed shall be reduced to the extent that insurance is not obtained, increased or maintained or is not provided or increased or is reduced or terminated or that claim is not admitted in respect of the Member, as the case may be, or, where insurance is withheld or Insurance proceeds payable are not received by the Trustee from the Insurer, shall be adjusted accordingly.

4.6 Members' Accounts

(a) For the purpose of determining the Benefits to which an Accumulation and Pension Section Member may become entitled, the Trustee shall establish and maintain or

cause to be established and maintained a Member's Account in respect of each Accumulation and Pension Section Member.

(b) A Member's Account shall contain an amount equal to the sum of:

(i) contributions made in respect of the Accumulation and Pension Section Member by the Member's Employer after deduction of such Tax, duty or other impost (if any) as the Trustee determines to be or that may become payable in relation to such contributions;

(ii) contributions by the Accumulation and Pension Section Member pursuant to sub-clause 3.6, after deduction of such Tax, duty or other impost (if any) as the Trustee determines to be or that may become payable in relation to such contributions;

(iii) contributions received in respect of an Accumulation and Pension Section Member pursuant to sub-clause 3.7, after deduction of such Tax, duty or other impost (if any) as the Trustee determines to be or that may become payable in relation to such amounts;

(iv) any amount received and applied by the Trustee in respect of the Accumulation and Pension Section Member pursuant to sub-clause 4.7(b) or sub-clause 4.11;

(v) any other amount held or applied for the benefit of the Accumulation and Pension Section Member pursuant to the Deed;

(vi) interest at the Fund Crediting Rate (if positive); and

(vii) any other contributions permitted by this Deed and the Relevant Law,

less the sum of:

(viii) the amount of such provision (if any) as the Trustee may make for the payment of:

(A) such Tax, duty or other impost in relation to the income of the Fund or otherwise as the Trustee may determine; and

(B) administration or other expenses, fees or costs;

(ix) the cost of any Insured Benefits provided in respect of an Accumulation and Pension Section Member under a Policy, or any sum allocated by the Trustee to fund insurance of Members where the Fund is wholly or partly self-insuring;

(x) that part of any Benefit paid to or in respect of the Accumulation and Pension Section Member;

(xi) interest at the Fund Crediting Rate (if negative);

(xii) any amounts transferred to the Member's Pension Account pursuant to sub-clause 4.9(c)(i);

(xiii) such amount as is referred to in a Release Authority given by a Member or Beneficiary to the Trustee, and which is paid by the Trustee to the Member or

Beneficiary or to the Commissioner in accordance with such Release Authority; and

(xiv) any other amount reasonably determined by the Trustee having regard to the provisions of the Deed.

4.7 General Reserve Account

(a) There shall be established by the Trustee in connection with the Fund a General Reserve Account and the Trustee may credit to such Account:

(i) such portions of Contributions as the Trustee may, from time to time, determine to be necessary to provide for payment of the expenses of the Fund;

(ii) income arising from the investments of the General Reserve Account and the accumulation thereto;

(iii) any moneys receivable by the Trustee in trust for the General Reserve Account pursuant to the Deed;

(iv) any accretions to or profits on realisation of investments in the General Reserve Account;

(v) any other moneys assets or investments which are payable to the General Reserve Account or become subject to the trusts thereof;

(vi) any moneys not required for the payment of Benefits in accordance with the Deed; and

(vii) any other amounts which the Trustee decides shall be so credited as permitted (or not prohibited) by this Deed or the Relevant Law,

and the Trustee shall debit any loss realised and arising from the sale of investments in the General Reserve Account and shall also debit to the General Reserve Account any amounts paid from the said Account pursuant to sub-clause 4.7(b).

(b) The Trustee may, subject to the Relevant Law but otherwise at its discretion, apply the General Reserve Account for any or all of the following purposes:

(i) for payment of administration, insurance and other expenses of the Fund;

(ii) subject to a particular Member's investment choice to augment the retirement Benefits of Members in proportion to their respective interests in the Fund;

(iii) to provide additional individual Benefits other than retirement Benefits for Members on an equitable basis;

(iv) to adjust investment returns in accordance with any reserving policy in respect of a particular investment option determined by the Trustee from time to time;

(v) to provide such retirement or individual Benefits to such Members who were, up to 1 July 1993, apprentices and in respect of whom, as a class,

contributions were received by the Fund and which remain in the General Reserve as the Trustee may, in its discretion, determine;

(vi) to allocate to a Reserve Account established under sub-clause 4.8; and

(vii) for any other purpose which the Trustee decides the General Reserve Account shall be applied for as permitted (or not prohibited) by this Deed or the Relevant Law.

(c) The Trustee shall only allocate a Benefit to the credit of a Member if such allocation is made in compliance with the Relevant Law.

4.8 Other Reserve Accounts

(a) The Trustee may (and must if required by the Relevant Law) establish in connection with the Fund one or more other Accounts as reserve accounts.

(b) Subject to the Relevant Law, the Trustee may determine the purposes for which a Reserve Account established under sub-clause (a) may be used, and the credits, debits or other adjustments that may be made to that Reserve Account.

4.9 Pension Accounts

(a) Where a Member has made an application under sub-clause 5.9A(a) and the Trustee determines to pay a Pension or Pensions to the Member, the Trustee must establish one or more Pension Accounts in respect of the Pensioner.

(b) For the purposes of financing a Pension or any part of a Pension to be paid from the Fund, the Trustee may purchase or acquire an Annuity in respect of the Member payable to the Trustee.

(c) The Trustee shall credit the following amounts to the Pension Account of a Pensioner:

(i) any amount transferred from the Pensioner's Member Account which the Trustee determines is necessary in order to provide the Pension;

(ii) any amount received and applied by the Trustee in respect of the Pensioner pursuant to sub-clause 4.7(b) or sub-clause 4.11;

(iii) interest at the Fund Crediting Rate (if positive); and

(iv) such other amounts as are:

(A) specified in the Pension Regulations; or

(B) reasonably determined by the Trustee having regard to the provisions of the Deed and which are permitted by the Relevant Law.

(d) The Trustee shall debit the following amounts to the Pension Account of a Pensioner:

(i) any amount transferred out of the Fund in respect of the Pensioner pursuant to sub-clause 4.12(a) which the Trustee reasonably determines should be debited to the Pension Account;

(ii) payments made to or in respect of the Pensioner or a Reversionary Beneficiary under this Deed, including the proceeds of any commutation of the relevant Pension;

(iii) the cost of any Annuity effected by the Trustee in respect of the Pensioner which is not debited to a Member's Members' Account;

(iv) the amount of such provision (if any) as the Trustee may make for the payment of:

(A) such Tax, duty or other impost in relation to the income of the Fund or otherwise as the Trustee may determine; and

(B) administration or other expenses;

(v) such amount as is referred to in a Release Authority given by a Pensioner to the Trustee and which is paid by the Trustee to the Pensioner or to the Commissioner in accordance with such Release Authority;

(vi) interest at the Fund Crediting Rate (if negative); and

(vii) such other amounts as are specified in the Pension Regulations or reasonably determined by the Trustee having regard to the provisions of the Deed.

(e) The Trustee must not permit a Pension Account to be added to by way of a Contribution or in any other manner prohibited under the Relevant Law after payment of a Pension has commenced from that Pension Account.

(f) In relation to Pensions payable from the Fund, the Trustee:

(i) may segregate or set apart the assets which represent the Pension Accounts of the relevant Pensioners for the sole purpose of enabling the discharge of the whole or part of the current liabilities in relation to the payment of Superannuation Income Stream Benefits as those liabilities fall due for payment and obtain such certificates in relation to the adequacy of the assets segregated and set apart to meet the current pension liabilities as the Trustee considers appropriate for the purposes of the Tax Act or as the Relevant Law may require; and

(ii) where the Trustee segregates assets for the purposes of sub-clause 4.9(c)(i), the Trustee must at such times as required by the Relevant Law or otherwise as set out in the Pension Regulations, review the value of the assets so segregated for the purposes of ensuring the value of the assets is sufficient to discharge the Fund's current liabilities in relation to the payment of Superannuation Income Stream Benefits. Where the value of the segregated assets is not sufficient or is more than sufficient to discharge the Fund's current liabilities in relation to the payment of Superannuation Income Stream Benefits, the Trustee may take such action in relation to those assets as is permitted by the Relevant Law and must take such action as is required by the Relevant Law.

(g) Where the Trustee determines to pay a Pension from the Fund, the Trustee must obtain such certification, at such times and in such form from an actuary in relation to the Pension or the Fund as is required by the Relevant Law.

4.10 Other Accounts

The Trustee may establish such other Accounts or such Accounts as it shall determine from time to time to be necessary or convenient for the administration of the Fund and the Trustee may change the name of any Account established pursuant to this clause.

4.11 Transfer from an Approved Benefit Arrangement

Subject to the Deed, and on such terms as the Trustee determines, the Trustee may receive, from any Approved Benefit Arrangement, moneys in respect of a Member's interest in that Approved Benefit Arrangement and shall apply the same to the Fund and for the purpose of providing Benefits for or in respect of that Member on a basis determined by the Trustee. The moneys so received in respect of a Member shall be credited to the Member's Retirement Credit (where appropriate) and the Trustee shall advise the Member in writing. Any arrangement under this clause shall comply with the Relevant Law.

4.12 Transfer to an Approved Benefit Arrangement

(a) Where a Member becomes a participant in an Approved Benefit Arrangement or where a Member is eligible to join any Approved Benefit Arrangement the Trustee may where requested by the Member pay or transfer to the trustees or other person responsible for the Approved Benefit Arrangement the whole or a part of the Member's Retirement Credit (in relation to an Accumulation and Pension Section Member) or Benefit (in relation a Defined Benefit Member, subject to their Employer's consent) (**"Transferred Amount"**) as determined by the Trustee. The Trustee may impose such conditions as it thinks fit in relation to the Member's request and shall comply with the Relevant Law in relation to the payment of a Transferred Amount.

(b) A Member or former Member in respect of whom a Transferred Amount is paid under this clause shall not be entitled to any other Benefit from the Fund in respect of the Transferred Amount and the Trustee is discharged of all liability to and in respect of that amount. The Trustee is not bound to inquire as to the application of any Transferred Amount.

(c) In the case of a person who is presently entitled to a Benefit but who has not made application to the Trustee for an immediate Benefit from the Fund or there remains payable from the Fund after the Member has left the employ of the Employer a preserved Benefit then in lieu of providing all or part of that Benefit from the Fund the Trustee may at the request of the Member pay or transfer to any Approved Benefit Arrangement an amount representing the value of the Benefit determined by the Trustee.

4.13 Compulsory Transfers

Where required by the Relevant Law, the Trustee shall transfer such part of the Benefits of a Member:

(a) to another Approved Benefit Arrangement for application by the trustee or other person responsible for that Approved Benefit Arrangement; or

(b) to such other person as required by the Relevant Law.

4.14 Successor Fund Transfer

The Trustee may transfer the whole or part of the Benefits, held on behalf of a Member, to an Approved Benefit Arrangement without the request or consent of the Member where the Approved Benefit Arrangement is a successor fund within the meaning of the Relevant Law. The Trustee may transfer the Member's Benefits to such an Approved Benefit Arrangement whether or not the Member is at the time of the transfer a participant in that Approved Benefit Arrangement.

4.15 [Deleted].

4.16 Family Law

(a) Subject to the following provisions of this sub-clause, despite any other provisions of this Deed, the Trustee is empowered to undertake and complete any actions in relation to the Fund or the Benefits or Benefit Entitlement of any Member or Beneficiary required in accordance with the *Family Law Act 1975,* regulations made under that Act and any other provisions of the Relevant Law which govern superannuation and family law (**"Relevant Family Laws"**) including to:

(i) establish a new interest in the Fund;

(ii) transfer the interest of a spouse to an Approved Benefit Arrangement;

(iii) upon satisfaction of a condition of release, pay moneys from the Fund to the spouse.

(b) The Trustee may at any time, and from time to time, elect under this paragraph for the purposes of the Relevant Family Laws that this Deed will not have operation to permit the Trustee to establish a new interest in the Fund from the interest of a Member or Beneficiary upon the request by the Spouse of the Member or Beneficiary under the Relevant Family Laws. The Trustee may at any time, and from time to time, determine to revoke any such election.

5. BENEFITS IN THE ACCUMULATION AND PENSION SECTION

DIVISION ONE – ADMINISTRATION OF BENEFITS

5.1 Benefit Events

(a) Subject to the Deed and the Relevant Law, the Benefits of the Fund applicable to Accumulation and Pension Section Members shall be as specified in or determined in accordance with Division Two of this clause 5 and only become payable on the happening of the events prescribed in that clause. Subject to the Relevant Law, any decision of the Trustee as to whether a Benefit is payable, and regarding the amount, form and application of any Benefit, is final and conclusive against all persons.

(b) The Trustee shall not pay a Benefit if the payment results in the Trustee or an Employer contravening any Relevant Law. If the Trustee believes that the payment of an Accumulation and Pension Section Member's Benefit is contravening or will contravene any Relevant Law, the Trustee may:

(i) where applicable, reduce the contributions payable in respect of the Accumulation and Pension Section Member; or

(ii) subject to the Relevant Law, transfer an amount from the Accumulation and Pension Section Member's Account to a Reserve Account; or

(iii) apply a combination of sub-clauses 5.1(b)(i) and 5.1(b)(ii);

as it considers appropriate.

5.2 Application for Benefits

Subject to the Relevant Law, Benefits shall only become payable after application by the person claiming such Benefit made in such form and within such period as the Trustee may prescribe either generally or in a particular case. Every person in receipt of, or claiming, a Benefit from the Fund shall produce to the Trustee such information and evidence as the Trustee may require in order to satisfy itself that the Benefit is properly payable in accordance with the Deed and the Trustee is empowered to:

(a) withhold or suspend payment of that Benefit or refuse to consider any claim hereunder until such time as that person provides such information and evidence to its satisfaction; and

(b) determine facts, disputes and issues concerning the Fund and act on evidence that the Trustee considers satisfactory.

5.3 Adjustment of Benefits

In the event that there are any Taxes, management, administration and other expenses attributable to a particular Benefit, the Trustee may, if it considers it appropriate so to do and subject to the Relevant Law, deduct the amount of such Taxes, management, administration and other expenses from such Benefit and pay only the residual amount of that Benefit.

5.4 Preservation of Benefits

(a) Subject to sub-clause 5.4(b), if in the Trustee's opinion, in order to comply with the Relevant Law in relation to the preservation of Benefits, all or any portion of a Benefit is required to be preserved until the Accumulation and Pension Section Member attains a particular age or until the occurrence of a particular event or circumstance in relation to the Accumulation and Pension Section Member, that Benefit or the portion thereof shall be deferred in the Fund until the attainment by the Accumulation and Pension Section Member of that age or the occurrence of such event or circumstance or until transferred from the Fund in accordance with this Deed.

(b) Notwithstanding any other provision of this Deed, Benefits shall be preserved until:

(i) the Accumulation and Pension Section Member retires from Gainful Employment at or after attaining Preservation Age; or

(ii) on the occurrence of a particular event or circumstance in relation to the Accumulation and Pension Section Member as permitted by the Relevant Law.

(c) Notwithstanding any other provision of this Deed, the Trustee may determine to pay an Accumulation and Pension Section Member an amount of Benefits which are preserved Benefits within the meaning of the Relevant Law in any circumstances permitted by the Relevant Law including, without limitation:

(i) severe financial hardship; and

(ii) payments on compassionate grounds.

5.5 Payment of Death Benefit

Interpretation

(a) In this clause 5.5:

(i) all references to Member mean an Accumulation and Pension Section Member;

(ii) "**Death Benefit Rules Changeover Date**" means the date determined by the Trustee to be the Death Benefit Rules Changeover Date for the purposes of sub-clause 5.5;

(iii) "**grant of probate**" includes a reference to any grant, seal, reseal, confirmation or any other document or instrument issued by a court (in any jurisdiction including outside of Australia) which, in the opinion of the Trustee, is equivalent to a grant of probate or otherwise provides authority for the administration of the estate of a deceased person who left a will;

(iv) "**letters of administration**" includes a reference to any grant, seal, reseal, confirmation or any other document or instrument issued by a court (in any jurisdiction including outside of Australia) which, in the opinion of the Trustee, is equivalent to letters of administration or otherwise provides authority for the administration of the estate of a deceased person who died intestate;

(v) "**Notification Date**" means the date that the Trustee receives notice of the death of a Member in respect of whom a Death Benefit is or may be payable;

(vi) "**record of membership**" means the record maintained by the Trustee in respect of a Member which records, among other things, the personal information of the Member;

(vii) "**Relevant Circumstance**" means any circumstance or state of affairs, whether temporary or permanent, that the Trustee considers is the reason that a Member's Spouse does not reside with the Member on a permanent and bona fide domestic basis, including where the Spouse resides in an aged care facility.

Non-lapsing Binding Death Benefit Notices

(b) Subject to the Relevant Law, the Trustee may consent to a Member exercising a discretion regarding the payment of a Death Benefit to a person or persons, and in the proportions (if any), specified in a Non-lapsing Binding Death Benefit Notice given by the Member to the Trustee.

Trustee may accept or refuse to accept certain death benefit notices

(c) The Trustee may, at any time, determine to accept or refuse to accept one or more of the following types of notice from one or more categories of Members:

(i) Non-lapsing Binding Death Benefit Notices;

(ii) Binding Death Benefit Notices;

(iii) Non-binding Death Benefit Notices,

provided that no new or renewed Binding Death Benefit Notices or Non-binding Death Benefit Notices will be accepted by the Trustee on or after the Death Benefit Rules Changeover Date.

Consent to a Non-lapsing Binding Death Benefit Notice

(d) If the Trustee receives a completed Non-lapsing Binding Death Benefit Notice from a Member and records the nomination or nominations in the notice in the Member's record of membership, the Trustee will be taken to have consented to the exercise by that Member of the discretion referred to in clause 5.5(b).

Payment of Death Benefits in accordance with binding death benefit notices

(e) Subject to clauses 5.5(g) and 5.5(h), the Relevant Law and the Pension Regulations, if the Trustee receives from a Member a Binding Death Benefit Notice, or a Non-lapsing Binding Death Benefit Notice to which the Trustee has consented in accordance with clause 5.5(d), the Trustee must pay any Death Benefit that becomes payable upon the death of that Member in accordance with the notice if the notice has not been revoked and is otherwise in effect.

Revocation of binding death benefit notices

(f) A Binding Death Benefit Notice or Non-lapsing Binding Death Benefit Notice is revoked when:

(i) the relevant Member expressly revokes the notice by giving the Trustee notice in such form or manner the Trustee considers appropriate, and such revocation will be effective on the date the Trustee receives the notification; or

(ii) the Trustee receives a subsequent Binding Death Benefit Notice or Non-lapsing Binding Death Benefit Notice, in which case the earlier Binding Death Benefit Notice or Non-lapsing Binding Death Benefit Notice is revoked on the date the Trustee receives the later Binding Death Benefit Notice or Non-lapsing Binding Death Benefit Notice.

Circumstances in which the Trustee is not required to pay a Death Benefit in accordance with a Non-lapsing Binding Death Benefit Notice

(g) The Trustee is not required to pay a Death Benefit in accordance with a Non-lapsing Binding Death Benefit Notice to which the Trustee has consented in accordance with clause 5.5(d) in any of the following circumstances:

(i) the Trustee is subject to a court order that the Trustee considers has the effect of restraining or prohibiting the Trustee from paying the Death Benefit in accordance with the notice;

(ii) as at the date of death of the deceased Member, any person nominated in the notice is not a Legal Personal Representative or a Dependant of the deceased Member;

(iii) the notice nominates more than one person and the proportion of the Death Benefit to be paid to any person nominated is not certain, sufficiently clear or readily ascertainable from the notice.

(h) The Trustee is not required to pay a Death Benefit in accordance with a Non-lapsing Binding Death Benefit Notice to which the Trustee has consented in accordance with clause 5.5(d) if the Trustee has actual knowledge of the occurrence of any of the following life events, in relation to the relevant Member, after the Member completed the Non-lapsing Binding Death Benefit Notice and before the Member's death:

(i) a person becoming a Spouse of the Member;

(ii) a person ceasing to be a Spouse of the Member;

(iii) a person becoming a Child of the Member; and

(iv) the conception of a biological child of the Member.

Payment of Death Benefit other than in accordance with a binding death benefit notice

Trustee Discretion Clause

(i) If a provision of sub-clause 5.5 provides that a Death Benefit is payable under or in accordance with the 'Trustee Discretion Clause', the Death Benefit must be paid or applied to one or more of the following persons, to the exclusion of the other or others, and in such manner or proportions as the Trustee determines, namely to:

(i) the Member's Dependants provided that the Trustee may take cognisance of any particular Dependant nominated by the Member in a Non-binding Death Benefit Notice;

(ii) the Member's Legal Personal Representative; and

(iii) any other person to whom payment of the benefit is permitted under the Relevant Law.

Death Benefits payable under the Trustee Discretion Clause

(j) A Death Benefit is payable under the Trustee Discretion Clause if:

(i) the Trustee is not required to pay the Death Benefit in accordance with sub-clause 5.5(e);

(ii) the Notification Date is before the Death Benefit Rules Changeover Date (or the Death Benefit Rules Changeover Date has not been determined); and

(iii) at any time before the Member's death the Trustee had received from the Member a Non-binding Death Benefit Notice or Binding Death Benefit Notice (irrespective of whether the notice had subsequently been revoked or lapsed before the Member's death).

Order of Payment Clause

(k) If a provision of sub-clause 5.5 provides that a Death Benefit is payable under or in accordance with the 'Order of Payment Clause', the Death Benefit must be paid or applied in the following order of priority:

(i) If the deceased Member had a Spouse at the date of the Member's death who, in the opinion of the Trustee, prior to the date of death:

(A) ordinarily resided with the Member on a permanent and bona fide domestic basis; or

(B) absent any Relevant Circumstance, would have resided with the Member on a permanent and bona fide domestic basis,

then to that Spouse.

(ii) If the deceased Member did not have a Spouse at the date of the Member's death who satisfies the other conditions of sub-clause 5.5(k)(i), then to any surviving Child of the deceased Member or Children of the deceased Member in equal shares.

(iii) If the deceased Member did not have a Spouse at the date of the Member's death who satisfies the other conditions of sub-clause 5.5(k)(i) and had no surviving Child, then to the deceased Member's Legal Personal Representative if the Legal Personal Representative has obtained a grant of probate or letters of administration in relation to the estate of the deceased Member.

(iv) If the deceased Member did not have a Spouse at the date of the Member's death who satisfies the other conditions of sub-clause 5.5(k)(i) and had no surviving Child, and the deceased Member's Legal Personal Representative has not obtained a grant of probate or letters of administration in relation to the estate of the deceased Member, and:

(A) the total value of the Death Benefit is less than $100,000 (or such other amount determined by the Trustee);

(B) the Trustee determines in its discretion to pay the Death Benefit to the Legal Personal Representative on such terms and conditions as it sees fit, which may require that the Legal Personal Representative sign a deed in a form approved by the Trustee releasing the Trustee from liability in relation to the payment of the Death Benefit; and

(C) the Legal Personal Representative satisfies such terms and conditions,

then to the Legal Personal Representative.

(v) If the deceased Member did not have a Spouse at the date of the Member's death who satisfies the other conditions of sub-clause 5.5(k)(i) and had no surviving Child, and the deceased Member's Legal Personal Representative has not obtained a grant of probate or letters of administration in relation to the estate of the deceased Member, and sub-clause 5.5(k)(iv) does not apply,

then to any person or persons, and in such manner and proportions, as the Trustee determines in its absolute discretion, as permitted by Relevant Law.

(vi) If the Trustee determines that the Death Benefit or any part of the Death Benefit cannot be paid in accordance with sub-clauses 5.5(k)(i), (ii), (iii), (iv) or (v), then to the Commissioner of Taxation as permitted by the Relevant Law.

Death Benefits payable under the Order of Payment Clause

(l) A Death Benefit is payable under the Order of Payment Clause if the Trustee is not required to pay the Death Benefit in accordance with sub-clause 5.5(e) and:

(i) the Notification Date is before the Death Benefit Rules Changeover Date (or the Death Benefit Rules Changeover Date has not been determined) and the benefit is not required to be paid under the Trustee Discretion Clause; or

(ii) the Notification Date is on or after the Death Benefit Rules Changeover Date.

Discharge of Trustee in payment of Death Benefit

(m) If the Trustee pays the whole or part of a Death Benefit to a Legal Personal Representative of a deceased Member the receipt of the benefit by the Legal Personal Representative will be a complete discharge to the Trustee in respect of any money paid thereto and the Trustee will not be bound to see to the application thereof.

Member's attorney may give the Trustee a binding death benefit notice on behalf of the Member

(n) The Trustee may accept Binding Death Benefit Notices and Non-lapsing Binding Death Benefit Notices made by an attorney on behalf of a Member pursuant to a power of attorney, including an enduring power of attorney, made in accordance with any state or territory law of Australia.

Advancement of benefits

(o) Notwithstanding that the Trustee has yet to make a determination as to whom it shall pay a Member's Death Benefit pursuant to sub-clause 5.5 and subject to Relevant Law, the Trustee may advance such amount of the Member's Death Benefit as the Trustee may, in its absolute discretion, reasonably determine.

5.5A Transfer of Instructions on Fund Transfer

(a) Where an Accumulation and Pension Section Member has become a member of the Fund on the completion of a successor fund transfer (**Fund Transfer**) of the members and assets of another fund (**Former Fund**) to the Fund, the Trustee may accept any instruction, nomination or election (however so described) provided to the trustee of the Former Fund by the Accumulation and Pension Section Member with respect to the management or administration of the Accumulation and Pension Section Member's account (**Instruction**) prior to the effective date of the Fund Transfer for the purposes of this Deed (in particular, clause 5.5 of this Deed), provided that:

(i) the Instruction is valid and in effect as at the date of the Fund Transfer; and

(ii) the trustee of the Former Fund would have been required to comply with its terms had the Fund Transfer not occurred.

(b) An Instruction which is, or is expressed to be, valid for a specified period of time which is accepted by the Trustee in accordance with this clause 5.5A will be taken to be a notice given to the Trustee by the relevant member of the Former Fund on the date it was given to the trustee of the Former Fund.

5.6 Minors and Infirm Persons

(a) In this sub-clause 5.6, **"beneficiary"** means any person under a legal disability, including a minor.

(b) The Trustee may apply the Benefit to which a beneficiary is entitled or any part of that Benefit towards the maintenance, education or advancement or otherwise for the benefit of the beneficiary and for that purpose may pay any moneys or transfer any property to any person who, in its opinion, is a trustee for, or has the custody or control for the time being of, the beneficiary and at such times and in such amounts as it determines. The receipt of such a person is a sufficient discharge to the Trustee and the Trustee is not bound to see to the application thereof.

(c) Where only part of the Benefit to which a beneficiary is entitled is applied pursuant to sub-clause 5.6(b), the Trustee shall invest the remainder of that Benefit and shall treat the income as an accrual to the Benefit to which the beneficiary is entitled.

(d) The Trustee is not under any duty to have recourse to the powers under this sub-clause or to consider whether recourse should be had to that power notwithstanding the Trustee's actual knowledge of the beneficiary.

5.7 [Not used]

5.8 Retention of Benefit in Fund

Where an Accumulation and Pension Section Member does not require Benefits to be immediately paid, the Trustee may in its absolute discretion retain all or any part of any Benefit payable in the Fund until:

(a) the Member entitled requests that it be paid to that Member;

(b) the Member dies in which event it will be paid in accordance with clause 5.5;

(c) the payment of the Benefit is required in accordance with the provisions of this Deed or the Relevant Law; or

(d) the Trustee elects for whatever reason to pay the Benefit to the Member,

whichever shall first occur and the amount then payable shall be the amount of that Member's Retirement Credit as at the date of payment.

5.9 Time for Payment or Commencement of Benefits

Notwithstanding any other provision of this Deed which may be construed to the contrary, the Benefits of an Accumulation and Pension Section Member must be cashed, or commence to be cashed within the meaning of the Relevant Law as soon as practicable after:

(a) the death of the Member; or

(b) the Relevant Law otherwise requires the Benefits of the Member to be cashed or commenced to be cashed.

5.9A Pensions and Annuities

(a) Subject to the Relevant Law, at such time as a Benefit or part of a Benefit becomes payable to an Accumulation and Pension Section Member in accordance with the terms of this Deed or in accordance with the Relevant Law, the Trustee may on the application of the Member determine:

(i) to pay a Pension or Pensions from the Fund to the Member on the terms and conditions set out in the Pension Regulations and this Deed, which Pension or Pensions may be paid in lieu of the whole or a portion of any lump sum Benefit which is otherwise payable to the Member;

(ii) to expend, subject to the Relevant Law, the Benefit payable from the Fund in the purchase or acquisition of an Annuity or Annuities in the name of the Member to provide to the Member the right to an income stream(s) payable from the Annuity provider of the form and types determined under sub-clause 5.9A(c), which Annuity or Annuities may be paid in lieu of the whole or a portion of any lump sum Benefit which is otherwise payable to the Member.

(b) The Trustee has the power, exercisable by resolution, to make, amend or revoke regulations from time to time setting out the form and types of Pensions or Annuities which will be provided under sub-clause 5.9A, and the terms and conditions on which such Pensions and Annuities will be provided.

(c) For the purposes of sub-clause 5.9A(a), the Member may request the Trustee to pay and the Trustee may pay a Pension or Pensions in any form and of any type which is acceptable to the Regulator and is within the requirements of the Pension Regulations and the Relevant Law.

DIVISION TWO – ENTITLEMENT TO BENEFITS

5.10 Retirement or Attainment of Preservation Age

(a) The Benefit payable to an Accumulation and Pension Section Member who retires from Gainful Employment on or after attaining the Preservation Age shall be the amount of the Member's Retirement Credit in a form requested by the Member, as permitted by the Relevant Law and approved by the Trustee, and including one or more lump sums or Pensions or both.

(b) Subject to the Relevant Law, an Accumulation and Pension Section Member who reaches Preservation Age shall be entitled to a Benefit of such amount up to the amount of the Member's Retirement Credit as shall be requested by the Member in such form as is permitted by the Relevant Law and approved by the Trustee.

5.11 Death

Subject to this Deed, the Benefit payable in relation to the death of an Accumulation and Pension Section Member shall be the sum of:

(a) the Accumulation and Pension Section Member's Retirement Credit; and

(b) the amount of any Insured Benefit, if any, received in respect of the Accumulation and Pension Section Member.

A Benefit may become payable in relation to the death of a Accumulation and Pension Section Member under clause 5.11(a) on a different date from the date on which a Benefit becomes payable in relation to the death of a Member under clause 5.11(b).

5.12 Permanent Incapacity

Subject to this Deed, the Benefit payable to an Accumulation and Pension Section Member who suffers Permanent Incapacity shall be the sum of:

(a) the Member's Retirement Credit; and

(b) the amount of the Insured Benefit, if any, received in respect of the Member.

A Benefit may become payable to a Member under clause 5.12(a) on a different date from the date on which a Benefit becomes payable to the Member under clause 5.12(b).

5.13 Temporary Incapacity

Subject to this Deed and the Relevant Law, the Benefit payable in relation to an Accumulation and Pension Section Member who suffers Temporary Incapacity, shall be the amount of any Insured Benefit, if any, provided in respect of the Member, which Insured Benefit is payable in accordance with the terms of the relevant Policy.

5.14 Terminal Medical Condition

Subject to this Deed and the Relevant Law, the Benefit payable in relation to an Accumulation and Pension Section Member who suffers a Terminal Medical Condition shall be the sum of:

(a) the Member's Retirement Credit; and

(b) the amount of the Insured Benefit, if any, received in respect of the Member.

A Benefit may become payable to a Member under clause 5.14(a) on a different date from the date on which a Benefit becomes payable to the Member under clause 5.14(b).

5.15 Circumstances permitted by Relevant Law

The Trustee may determine to pay a Benefit to or in respect of an Accumulation and Pension Section Member in any other circumstance permitted by the Relevant Law. The amount of the Benefit will be the amount of the Member’s Retirement Credit and the Insured Benefit, if any, provided in respect of the Member in the relevant circumstances, and the Benefit will be paid in accordance with the requirements of the Relevant Law and on any other terms and conditions that the Trustee may impose.

6. ADMINISTRATION

6.1 Accounts and Audit

(a) The Trustee shall arrange for:

(i) the keeping of accounts of all moneys received into and disbursed from the Fund and of all dealings in connection with such moneys;

(ii) the collection, and prompt payment into an authorised account of the Fund or the otherwise appropriate dealing with all moneys due to the Fund;

(iii) the keeping and safe custody of all records, books, accounts, minutes, reports and other documentation as may be required by the Relevant Law or otherwise in proper order, and the retention of such records, books, accounts, minutes, reports and documents for such period as is required by the Relevant Law;

(iv) the preparation of an annual balance sheet of the Fund, a statement of financial position, an operating statement or such accounts and statements in respect of each Fund Year as are required by the Relevant Law; and

(v) the preparation and lodgement of an annual return to the Regulator and of such other certificates, statements, forms, documents and information in such manner and within such time as is required by the Relevant Law.

(b) The Trustee shall:

(i) make suitable arrangements for the auditing of the accounts, books and relevant records of the Fund by its Auditor in accordance with the Relevant Law; and

(ii) obtain from its Auditor a certificate at such time and in such form as required by the Relevant Law.

(c) When requested by the Trustee, an Employer shall give to the Trustee all information in its power or possession which may, in the opinion of the Trustee, be necessary or expedient for the management and administration of the Fund. The Trustee may act upon any information given to it by an Employer pursuant to this Deed and shall not unless required by Relevant Law be required to verify that information.

6.2 Fund Earning and Crediting Rates

(a) The Trustee shall, for any purpose determine a Fund Earning Rate from time to time in relation to Earnings of the Fund for each Fund Year or part of a year or as required by the Trustee.

(b) The Trustee shall from time to time for the purpose of crediting, debiting or altering the Member's Retirement Credit or calculating Benefits determine in its absolute discretion a Fund Crediting Rate for each Fund Year or part of a year or as required by the Trustee on a prospective interim or retrospective basis.

6.3 Notices and Information

(a) Every person when making application to become a Member shall be entitled to be supplied with a copy of this Deed upon request.

(b) Without limiting sub-clause 6.3(d), the Trustee must ensure that Members and Beneficiaries are provided with information at the times and in the manner required by Relevant Law.

(c) A notice given for the purpose of the Deed shall be deemed to have been validly given if it is given personally to the person to be served or if posted by prepaid ordinary mail addressed to the last known address and, where so posted, shall be deemed to be given three days after the date of posting.

(d) The Trustee shall give:

(i) each Member;

(ii) each Employer;

(iii) the Auditor;

(iv) the Regulator;

(v) the trustee of any Approved Benefit Arrangement to which a Benefit is transferred; and

(vi) any other person,

the information which is required to be given under the Relevant Law at a particular time.

(e) Sub-clause 6.3 is in addition to and not in derogation of the duty and Powers of the Trustee to keep the Members informed.

(f) No accidental failure or omission to give information, as aforesaid, shall affect the validity of any act or proceeding.

6.4 Privacy

In accordance with the Relevant Law, the Trustee will hold, and treat as confidential, all records and information it may hold, receive or become aware of in its capacity as Trustee in relation to Employers, Members or Beneficiaries and shall not disclose or make known any such records or information to any third party except as may be required in relation to the administration of the Fund or to facilitate the provision of services or Benefits to Members or as may be required by the Relevant Law or as it may otherwise be lawfully required to do except that a Member may authorise the Trustee to release information pertaining to that Member to a third party.

6.5 Taxation

(a) In addition to any other Powers conferred by the Trust Deed or otherwise, where the Trustee is, or believes that it will become, liable for any Tax in respect of:

(i) the receipt of contributions, deemed contributions or transfers to the Fund;

(ii) the holding or disposal of the assets of the Fund;

(iii) the receipt of income or gains of the Fund;

(iv) any payment out of the Fund;

(v) any transaction or document whatsoever concerning the Fund;

the Trustee may:

(A) deduct an amount equal to the Tax or an amount which is a fair and reasonable estimate of the Tax from those contributions, transfers, assets, income, gains or payment as it thinks proper; and

(B) set aside and retain the Tax in the Fund upon trust for ultimate payment, or pay the Tax, to the relevant authority.

(b) Any amount which would otherwise be, or deemed to be, contributed, transferred, credited, allocated or otherwise set apart in respect of a Member or other person must be reduced or otherwise adjusted in the manner and to the extent that the Trustee determines to be appropriate in taking account of the Tax referred to in sub-clause 6.5.

(c) Notwithstanding any other provision of this Deed, the Trustee may, if applicable and subject to the Relevant Law, adjust any Benefits which are payable or may become payable from the Fund to or in respect of a Member to take account of:

(i) any Tax; or

(ii) any other matter relating to Tax that the Trustee considers it is fair and reasonable to take into account in respect of particular Members or Members generally; and

to the extent that no adjustment has been made in respect of that Tax or other matter under any other provision of this Deed.

(d) The Trustee may at any time recalculate the Tax in respect of a person who is or has been a Member.

(e) If the Tax in respect of a Member, as recalculated, is less than the Tax in respect of that person as previously determined, the Trustee may:

(i) if the person remains a Member on the recalculation date, allocate the difference to the accumulated credit of the Member; or

(ii) if the person is not a Member on the recalculation date, pay an amount equal to the difference to the person from the Fund.

(f) If the Tax in respect of a Member, as recalculated, exceeds the Tax in respect of the person as previously determined, the Trustee may:

(i) if the interest of the person in the Fund at the recalculation date is equal to or greater than the additional Tax, deduct the amount of the additional Tax from that person's interest; or

(ii) if the interest of the person in the Fund at the recalculation date is less than the additional Tax, deduct the amount of the additional Tax from that interest and the shortfall constitutes a debt immediately due and payable by that person to the Trustee and the Trustee may sue for that debt.

(g) If a person fails to provide any information as may be required by the Deed within 14 days of being requested to do so, the Trustee may determine the Tax in respect of that person on the basis of any assumptions which in the circumstances are reasonable and the person has no claim against the Trustee or the Fund for any loss suffered as a result of any such assumptions being incorrect.

(h) Where a person makes or has made a statement to the Trustee that is:

(i) in the opinion of the Trustee, relevant to the Trustee's determination of Tax in respect of the person; and

(ii) reasonably believed by the Trustee to be untrue or misleading either by mis-statement or omission,

then the Trustee may recalculate the Tax in respect of the person having regard to what the Trustee reasonably considers to be the true circumstances of the person.

(i) The Trustee may make provision and will deduct any surcharge or other amount of whatever description levied on the Fund, pursuant to the *Superannuation Contributions Tax Imposition Act 1997* and related legislation (including provisional or advance payments required under that legislation).

6.6 Dispute Resolution

(a) If any dispute or doubt, whatsoever, arises as to the interpretation of the Deed or as to the rights of a Member, the Employer or any other person hereunder, then (except to the extent provided in the Deed) the decision of the Trustee is final and conclusive against all persons subject to any overriding Powers of a court or the Authority.

(b) If the Relevant Law requires, the Trustee shall ensure a procedure is in force under which:

(i) any person entitled to a Benefit from the Fund may inquire into, or complain about, the operation or management of the Fund in relation to that person; and

(ii) enquiries or complaints will be considered and dealt with within 90 days after they were made, or such shorter period (if any) as required by Relevant Law.

6.7 Amendment

(a) Subject to this sub-clause 6.7 and the Relevant Law, the Trustee may, by supplemental deed or resolution, amend, add to, revoke or replace all or any of the provisions of the Deed including the provisions of this clause other than the provisions of sub-clause 6.7(b) with effect from such date (whether before, on or after the date on which the supplemental deed is executed or the resolution is made) as may be specified in that deed or resolution. In the absence of express specification, the date of the execution of the deed or making of the resolution shall be deemed to be the date specified in that deed or resolution. Each such amendment, addition, revocation or replacement is binding on each Employer, each Member and any other person claiming under or bound by the Deed.

(b) No amendment, addition, revocation or replacement shall be made which adversely affects a Member's right or claim to accrued Benefits, or the amount of those accrued Benefits, unless it is consistent with the Relevant Law.

(c) An amendment, addition, revocation or replacement may not authorise the making of any payment to an Employer out of the Fund unless it is consistent with the Relevant Law.

(d) The Trustee shall notify each Employer and each Member of every amendment, addition, revocation or replacement to, or of, the trusts of the Deed or part hereof in accordance with the Relevant Law.

(e) Subject to sub-clause 6.7(f), if a Member or other person is notified of an amendment, addition, revocation or replacement to or of the trusts of the Deed or part hereof by notice in writing given to the Member by the Trustee either before or within 31 days after the date the relevant deed is executed or the relevant resolution is made, and the Member does not within 31 days of that notice being given to the Member advise the Trustee by notice in writing that the Member does not consent to that amendment, addition, revocation or replacement, the Member is deemed to have consented thereto on the date the relevant deed is or was executed or the relevant resolution made.

(f) Notwithstanding sub-clause 6.7(e), if written notice of an amendment, addition, revocation or replacement to, or of, the trusts of the Deed or part hereof is given to all Members either before or within 31 days after the date the relevant deed is executed or the relevant resolution made and less than 10% of the Members notify the Trustee in writing of their objection to that amendment, addition, revocation or replacement within 90 days of that notice being given to them, each and every Member is deemed to have consented to that amendment, addition, revocation or replacement on the date the relevant deed is or was executed or the relevant resolution made.

(g) Unless the Relevant Law permits, no amendment, addition, revocation or replacement shall be made which will enable an individual person or persons to be appointed Trustee either in addition to or in substitution for a Constitutional Corporation.

6.8 Closure of Fund

(a) The Trustee may declare in writing that the Fund shall be closed on a date specified by it (**"Closure Date"**) where:

(i) the Trustee decides that the Fund should be closed; or

(ii) it appears to the Trustee that the Fund is insolvent.

(b) On and from the Closure Date, the following provisions and sub-clause 6.8(c) shall apply:

(i) the Trustee shall notify the Employers and Members of the closure;

(ii) no further Eligible Persons may apply to become or be admitted as Members;

(iii) no further contributions are payable to the Fund, other than contributions due up to the Closure Date;

(iv) all arrears of contributions shall be called in.

(c) As soon as practicable after the Closure Date, and after making such allowance as the Trustee considers appropriate for the costs and expenses incurred and likely to be incurred in terminating the Fund, the Trustee, to the extent that the Fund is sufficient to do so, shall make such provisions from or within the Fund as it considers necessary to provide for payment in full of the following Benefits and in the following order of priority:

(i) all Benefits which had become payable to or in respect of any person prior to the Closure Date but which have not yet been fully paid;

(ii) Benefits which were required to be preserved in the Fund in respect of Members who ceased service prior to the Closure Date;

(iii) minimum Benefits which are required to be paid in respect of Members under the Relevant Law in respect of contributions by an Employer made in satisfaction of the SGA Act;

(iv) all Benefits (excluding any amount payable under sub-clause 6.8(c)) which would be payable in respect of Members assuming all Members were eligible to retire on the Closure Date;

(v) such additional Benefits (if any) as the Trustee determines.

(d) Any amount remaining in the Fund after the abovementioned provisions have been made including the satisfaction of all expenses including taxation shall be realised and the proceeds distributed by the Trustee to the Members or at the Trustee's sole discretion to such former Members as the Trustee deems to be fair and equitable.

(e) If, notwithstanding the preceding provisions of this clause, the Fund or any provisions made as aforesaid should at any time prove to be insufficient to provide in full the Benefits described in sub-clause 6.8(c)(iv), all Benefits then remaining unpaid shall be reduced in such manner and proportions as the Trustee deems to be fair and equitable.

(f) Subject to compliance with the preservation requirements of the Relevant Law, any Benefit provided pursuant to this clause:

(i) may be provided in such form as the Trustee determines; and

(ii) is in lieu of and in full satisfaction of any Benefit which, but for this clause would otherwise have been or become payable pursuant to this Deed,

and all decisions of the Trustee as to the amount, form and method of provision of Benefits pursuant to this clause are final and binding on all persons.

6A. MEDIA SUPER DIVISION MEMBERS

(a) Subject to clause 6A(b):

(i) with effect on and from the Media Super Transfer Date, the Trustee shall designate each Former Media Super Fund Member as a Media Super Division Member within the Accumulation and Pension Section in respect of each category of Membership, product or investment strategy, unless otherwise agreed with the respective Member or the Former Media Super Fund Trustee; and

(ii) on and from the Media Super Transfer Date, the Trustee may designate such other Member as a Media Super Division Member in respect of one or more categories of Membership, products or investment strategies as the Trustee determines.

(b) The Trustee may in its discretion determine at any time that any Member is no longer a Media Super Division Member in respect of one or more categories of Membership, products or investment strategies.

(c) Except as expressly provided in clause 6B in respect of Former Media Super Fund Members, all of the provisions of the Deed apply to Media Super Division Members.

(d) The Media Super Division Members from time to time shall constitute the 'Media Super Division'.

6B SPECIAL RULES FOR FORMER MEDIA SUPER FUND MEMBERS

6B.1 Member investment choice

Without limiting the Trustee's powers under clause 4.3, the Trustee may (but is not obliged to) allow a Former Media Super Fund Member to direct the Trustee, or vary such a direction, to invest in one or more of the investment strategies made available for participation by the Trustee (such direction called a **"Member Investment Choice"**), in which case the Trustee must act in accordance with such a Member Investment Choice, subject to the following:

(a) where permitted by the Relevant Law, the Trustee may from time to time without the approval of Members (including Former Media Super Fund Members):

(i) close, terminate or suspend an investment strategy;

(ii) impose terms, conditions and restrictions in relation to the closure, termination or suspension of an investment strategy; and

(iii) where an investment strategy is terminated, transfer the amount of a Former Media Super Fund Member's Account invested in the terminated investment strategy to one or more other investment strategies as determined by the Trustee; and

(b) in respect of a Member Investment Choice, the Trustee may in its absolute discretion:

(i) delay, stagger or place limits or restrictions on a withdrawal or switch from an investment strategy for any reason;

(ii) pay a withdrawal, transfer or switch from an investment strategy by instalments;

(iii) prior to carrying out the Member Investment Choice, seek evidence of the Former Media Super Fund Member's consent to the direction;

(iv) impose rules, terms, conditions or restrictions **("Member Investment Choice Rule")** on the manner in which a Member Investment Choice may be made, including in relation to:

(A) the maximum and minimum amount that may be invested (initially or at any time) in an investment strategy by a Former Media Super Fund Member or a class or group of Former Media Super Fund Members;

(B) the maximum and minimum amount that may be withdrawn from an investment strategy by a Former Media Super Fund Member or a class or group of Former Media Super Fund Members;

(C) the time or times, and the frequency in relation to which a Member Investment Choice may be made;

(D) the date on which a Member Investment Choice will take effect; and

(E) the fees that can be charged in relation to such a Member Investment Choice (including a fee for switching between investment strategies);

(v) at any time vary any Member Investment Choice Rule without the approval of the Former Media Super Fund Member, subject to the Relevant Law; and

(vi) if a Former Media Super Fund Member who is allowed a Member Investment Choice fails to exercise his or her Member Investment Choice within the time or manner specified by the Trustee, determine the default investment strategy or investment strategies into which the Member's Accounts are to be invested and, if there is more than one investment strategy, the proportion of the Member's Accounts that are to be invested in each investment strategy.

6B.2 Deemed consent does not apply

Sub-clause 6.7(e) does not apply in respect of Former Media Super Fund Members.

7. INTERPRETATION

7.1 Interpretation

(a) Notwithstanding any other provision of the Deed, if there is a conflict between a provision of the Deed and any Relevant Law, the Relevant Law shall prevail.

(b) In the Deed, unless the contrary intention appears:

(i) a reference to a clause or a provision thereof shall be read as a reference to that clause or provision as amended from time to time;

(ii) a reference to a statute or a provision thereof shall be read as if the words "or any amendment or re-enactment thereof or provisions substituted therefor" were added thereto;

(iii) references to contributions and liability to contribute shall be read as references to contributions (if any) and liability (if any) to contribute;

(iv) each gender includes each other gender and the singular number includes the plural and vice versa;

(v) headings are inserted for ease of reference only and do not form part of the Deed and shall not affect its construction; and

(vi) whilst for convenience particular words or groups of words defined in sub-clause 7.1(b) commence with capital or lower case letters, failure to use capital or lower case letters in those words or groups of words elsewhere in the Deed does not of itself mean that those words or groups of words bear meanings different from the meanings assigned to them respectively in sub-clause 7.1(b).

(c) A reference in the Deed to the provision being subject to a particular standard is a reference to requirements of the relative standard applicable to the operation of superannuation funds which has been prescribed by the Relevant Law.

(d) Any provision of this Deed which is void, prohibited or unenforceable in a jurisdiction (whether by reason of the Relevant Law or otherwise) is ineffective in that jurisdiction to the extent only that the provision is void, prohibited or unenforceable in that jurisdiction. Any provision which is so ineffective shall not invalidate the remaining provisions of this Deed.

(e) Subject to the Relevant Law:

(i) where a provision is ineffective under sub-clause 7.1(d), the Trustee shall determine the effect and interpretation of the remaining provisions of this Deed; and

(ii) the Trustee's determination shall be final, conclusive and binding on all interested persons.

(f) The governing Law relative to the Deed and the Fund shall be that applicable in the State of Victoria but that in the event of a conflict between the Relevant Law and a Law of the State of Victoria, the Relevant Law will prevail.

(g) The Deed is required to be interpreted so that it complies with the governing Law. If any provision of this Deed does not so comply with such Law then the provision must be read down to give effect to the provision as far as possible. If it is not possible to give effect to the provision then it shall be deemed to be severed from the rest of the Deed.

7.2 Definitions

In the Deed, unless the contrary intention appears:

"Account" means one or more accounts established pursuant to the Deed in relation to a Member or as a reserve;[2]

"Accumulation and Pension Member" means a Member admitted to the Accumulation and Pension Section;

"Accumulation and Pension Section" means the part of the Fund designated by the Trustee to form the Accumulation and Pension Section;

"Accumulation and Pension Section Rules" means sub-clauses 4.6, 5, 6A and 6B, and such other rules as may be determined by the Trustee from time to time;

"Active Employment" in relation to a Member means Gainful Employment by a Member to his or her normal duties as an Employee of an Employer at his or her usual place of employment and includes any period of authorised leave;

"Annuity" has the meaning given to it in the Relevant Law;

[2] This definition is referenced in the Treasury Payment Deed (as that term is defined in the Defined Benefits Section Rules). Any future changes to this definition should consider the impact on the Treasury Payment Deed.

"Approved Benefit Arrangement" means a fund or Benefit arrangement, other than the Fund, including without limitation another superannuation fund, an approved deposit fund and a deferred Annuity to which a payment may be made from the Fund, or from which a payment may be accepted into the Fund, without causing the Fund to be in breach of or to fail to comply with any applicable requirement under the Relevant Law;

"Auditor" means a person or persons eligible to act as an auditor in accordance with the Relevant Law or a firm of such persons appointed by the Trustee pursuant to sub-clause 6.1;

"Authority" means the Australian Financial Complaints Authority established under the *Treasury Laws Amendment (Putting Consumers First – Establishment of the Australian Financial Complaints Authority) Act 2018* (Cth) or such other complaints handling or dispute resolution body applicable to the Fund under the Relevant Law;

"Award" includes an award or other industrial instrument applicable to the terms of a Member's employment with an Employer;

"Benefit" includes a single lump sum, a series of lump sums, a Pension and an allowance payable by the Trustee out of the Fund to or in respect of a Member or a Beneficiary;

"Beneficiary" means a person presently and absolutely entitled to receive a Benefit at the relevant time which shall include a Pensioner but which shall not include a person who is a Member at that time unless the Benefit to which the Member is entitled has arisen in relation to another Member of the Fund;

"Binding Death Benefit Notice" means a notice given by a Member to the Trustee which:

(a) is in a form approved by the Trustee;

(b) complies with the requirements of the Relevant Law applicable to the giving of a notice by a Member to the Trustee requiring the Trustee to provide any Benefits in respect of the Member, on or after the death of the Member, to the Legal Personal Representative or a Dependant of the Member;

(c) was given by the Member to the Trustee after receipt by the Member of such information as the Trustee is required to give to the Member under the Relevant Law;

(d) requires the Trustee to pay Benefits arising on the death of the Member to a person or persons specified in the notice, being the Legal Personal Representative and/or a Dependant or Dependants of the Member; and

(e) is not a Non-lapsing Binding Death Benefit Notice; and

(f) is at the relevant time in effect for the purposes of the Relevant Law,

and includes any nomination accepted by the Trustee pursuant to clause 5.5A of this Deed;

"Child", in relation to a Member or a former Member, includes:

(a) an adopted child, a stepchild or an ex-nuptial child of the Member or former Member; and

(b) a child of the Member or former Member within the meaning of the Family Law Act 1975,

but does not include a child whom the Member or former Member, or the Spouse of the Member or former Member, gave up for adoption and who has been lawfully adopted by a third person; further, for the avoidance of doubt, a stepchild ceases to be a Child of a Member or former Member on the first of the following events occurring:

(i) the death of the natural parent of the stepchild;

(ii) the separation of the natural parent of the stepchild and the Member or former Member in the event they were in a de facto spousal relationship; and

(iii) the divorce of the natural parent of the stepchild and the Member or former Member;

"Commissioner" means the Commissioner of Taxation or any duly appointed delegate;

"Contributions" means gross payments to the Fund by Members, Spouses of Members, Employers and other persons in respect of Members in accordance with the provisions of this Deed prior to the deduction of any Tax payable in respect of those Contributions;[3]

"Death Benefit" means in relation to a Member who dies the death benefit determined in accordance with sub-clause 5.11;

"Deductible Contributions" means deductible contributions within the meaning of the Tax Act;

"Deed" means the trust deed by which the Fund was established and is governed under (as amended from time to time);

"Defined Benefit Member" means a Member admitted to the Defined Benefits Section;

"Defined Benefits Section" means the part of the Fund designated by the Trustee to form the Defined Benefits Section;

"Defined Benefits Section Rules" means the rules contained in the document titled "Section 2 to the Cbus Trust Deed: Defined Benefits Section Rules" including all Annexures to those rules;

"Dependant" in relation to a Member, Beneficiary or former Member (in this definition referred to as the "primary person") means:

(a) the Spouse or the widow or widower of the primary person; or

(b) a Child of the primary person; or

(c) any person with whom the primary person has or, where the primary person is deceased, had at the time of the deceased primary person's death, an interdependency relationship within the meaning given to that term in the Relevant Law at the relevant time; or

(d) any person whether or not related to the primary person by blood or marriage who, in the opinion of the Trustee, is or was wholly or partially dependent on the primary person at the relevant time;

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[3] This definition is referenced in the Treasury Payment Deed (as that term is defined in the Defined Benefits Section Rules). Any future changes to this definition should consider the impact on the Treasury Payment Deed.

"Directors" means the directors for the time being of the Trustee and **"Director"** has a corresponding meaning;

"Earnings" for the purpose of calculating the Fund Earning Rate, comprises all Fund investment income (or losses) derived over the period (including interest, dividends, distributions, realised and unrealised gains and losses, rental income and other sundry income) net of operating and investment expenses incurred over the same period including any taxation expense (or benefit) incurred during that period. Earnings shall exclude contribution revenue and insurance proceeds and exclude benefits paid, contributions tax, surcharge tax or other taxes related to these contributions and benefits. Such earnings shall be calculated in accordance with relevant accounting standards and other authoritative guidance;

"Eligible Person" means any person who:

(a) is engaged in Gainful Employment as a Self-Employed Person or Employee of an Employer; or

(b) the Trustee determines either generally or in a particular case is eligible to apply for Membership of the Fund; or

(c) is otherwise permitted to become a Member of the Fund under this Deed and shall include a Spouse of an Eligible Person, Member or other person;

"Employed" in relation to a Member, includes such periods when a Member is an Employee and such periods prescribed by the SGA Act and any Award or enterprise agreement applicable to that Member;

"Employee" means a person in the employment of an Employer within the meaning of the Relevant Law and includes a person that an Employer may deem to be an Employee for such period and on such terms and conditions as it shall determine for the purposes of the Employer making Contributions in order to avoid liability for the superannuation guarantee charge under the SGA Act;[4]

"Employer" means:

(a) a person who, with the approval of the Trustee, executed a participation agreement in accordance with sub-clause 2.1; or

(b) a person who, by execution of an appropriate participation agreement with the approval of the Trustee, was substituted for an Employer within the meaning of paragraph (a) above; or

(c) any other person who, with the approval of the Trustee, has been admitted to participate in the Fund without having to execute a participation agreement pursuant to the provisions of sub-clause 2.1; or

(d) a person who makes a contribution to the Fund without having then applied to become an Employer under sub-clause 2.1, and who the Trustee determines to accept as an Employer,

in any case not being a person who has ceased to be an Employer as provided in sub-clause 2.6 and, where used in relation to a Member or former Member, means the Employer or

[4] This definition is referenced in the Treasury Payment Deed (as that term is defined in the Defined Benefits Section Rules). Any future changes to this definition should consider the impact on the Treasury Payment Deed.

Employers by whom the Member or former Member is for the time being or was at the relevant time Employed;[5]

"Employer Body" means an organisation representing the interests of an Employer or Employers in accordance with the Relevant Law;

"Former Media Super Fund" means the superannuation fund known as Media Super and which was governed by a trust deed dated 28 January 1981, as amended;

"Former Media Super Fund Member" means a person who was a member or beneficiary of the Former Media Super Fund immediately before the Media Super Transfer Date and who has been admitted to Membership of the Fund by the Trustee under this Deed on the Media Super Transfer Date;

"Former Media Super Fund Trustee" means the trustee of the Former Media Super Fund, being Media Super Limited;

"Fund" means the fund referred to in sub-clause 4.1, the name of which is "Cbus";

"Fund Crediting Rate" means the crediting rate for the Fund determined under sub-clause 6.2 for purposes of adjustment to the Member's Retirement Credit or calculating a Benefit;

"Fund Earning Rate" means the earning rate for the Fund (which may be negative) determined under sub-clause 6.2 after taking into account such provisions or reserves for future contingencies as the Trustee shall consider reasonable;

"Fund Member Body" means a trade union or a nominee of the Australian Council of Trade Unions representing the interests of Members in accordance with the Relevant Law;

"Fund Year" means a period of 12 months ending on 30 June, or such other period ending on such other date as the Trustee from time to time may determine;

"Gainful Employment" in relation to a Member means engagement in any business, trade, profession, vocation, calling, occupation or employment for gain to the extent required by the Relevant Law and **"Gainfully Employed"** shall have a corresponding meaning;

“General Reserve Account” means the account established under sub-clause 4.7;

“Incapacity” means ill-health, disablement, or incapacity of any kind including Temporary Incapacity and Permanent Incapacity;

"Insurer" means any insurer with whom the Trustee effects a Policy or Policies;

"Insured Benefit" means the proceeds of any Policy effected by the Trustee on the life of a Member or in respect of the Incapacity of a Member;

"Law" means any statute or regulation of the Commonwealth of Australia or of any State or Territory of Australia;

“Legal Personal Representative" has the same meaning as in the SIS Act;

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[5] This definition is referenced in the Treasury Payment Deed (as that term is defined in the Defined Benefits Section Rules). Any future changes to this definition should consider the impact on the Treasury Payment Deed.

"Media Super Division Member" means a Member designated by the Trustee as a Media Super Division Member pursuant to clause 6A;

"Media Super Transfer Date" means the 'Transfer Date' as that term is defined in the Deed of Transfer dated 29 July 2021 between the Trustee and the Former Media Super Fund Trustee, as amended;

"Member" means an Eligible Person who has been admitted as a Member of the Fund in accordance with the provisions of sub-clause 3.1 and who has not ceased to be a Member and **"Membership"** shall have a like meaning;

"Member's Account" in relation to an Accumulation and Pension Section Member is the account maintained by the Trustee under sub-clause 4.6;

"Member's Retirement Credit" in relation to a Member or former Member means the amount standing to the credit of the Member in the Member's Account and, where applicable, the Member's Pension Account;

"MySuper Product" has the same meaning as in the SIS Act;

"Non-binding Death Benefit Notice" means a written notice given to the Trustee by a Member which:

(a) is in a form approved by the Trustee and meets any requirements of the Relevant Law and any requirements determined by the Trustee;

(b) nominates one or more persons to receive a Death Benefit in respect of a Member and may nominate the proportions in which the Death Benefit is to be paid if more than one person is nominated; and

(c) is not a Binding Death Benefit Notice or a Non-lapsing Binding Death Benefit Notice;

"Non-lapsing Binding Death Benefit Notice" means a notice given to the Trustee by a Member which:

(a) nominates one or more persons to receive a Death Benefit in respect of a Member and the proportions in which the Death Benefit is to be paid if more than one person is nominated;

(b) is in a form approved by the Trustee (including in an electronic form) and in accordance with any requirements set out in the Relevant Law or determined by the Trustee from time to time;

(c) directs the Trustee to pay a Death Benefit arising on the death of the Member to a person or persons specified in the notice, being the Legal Personal Representative and/or a Dependant or Dependants of the Member, in the proportions specified;

(d) is intended by the Member to direct the Trustee to pay a Death Benefit in respect of the Member in accordance with the notice if the Trustee consents in accordance with sub-clause 5.5(d); and

(e) is not a Binding Death Benefit Notice or Non-binding Death Benefit Notice,

and includes any nomination accepted by the Trustee pursuant to clause 5.5A of this Deed;

"Pension" means a pension payable under clause 5.9A;

"Pension Account" in relation to a Pensioner is the account maintained by the Trustee under sub-clause 4.9;

"Pension Regulations" means regulations in effect from time to time under sub-clause 5.9A(b);

"Pensioner" means a Member who is entitled to receive, and to whom the Trustee has determined to pay, a Pension from the Fund, including a Reversionary Beneficiary in receipt of a Pension;

"Permanent Incapacity" has the meaning ascribed to it in the *Superannuation Industry (Supervision) Act 1993*;

"Policy" means any policy of insurance or assurance including a policy on the life of a Member for endowment, term or Terminal Medical Condition, for Incapacity, accident, disease, disorder or sickness, and effected either as an individual policy or as a group policy, and includes any policy covering any two or more of the foregoing risks, and it further includes any such policy which provides that payments made under the policy are, in some or all circumstances, payable to the Trustee;

"Pool B Transfer Date" means 12 May 2023;

"Power" means a power, right, discretion or authority of whatsoever nature and, wherever a Power is conferred on the Trustee, an Employer, a delegate of the Trustee or any other person or persons, the relevant provision of the Deed shall be read as if the words "at any time or from time to time" were added thereto;

"Preservation Age" means the age of a Member who is entitled under the Relevant Law to obtain a release of some or all of their Benefits;

"Reference Period" has the meaning ascribed to it in clause 1.7(e);

"Regulator" means the Commissioner of Taxation, the Australian Prudential Regulation Authority, the Australian Securities & Investments Commission, the Australian Transaction Reports and Analysis Centre, the Chief Executive Medicare or any other regulatory body responsible for administering the Laws or any other rules governing superannuation funds or the availability of income tax concessions to superannuation funds;

"Release Authority" means a release authority given to the Trustee under section 292-410 of the Tax Act;

"Relevant Law" means:

(a) any requirements, covenants, standards, prudential standards or directions under the *Superannuation Industry (Supervision) Act 1993*, the *Superannuation Industry (Supervision) Regulations 1994*, the *Corporations Act 2001*, the *Corporations Regulations 2001*, the *Financial Sector (Collection of Data) Act 2001*, the former *Occupational Superannuation Standards Act 1987*, the former *Occupational Superannuation Standards Regulations 1987*, the *Superannuation (Resolution of Complaints) Act 1993*, the *Family Law Act 1975*, *the Family Law (Superannuation) Regulations 2001, the Bankruptcy Act 1966,* the Tax Act and any other present or future legislation which the Trustee must comply with in order for the Fund:

(i) to qualify for concessional Taxation treatment as a Complying Superannuation Fund; or

(ii) avoid any penalty, detriment or disadvantage which is or may become payable or imposed in connection with the Fund or anything done or to be done under this Deed; or

(iii) to meet any other requirements of the Regulator; and

(b) in relation to a Pension payable or which may become payable from the Fund which the Trustee and the Pensioner have agreed will meet the requirements of an assets test exempt pension under the *Social Security Act 1991* – the relevant provisions of that Act; and

(c) in relation to the collection, holding, use and disclosure of personal information – the requirements under the *Privacy Act 1988*,

and includes any proposed requirements, covenants, standards, prudential standards, directions, rulings, announcements or obligations which the Trustee believes will have effect retrospectively;[6]

"Reserve Account" means the General Reserve Account referred to in sub-clause 4.7 and any Account established under sub-clause 4.8;

"Retired Member" means:

(a) a Member who has ceased Gainful Employment on or after attaining the Preservation Age and who ceases to be in the employ of an Employer; or

(b) a Member who has retired as defined by the Relevant Law for the payment of Benefits;

"Retirement Age" means age 65 or such other age as the Trustee may on its own or by agreement with an Employer from time to time determine in respect of any Member as is acceptable to or required by the Relevant Law;

"Reversionary Beneficiary" means a person who:

(a) is a Dependant of a Pensioner and who is nominated by the Pensioner at or before the commencement of a Pension to receive the Pension on the death of the Pensioner;

(b) remains a Dependant of the Pensioner at the time of death of the Pensioner; and;

(c) is eligible to be paid a benefit in the form of a pension under the Relevant Law;

"Review Period" has the meaning ascribed to it in clause 1.7(e);

"Self-Employed Person" means a person who is not an employee and who is Gainfully Employed;

"SGA Act" means the *Superannuation Guarantee (Administration) Act 1992*;

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[6] This definition is referenced in the EISS Payment Deed and the Treasury Payment Deed (as those terms are defined in the Defined Benefits Section Rules). Any future changes to this definition should consider the impact on the EISS Payment Deed and the Treasury Payment Deed.

"Shortfall Component" has the same meaning as in the SGA Act;

"SIS Act" means the *Superannuation Industry (Supervision) Act 1993;*

"Spouse" in relation to a Member or former Member means:

(a) a person legally married to the Member or former Member at the time of the Member's death in respect of which an entitlement to a Benefit may arise; and/or

(b) a person who, in the opinion of the Trustee, ordinarily lived with the Member or former Member on a permanent and bona fide domestic basis prior to the Member's death or any other event in respect of which an entitlement to a Benefit may arise; and

(c) a person defined as a "spouse" by the Relevant Law;

"Superannuation Guarantee Charge" means a charge or tax imposed on employers for non-compliance with the SGA Act;

"Superannuation Income Stream Benefit" has the meaning given to it by section 307-70 of the Tax Act;

"Tax" includes income tax, any surcharge or other amount of whatever description levied on the Fund, the Trustee, any Member, former Member or Beneficiary pursuant to the *Superannuation Contributions Tax Imposition Act 1997* and related legislation (including provisional or advance payments required under that legislation), capital gains tax, tax on eligible termination payments, payroll tax, land tax, goods and services tax, stamp duty and any other taxes or duties of whatever description paid or payable by the Trustee on behalf of the Fund or, where applicable, by any Member, former Member, or Beneficiary;

"Tax Act" means the *Income Tax Assessment Act, 1936* and *1997* (as amended) and any regulations issued under those Acts. All references to sections of the Tax Act in this Deed relate to the 1936 Act and accordingly, will correspond to the equivalent section (if any) in the 1997 Act;

"Tax File Number" has the meaning given to it by section 299W of the *Superannuation Industry (Supervision) Act* 1993;

"Temporary Incapacity" has the meaning ascribed to it in the *Superannuation Industry (Supervision) Regulations 1994*;

"Terminal Medical Condition" has the meaning ascribed to it in the *Superannuation Industry (Supervision) Regulations 1994*;

"Trustee" means the trustee, for the time being, of the Fund whether original, additional or substituted;

"Trustee Capital" has the meaning ascribed to it in clause 1.7(e);

"Trustee Fee" has the meaning ascribed to it in clause 1.7(e);

"Week" means the consecutive days beginning on a Monday and ending on a Friday; and, in relation to a Member, reference to part of a Week includes a Week in which employment commences or a Week in which employment ceases.

ANNEXURE

AMENDMENTS TO ORIGINAL FUND TRUST DEED DATED 29 MAY 1984

List of Amending Deeds	Date Executed	Effective Date (if specified)
1. Number One	27 July 1984	N/A
2. Number Two	4 March 1985	1 July 1984
3. Number Three	6 February 1986	N/A
4. Number Four	1 October 1986	N/A
5. Number Five	20 November 1986	28 December 1986
6. Number Six	19 February 1987	28 December 1986
7. Number Seven	20 August 1987	28 December 1986
8. Number Eight	5 September 1988	Clause 1.1, 1.2, 2.3 & 2.4 effective 22 December 1987 Clause 2.1 & 2.2 effective 1 August 1988
9. Number Nine	13 December 1988	1 January 1989
10. Number Ten	5 July 1990	1 July 1990
11. Number Eleven	30 August 1990	N/A
12. Number Twelve	11 April 1991	1 May 1991
13. Number Thirteen	27 November 1991	1 December 1991
14. Number Fourteen	25 May 1992	N/A
15. Number Fifteen	23 June 1992	23 June 1992
16. Number Sixteen	29 September 1992	Clause 1.1 & 1.2 effective 29 September 1992 Clause 2.1 effective 1 July 1992
17. Number Seventeen	1 July 1993	30 June 1993
18. Number Eighteen	28 June 1994	22 February 1994
19. Number Nineteen	5 September 1994	1 July 1994
20. Number Twenty	2 October 1995	N/A
21. Number Twenty-One	20 December 1996	19 December 1996

List of Amending Deeds	Date Executed	Effective Date (if specified)
22. Number Twenty-Two	22 August 1997	31 July 1997
23. Number Twenty-Three	30 June 1998	Clause 1(a) & (b) effective 1 July 1994 All other clauses effective 1 July 1997
24. Number Twenty-Four	5 April 2000	N/A
25. Number Twenty-Five	28 April 2003	28 April 2003
26. Number Twenty-Six	29 June 2007	1 July 2007
27. Number Twenty-Seven	31 March 2008	1 April 2008
28. Number Twenty-Eight	17 August 2010	17 August 2010
29. Number Twenty-Nine	12 December 2012	12 December 2012
30. Number Thirty	15 December 2015	15 December 2015
31. Number Thirty-One	24 December 2021	24 December 2021
32. Number Thirty-Two	22 March 2022	9 April 2022
33. Number Thirty-Three	11 May 2023	12 May 2023
34. Number Thirty-Four	20 November 2025	1 December 2025

SECTION 2 TO THE CBUS TRUST DEED
DEFINED BENEFITS SECTION RULES

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1. INTERPRETATION

1.1 Definitions

(a) In these Defined Benefits Section Rules, unless the contrary intention appears:

Aurecon Reserve means the reserve established under clause 3.5.[1]

EISS Payment Deed means the payment deed between Connell Wagner Pty Ltd (now known as Aurecon Australasia Pty Ltd), the EISS Trustee and the Crown in the right of the State of New South Wales, dated on or around January 2003, as novated to the Trustee with effect from the Pool B Transfer Date.

EISS Trust Deed means the trust deed dated 30 June 1997 which governed Pool B until the Pool B Transfer Date as last amended on 21 February 2023.

EISS Trustee means Energy Industries Superannuation Scheme Pty Ltd (ABN 72 077 947 285).

Eligible Employee means a person entitled to exercise a Transfer Option under the Mobility Rules.

Former Pool B Member means a person who was a Beneficiary (as defined in the EISS Trust Deed) of Pool B on the day immediately prior to the Pool B Transfer Date.[2]

Invalidity means a Member who ceases to be employed and the Trustee is satisfied that the cessation of employment is on the ground of permanent incapacity or permanent invalidity (not caused by any act or default of the Member intended to produce that incapacity or invalidity).

Minister means the Minister responsible for the administration of the *Superannuation Administration Act 1996* (NSW), which as at the Pool B Transfer Date is the Treasurer of New South Wales.

Mobility Rules means the rules adopted by the Trustee concerning mobility between superannuation schemes, as contemplated by section [128A] of the *Superannuation Administration Act 1996* (NSW).

Police Superannuation Scheme means the superannuation Scheme established under the *Police Regulation (Superannuation) Act 1906* (NSW).

Pool B means the superannuation fund known as the Energy Industries Superannuation Scheme Pool B (ABN 64 322 090 181 RSE R1004878).

Pool B Sub-Division means the sub-division of the Defined Benefits Section established under clause 2.1(b) which relates to Former Pool B Members.[3]

[1] This definition is referenced in the EISS Payment Deed. Any future changes to this definition should consider the impact on the EISS Payment Deed.

[2] This definition is referenced in the Treasury Payment Deed. Any future changes to this definition should consider the impact on the Treasury Payment Deed.

[3] This definition is referenced in the Treasury Payment Deed. Any future changes to this definition should consider the impact on the Treasury Payment Deed.

Pool B Sub-Division Rules means the rules applying to the Pool B Sub-Division as contained in sub-clause 2.2, clauses 3 and 4, Annexure 1, Annexure 2 and Annexure 3.[4]

State Authorities Non-contributory Superannuation Scheme means the superannuation scheme established under the *State Authorities Non-contributory Superannuation Act 1987* (NSW).

State Authorities Superannuation Scheme means the superannuation scheme established under the *State Authorities Superannuation Act 1987* (NSW).

State Superannuation Scheme means the superannuation scheme established under the *Superannuation Act 1916* (NSW).

Superannuation Contributions Surcharge means the Superannuation Contribution Surcharge imposed under the *Superannuation Contributions Impositions Act 1997* (Cth).

Transfer Day means 1 July 1997.

Transferred Member means:

(i) a Former Pool B Member who is admitted to membership of the Pool B Sub-Division under clause 2.2(a); and

(ii) a Member who is admitted to membership of the Pool B Sub-Division under clause 4.

Transfer Option means a right to transfer in or out of the Pool B Sub-Division, as the case may be, exercisable in accordance with the Mobility Rules.

Transfer Regulation means the *Superannuation Administration (Electricity Superannuation Scheme Transitional Provisions) Regulation 1997* (NSW), the *Superannuation Administration (Cbus Transitional Provisions) Regulation 2022* (NSW), and any other regulation made under sections 127B or 128A of the *Superannuation Administration Act 1996* (NSW) in relation to the transfer of employers or members to this Fund.

Treasury Payment Deed means the payment deed between the EISS Trustee and the Crown in the right of the State of New South Wales, executed on 3 December 2015, as novated to the Trustee with effect from the Pool B Transfer Date.

(b) Terms not defined in these Defined Benefits Section Rules have the same meaning as in the Deed.

1.2 Application of this Section

(a) These Defined Benefits Section Rules shall apply to all Members who are designated by the Trustee to be Defined Benefit Members.

(b) These Defined Benefits Section Rules must be read and construed and have the same force and effect as if set out in the Deed.

[4] This definition is referenced in the EISS Payment Deed and Treasury Payment Deed. Any future changes to this definition should consider the impact on the EISS Payment Deed and Treasury Payment Deed.

(c) If there is a conflict between these Defined Benefits Section Rules and the Deed, the Defined Benefits Section Rules prevail to the extent of the conflict.

2. MEMBERSHIP OF THIS SECTION

2.1 General

(a) The Trustee may from time to time establish Sub-Divisions within the Defined Benefits Section.

(b) As at the Pool B Transfer Date, the Trustee has established one Sub-Division in the Defined Benefits Section, known as the Pool B Sub-Division.

2.2 General rules for the Pool B Sub-Division

(a) A Former Pool B Member will be admitted to membership of the Pool B Sub-Division on and from the Pool B Transfer Date.

(b) A Former Pool B Member shall become a Member of the Pool B Sub-Division and their benefit entitlements shall be administered under one of the following categories of membership:

(i) Annexure 1 if they were a member under Schedule 2 of the EISS Trust Deed (Division B) in Pool B immediately prior to the Pool B Transfer Date; and

(ii) Annexure 3 if they were a member under Schedule 4 of the EISS Trust Deed (Division D) in Pool B immediately prior to the Pool B Transfer Date.

(c) For the avoidance of doubt, Annexure 2 will also apply to Former Pool B Members if they were entitled to an additional "Basic Benefit" under Schedule 3 (Division C) of the EISS Trust Deed immediately prior to the Pool B Transfer Date.

(d) Other than Members admitted under sub-clauses 2.2(a), 2.2(e) or 2.2(f) or clause 4, the Pool B Sub-Division is closed to new members, except that a Member referred to in clause 2.2(b)(ii) who was entitled to elect under section 2C of the *State Authorities Superannuation Act 1987* (NSW) to contribute to the fund established under that Act may elect to cease to be a Member under Annexure 3 and become a Member under Annexure 1.

(e) The Trustee may establish new categories of membership within the Pool B Sub-Division, but only with the approval of the Minister. The rules constituting the new category must be detailed in an Annexure.

(f) An authority, body or other entity approved by the Minister may make written application to the Trustee to become an Employer in the Pool B Sub-Division, in accordance with the rules in sub-clause 2.1 of the Deed.

(g) The Trustee may accept payment amounts from the Crown in the right of the State of New South Wales to the Pool B Sub-Division in accordance with the EISS Payment Deed or the Treasury Payment Deed.

(h) If any of the following events occur, the Trustee may, by notice to an Employer, terminate the participation of that Employer in the Pool B Sub-Division, or a category of membership within the Pool B Sub-Division (as applicable):

(i) if the Employer with the consent of the Minister terminates its Contributions to the Pool B Sub-Division, or a category of membership within the Pool B Sub-Division (as applicable);

(ii) the Employer ceases to carry on business or is placed in liquidation;

(iii) if there ceases to be any Members employed by that Employer in the Pool B Sub-Division, or a category of membership within the Pool B Sub-Division (as applicable); or

(iv) if a provision as to termination in an Employer's participation agreement made with the Minister's approval made for the purposes of clause 2.1 of the Deed applies.

(ha) If the Trustee issues a notice to an Employer pursuant to clause 2.2(h), then clauses 2.6(c) and (d) of the Deed apply as if the reference to clause 2.6(a) in clause 2.6(c) of the Deed, is a reference to clause 2.2(h) of these Defined Benefits Section Rules.

(i) Sub-clause 2.2(h)(i) does not apply where it is provided in the Employer's participation agreement made for the purposes of clause 2.1 of the Deed that it does not apply. A provision as to termination in such a participation agreement made with the Minister's approval may also confer on the Employer the right to terminate its participation in in the Pool B Sub-Division, or a category of membership within the Pool B Sub-Division (as applicable).

(j) If the Trustee changes in respect of the Pool B Sub-Division only, by way of a successor fund transfer of the Pool B Sub-Division, or otherwise, the approval of the Minister is required for the appointment of another constitutional corporation to take on trusteeship of the Former Pool B Members and Pool B Sub-Division assets at least 120 days prior to the day on which the vacancy occurs. Such consent is not to be unreasonably withheld.

(k) If the Trustee changes in respect of the Accumulation and Pension Section only, the Trustee must notify the Minister of the proposed change at least 90 days prior to the date on which the change is intended to occur.

(l) If the Trustee intends to retire as trustee of the Fund pursuant to clause 1.1 of the Deed:

(i) the Trustee must notify the Minister of the Trustee's intention to vacate the office of trustee at least 120 days prior to the day on which the retirement occurs;

(ii) the Trustee must consult with the Minister for the purposes of enabling the Minister to satisfy themselves that the replacement trustee is of good standing and repute and that there are no potential material adverse matters affecting the rights and entitlements of the Former Pool B Members or the Pool B Sub-Division assets in connection with the retirement of the Trustee; and

(iii) in the event the Minister identifies and subsequently notifies the Trustee of any potential material adverse matter affecting the rights and entitlements of Former Pool B Members or the Pool B Sub-Division assets in connection with the retirement of the Trustee, the Trustee must take into account such material adverse matter when making its determination that the retirement of the Trustee is in the best financial interests of the members of the Fund.

(m) If the office of Trustee becomes vacant or the Trustee retires by reason of a corporate reconstruction undertaken by the Trustee and the replacement trustee is a related body corporate of the Trustee or otherwise part of a group of related entities to which the Trustee belonged, the Trustee must notify the Minister of its intention to retire at least 90 days prior to the date on which the vacancy or retirement occurs.

(n) Subject to any duties of confidentiality or other legal obligations owed by the Trustee to a third party, the Trustee must furnish to the Minister the following information in relation to the Pool B Sub-Division:

(i) on request or on an annual basis, as determined by the Minister:

(A) all participation agreements (or other such documents) dealing with or governing the participation by an Employer in the Pool B Sub-Division as an employer, including funding of the superannuation benefits to which Members are or may be entitled from the Pool B Sub-Division;

(B) actuarial reviews and actuarial reports issued dealing with the Pool B Sub-Division;

(C) funding and insolvency certificates issued in respect of the Pool B Sub-Division;

(D) the funding and contribution policy applied by the Trustee in respect of the Pool B Sub-Division, setting out the required Employer contributions to the Pool B Sub-Division;

(E) the planned investment strategy, the current return on investments, and any investment report(s) provided to or prepared by the Trustee concerning the investments of the Fund referrable to the Pool B Sub-Division; and

(F) subject to section 1017C(4) of the *Corporations Act 2001* (Cth), any information the Trustee is required to provide to an employer-sponsor under sections 1017C(3) and 1017C(5) of that Act; and

(ii) on request by the Minister, and in any event within 30 days of the occurrence of:

(A) an Employer entering into a participation agreement which has not otherwise been provided to the Minister, that participation agreement;

(B) any material adverse change on the part of the Trustee which impacts its ability to pay the Benefits of Pool B Sub-Division Members from the Pool B Sub-Division assets, information about that material adverse change;

(C) any complaint from a Pool B Sub-Division Member not resolved within 90 days of receipt of the complaint, information about that complaint; and

(D) any requirement on the part of the Trustee to report a breach of its Australian Financial Service or Registrable Superannuation Entity licence conditions to the Regulator, a copy of such report, but only to the extent that it relates to the Pool B Sub-Division,

but such information should not include information relating to an individual Beneficiary without that Beneficiary's consent.

(o) In the event the Minister becomes aware of a matter which acting reasonably, causes the Minister to form a view that the Trustee may not be appropriately discharging all of its duties to the members or assets of the Pool B Sub-Division, the Minister may:

(i) seek information from time to time from the Trustee relating to:

(A) the member experience of Members of the Pool B Sub-Division;

(B) any matter concerned with the requirement of the Trustee to act in the best financial interests of Members of the Pool B Sub-Division;

(C) contributions which participating employers are required to make or which it is recommended that a participating employer makes to the Pool B Sub-Division and any omission on the part of a participating employer to make the required or recommended contributions, and employer funding of superannuation benefits of Members of the Pool B Sub-Division generally;

(D) the planned investment strategy, the current return on investments, and any investment report(s) provided to or prepared by the Trustee concerning the investments of the Fund referrable to the Pool B Sub-Division;

(E) the net defined benefit liabilities or assets (as applicable) of the Pool B Sub-Division, and any valuation of assets of the Pool B Sub-Division undertaken in accordance with clause 3.15;

(F) any change in the Trustee as contemplated by clauses 2.2(j), 2.2(k), 2.2(l) and 2.2(m); and

(ii) make written representations to the Trustee concerning the matters referred to above,

and the Trustee must provide the information so requested, and consider and respond to the representations made by the Minister, within 30 days of receipt of the request for information and the Ministerial representations (as applicable).

(p) If:

(i) the Trustee determines that it has become impracticable or inexpedient to continue the Pool B Sub-Division, or a category of membership within the Pool B Sub-Division; or

(ii) there are no Employers who are responsible to make contributions to the Pool B Sub-Division and the Trustee determines that it is not likely that any person will apply to become an Employer,

the Trustee may with the consent of the Minister, terminate the Pool B Sub-Division or a category of membership within the Pool B Sub-Division (as applicable) from a date agreed between the Trustee and the Minister (**Termination Date**). If the Pool B Sub-Division or a category of membership within the Pool B Sub-Division (as applicable) is to be terminated, the provisions of sub-clauses 2.2(q) and 2.2(r) apply.

(q) Upon termination of the Pool B Sub-Division or a category of membership within the Pool B Sub-Division (as applicable), the Trustee shall make such provision out of the assets relevant to the Pool B Sub-Division or category of membership within the Pool B Sub-Division (as applicable) as is necessary to provide for the following in the following order of priority:

(i) Tax, whether or not assessed or presently payable;

(ii) expenses of the Pool B Sub-Division or category of membership within the Pool B Sub-Division (as applicable), including those incurred or to be incurred by the Trustee in connection with the termination of the Pool B Sub-Division or category of membership within the Pool B Sub-Division (as applicable);

(iii) Benefits which became payable prior to the Termination Date; and

(iv) the Trustee shall continue to hold the assets of the Pool B Sub-Division or category of membership within the Pool B Sub-Division (as applicable) on trust for the Beneficiaries in accordance with the Deed until all Benefits have been paid and any assets remaining shall thereupon be applied as the Trustee, with the consent of the Minister, may determine.

(r) If after making the provisions set forth in sub-clause 2.2(q), the Trustee is of the opinion that the value of assets of the Pool B Sub-Division or category of membership within the Pool B Sub-Division (as applicable) exceeds the value of the liabilities then, subject to Relevant Law, the excess amount may be applied by the Trustee for any of the following purposes:

(i) to be repaid to an Employer relevant to the Pool B Sub-Division or category of membership within the Pool B Sub-Division (as applicable);

(ii) in increasing the provisions made for Beneficiaries of the Pool B Sub-Division or category of membership within the Pool B Sub-Division (as applicable) as at the Termination Date;

(iii) to be paid to the State of New South Wales; or

(iv) for such other purposes as the Trustee and Minister may agree.

(s) The Trustee is not permitted to make any amendment, addition, deletion or replacement provision in respect of sub-clauses 2.2(e) to 2.2(s), and 3.11 without the consent of the Minister.

2.3 Payment of death benefit

(a) The Trustee may, at any time, determine to:

(i) accept Binding Death Benefit Notices from one or more categories of Defined Benefit Members (**Accepted Category Member**); and

(ii) refuse to accept Binding Death Benefit Notices from one or more categories of Defined Benefit Members.

(b) Subject to the Deed, the Relevant Law and the Pool B Sub-Division Rules, the Trustee shall hold a Defined Benefit Member's death benefit upon trust:

(i) if and to the extent required by a Binding Death Benefit Notice given by an Accepted Category Member to the Trustee, to pay or apply the death benefit in accordance with that Binding Death Benefit Notice; or

(ii) otherwise, to pay or apply the Defined Benefit Member's death benefit to such one or more of the following persons to the exclusion of the other or others and in such manner or proportions as the Trustee determines, namely to:

(A) the Defined Benefit Member's Dependants provided that the Trustee may take cognisance of any particular Dependant nominated to the Trustee by the deceased Defined Benefit Member;

(B) the Defined Benefit Member's legal personal representative and the receipt of the legal personal representative shall be a complete discharge to the Trustee in respect of any money paid thereto and the Trustee shall not be bound to see to the application thereof; and

(C) any other person to whom payment of the Benefit is permitted under the Relevant Law.

(c) Any nomination by a Defined Benefit Member under sub-clause 2.3(b)(ii)(A) shall be made in writing and be in such form as the Trustee may, from time to time, accept. The Trustee shall be entitled, but in no way obliged, to act in respect of such a nomination.

(d) Notwithstanding that the Trustee has yet to make a determination as to who it shall pay a Defined Benefit Member's death benefit to pursuant to sub-clause 2.3 and subject to the Relevant Law, the Trustee may advance such amount of the Defined Benefit Member's death benefit as the Trustee may, in its absolute discretion, reasonably determine.

2.4 Information provided to Trustee

For the purposes of administering these Defined Benefits Section Rules, the Trustee shall be entitled to rely upon information provided to it by an Employer or Beneficiary or any other person acting at the request of or on behalf of an Employer or Beneficiary. The Trustee shall be indemnified by the Employer or Beneficiary who provided the information or at whose request or on whose behalf the information was provided in relation to any loss, damage or expense incurred by the Trustee arising as a result of any such information proving to be incorrect or misleading.

2.5 Trustee not obliged to pay

Subject to Relevant Law and the obligations under the Deed, except in the case of dishonesty or unless the Trustee has failed to show the degree of care and diligence required of a trustee having regard to the powers, authorities and discretions conferred on the Trustee by the Deed, in no event is the Trustee bound to make any payment to any person in connection with this Defined Benefits Section or liable to any person in connection with this Defined Benefits Section to any greater extent than:

(a) where the person is a Beneficiary, the assets of the pool from which that Beneficiary's Benefit is to be provided; and

(b) in any other case, the assets of the Defined Benefits Section.

2.6 Adjustment of benefits

The Trustee may, upon the advice of an actuary, adjust the Benefit payable to or in respect of a Member entitled to a Benefit under this Defined Benefits Section if their Employer does not make the Contributions which the actuary advises are necessary to ensure the financial stability of Benefits payable in respect of that Member.

3. SPECIAL RULES FOR FORMER POOL B MEMBERS

3.1 Rules of Pool B Sub-Division

At the Pool B Transfer Date, the rules set out in:

(a) Annexure 1 are intended to reflect the rights, benefits and entitlements of transferred members under the State Authorities Superannuation Scheme established under the *State Authorities Superannuation Act 1987* (NSW) and insofar as they apply to a transferred member the provisions of the following Acts or Regulations:

(i) *New South Wales Retirement Benefits Act 1972* (NSW);

(ii) *Local Government & Other Authorities (Superannuation) Act 1927* (NSW);

(iii) *Public Authorities Superannuation Act 1985* (NSW);

(iv) *Transport Employees Retirement Benefits Act 1967* (NSW); and

(v) Part 2, 3 and 6 of the *State Authorities Superannuation (Transitional Provisions) Regulations 1988* (NSW);

(b) Annexure 2 are intended to reflect the rights, benefits and entitlements of transferred members under the State Authorities Non-Contributory Superannuation Scheme established under the *State Authorities Non-Contributory Superannuation Act 1987* (NSW); and

(c) Annexure 3 are intended to reflect the rights, benefits and entitlements of transferred members under the State Superannuation Scheme established under the *Superannuation Act 1916* (NSW),

as at the time immediately before the Transfer Date, and where any person was transferred under a Transfer Regulation to Pool B on or after the Transfer Date and before the Pool B Transfer Date or is transferred under a Transfer Regulation to the Fund on or after the Pool B Transfer Date then the rights, benefits and entitlements of that Transferred Member under the Deed shall reflect the rights, benefits and entitlements of any of the Acts or Regulations mentioned in this clause as at the date of the transfer of that Transferred Member.

3.2 Protection of Former Pool B Members

Subject to any contrary provision of Relevant Law, these Defined Benefit Section Rules and the Pool B Sub-Division Rules are taken to include provisions to ensure that on the Pool B Transfer Date, a right that a Transferred Member had under a scheme from which a transfer was made pursuant to the Transfer Regulation is not removed or restricted and the Trustee shall apply the Defined Benefit Section Rules and the Pool B Sub-Division Rules as if any provision required to ensure this was so incorporated in the Defined Benefit Section Rules and the Pool B Sub-Division Rules.

3.3 Application of Defined Benefits Section Rules

Any right, entitlement or obligation including any Benefit in respect of a Former Pool B Member which is granted, imposed or calculated by reference to any date or period of time shall be granted, imposed or calculated from the date or by reference to the period which that right, entitlement or obligation was granted, imposed or calculated prior to the date of transfer to Pool B pursuant to the Act or Regulations which applied to that Former Pool B Member as if the transfer had not occurred.

3.4 No increase of rights

The Defined Benefit Section Rules and the Pool B Sub-Division Rules are not to be taken to increase or create any rights which a Former Pool B Member had or did not have under a former scheme from which a transfer was made to Pool B pursuant to the Transfer Regulation and the Trustee shall apply the Defined Benefit Section Rules and the Pool B Sub-Division Rules on that basis.

3.5 Establishment and operation of the Aurecon Reserve

(a) The Trustee will:

(i) create an Employer reserve for Aurecon Australasia Pty Ltd under sub-clause 2.4 of Annexure 1, sub-clause 2.2 of Annexure 2 and sub-clause 2.4 of Annexure 3;

(ii) determine that part of the assets (including the benefit of the EISS Payment Deed) in the Employer reserve which are attributable to Aurecon Australasia Pty Ltd; and

(iii) determine that part of the "Contributors Reserve" in Annexure 3 that is attributable to Contributors (as that term is defined in Annexure 3) who are or were employees of Aurecon Australasia Pty Ltd (other than such amounts transferred to a non-Aurecon reserve),

to be known as the Aurecon Reserve in the Pool B Sub-Division.

(b) The Aurecon Reserve is to be kept separate from all other reserves and the assets comprised in the Aurecon Reserve are available to be applied for the purposes of paying Benefits to Members or Contributors of this Pool B Sub-Division who have accrued benefits in this Pool B Sub-Division because of employment by Aurecon Australasia Pty Ltd and will not be available to meet any liabilities in respect of benefits payable to other Contributors or Members of this Pool B Sub-Division.

(c) If any Member or Contributor of this Pool B Sub-Division employed by Aurecon Australasia Pty Ltd ceases employment with Aurecon Australasia Pty Ltd and commences employment with another Employer, the Member's share of the Aurecon Reserve will be transferred to such other reserves of this Pool B Sub-Division as is appropriate and the Member will cease to have any right to payment out of the Aurecon Reserve.

(d) The Benefits of Members or Contributors whose entitlements are payable out of the Aurecon Reserve may not be increased without the written consent of Aurecon Australasia Pty Ltd unless such increase is required by Relevant Law.

(e) Once there are no Members or Contributors who have any right to payment of Benefits out of the Aurecon Reserve, any surplus in the Aurecon Reserve may be applied to meet any liabilities in the Pool B Sub-Division.

3.6 No rights to other reserves

No Benefit payable from the Aurecon Reserve shall be payable from any other reserve in the event that the Benefit is not paid from the Aurecon Reserve.

3.7 Executive Officer

An Employer may nominate an Employee as an "eligible person" for the purposes of the definition of "Executive Officer" in the Pool B Sub-Division Rules and the employee will only be eligible to be nominated as such if the person satisfies the following:

(a) occupies a senior position; and

(b) is on a fixed term contract of employment.

3.8 Limit of Contributions

Employers and Members shall make contributions in accordance with the Deed or any other arrangement agreed by the Trustee but the Trustee may refuse to accept any Contribution which may, in the opinion of the Trustee, jeopardise the status of the Fund as a complying superannuation fund.

3.9 Authority to deduct Member Contributions

Each Member authorises its Employer to deduct Contributions due by the Member (if any) from the Member's remuneration and to pay those moneys to the Fund on behalf of the Member.

3.10 Contributions holiday

The Trustee shall determine as required by the Pool B Sub-Division Rules from time to time on the advice of an actuary (being a person satisfying any requirements specified in the Relevant Law) and in accordance with the Pool B Sub-Division Rules, the Contributions to be made by Employers. The Trustee may, on the advice of an actuary and in accordance with clause 3.11 permit an Employer or class of Employers to reduce its Contributions otherwise required to be paid under the Defined Benefits Section Rules in respect of all or some of the Employers' Beneficiaries for such time and subject to such conditions as the Trustee on the advice of an actuary, determines.

3.11 Excess amount

Where the value of the assets of all or part of the Pool B Sub-Division or in an account established under the Deed in respect of a particular Employer (***Employer's reserve***) is more than the value of the liabilities of all or part of the Pool B Sub-Division or supported by that Employer's reserve (as the case may be) (***excess amount***), the Trustee may, on the advice of an actuary (being a person satisfying any requirements specified in the Relevant Law) apply the excess amount to reduce Contributions otherwise payable by an Employer or, with the consent of the Minister and on the advice of an actuary, determine to apply all or part of the excess amount for any purpose agreed by the Trustee and the Minister as permissible under Relevant Law.

3.12 Reduction in Pensions and Benefits to offset Tax

(a) Whenever:

(i) a right to a Benefit under the Pool B Sub-Division accrues to or in respect of a Beneficiary or former Beneficiary; and

(ii) the Trustee has paid or is liable to pay an amount of Superannuation Contributions Surcharge in respect of contributions, notional contributions or allocated surplus amounts that are referrable to the Beneficiary or former Beneficiary,

the Trustee must, subject to sub-clause 3.12(b), make a determination reducing the employer-financed portion of that Benefit by the amount of debt (including accrued interest) owed for Superannuation Contributions Surcharge in respect of the Beneficiary or former Beneficiary, less any payments made by the Beneficiary or former Beneficiary towards reduction of the debt.

(b) Sub-clause 3.12(a) does not authorise the reduction of a Benefit as a result of a liability for Superannuation Contributions Surcharge where the benefit is of a kind the Trustee has determined should not be the subject of the reduction.

3.13 Commutation of pensions for adjustment of benefits

(a) If a determination reducing a Benefit that may be taken in the form of a pension is made under sub-clause 3.12, the Trustee may, at its discretion and with the consent of the Beneficiary or former Beneficiary concerned, commute part of the pension to a lump sum for the purposes of payment to the Trustee of the amount of the reduction.

(b) Commutation of part of a pension under this clause:

(i) does not affect any other right that the Beneficiary or former Beneficiary has to commute the pension under the Pool B Sub-Division Rules;

(ii) is not to be taken into account for the purpose of determining whether, and to what extent, any such other right may be exercised; and

(iii) is to be done on a basis determined by the Trustee for the purposes of this clause.

(c) The Trustee may obtain actuarial advice for the purpose of determining the basis on which part of a pension is to be commuted under this section.

(d) This section has effect despite any other provision of the Deed.

3.14 Membership of more than one category

A Transferred Member may have their benefit entitlements administered under more than one category of membership in the Pool B Sub-Division, and where the Employer so requires it a Transferred Member shall have their benefit entitlements administered under more than one category of membership in the Pool B Sub-Division.

3.15 Valuations

Unless otherwise provided in the Deed, the Trustee shall cause a valuation of all assets of the Pool B Sub-Division to be made in accordance with its valuation policy which complies with

Relevant Law, and at such other dates, by such persons and using such methods as the Trustee may determine.

4. MOBILITY RULES

(a) Subject to Relevant Law, the Trustee may accept into the Pool B Sub-Division:

(i) Beneficiaries, Employers and assets on such terms as are set out in a Transfer Regulation or any transfer agreement entered into under that Transfer Regulation; and

(ii) an Eligible Employee who elects to exercise a Transfer Option in accordance with the Mobility Rules, and assets referrable to the Eligible Employee.

(b) In addition to any entitlement under the Deed for a Member to transfer a Benefit, a Member in the Pool B Sub-Division may request the Trustee to pay or transfer the Member's Benefit to another superannuation fund:

(i) as set out in a Transfer Regulation or any transfer agreement entered into under that Transfer Regulation; or

(ii) pursuant to the exercise of a Transfer Option in accordance with the Mobility Rules,

and, subject to Relevant Law, the Trustee may pay the Benefit to such other fund.

Annexure 1 for the Pool B Sub-Division in the Defined Benefits Section of the Fund

FORMER POOL B DIVISION B MEMBERS
(This Annexure 1 applies to former members of the State Authorities Superannuation Scheme established under the *State Authorities Superannuation Act 1987* (NSW) who transferred to Pool B on 1 July 1997 and subsequently to the Fund on the Pool B Transfer Date)

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1. INTERPRETATION

1.1 Definitions

In this Annexure:

Additional Benefit has the meaning given by sub-clause 5.1;

Applicable Benefit Levy means the levy that, in order to attract the Additional Benefit for a Contributor, is paid under this Annexure by transfer from the Benefit Account under sub-clause 3.4(b)(ii);

Applicable Contribution Period has the meaning given by sub-clause 5.1;

Asset Portfolio means an Asset Portfolio established in accordance with sub-clause 2.9;

Attributed Salary, in relation to a Contributor at any time, means:

(a) where the Contributor is a Full-Time Employee at that time, the Salary of the Contributor at that time; or

(b) where the Contributor is a Part-Time Employee at that time, the Salary that would be payable to the Contributor at that time if employed as a Full-Time Employee;

Benefit Account means one or more accounts in respect of an Employer or Beneficiary established and maintained by the Trustee;[1]

Chief Executive Officer has the same meaning as Chief Executive in the *Government Sector Employment Act 2013* (NSW);

Contribution Period means a named month or such other period as may be determined by the Trustee;

Contributor means an Employee whose election to contribute under this Annexure has taken effect;

Contributor-Financed Benefit, in relation to a Benefit payable to, or in relation to, a Contributor, means the balance at credit in the Contributor's Benefit Account at the time the Benefit is paid;

Contributor's Benefit Account means the Benefit Account established and maintained under sub-clause 2.2 in respect of the Contributor;

Deferred Benefit, in relation to a Contributor, means a Benefit for which the Contributor has made provision under sub-clause 5.9, 5.10 or 5.11, or deferred under the Superannuation Guarantee Charge Acts;

Discharge, in relation to a Contributor, means the cessation of the Contributor's employment expressed by the Employer to be on the ground that the period, or successive periods, for which the Contributor was employed has or have ended;

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[1] This definition is referenced in the EISS Payment Deed. Any future changes to this definition should consider the impact on the EISS Payment Deed.

Dismissal means the termination by an Employer of the employment of a Contributor with the Employer, but does not include Retrenchment or Discharge or a Retirement on the grounds of incapacity in circumstances which entitle the Employee to a Benefit;

Early Retirement Age means the age of 58 years;

Eligible Salary Sacrifice Contributor means a Contributor whose Employer has agreed to pay contributions by way of salary sacrifice under this Annexure;

Employer-Financed Benefit in relation to a Benefit payable to, or in relation to, a Contributor, means so much of the Benefit as is paid from the Employer reserve;

Entry Date, in relation to a Contributor, means the date as at which the Contributor's election to contribute to the Fund established under the *State Authorities Superannuation Act 1987* (NSW) took effect, that election being:

(a) the only such election made by the Contributor; or

(b) where the Contributor has made more than one such election, the later or latest of those elections;

Executive Officer means a contributor who is:

(a) a chief executive officer;

(b) a senior executive officer;

(c) an office holder nominated for the purposes of section 11A of the *Statutory and Other Offices Remuneration Act 1975* (NSW); or

(d) an Eligible Person;

Exit Date, in relation to a Contributor, means the date on which the Contributor ceases employment with an Employer, that cessation of employment being:

(a) the only such cessation of employment of the Contributor; or

(b) where there has been more than one such cessation of employment of the Contributor the later or latest of those cessations of employment;

Full-Time Employee means an Employee whose Salary Ratio is equal to 1;

Maximum Benefit Points has the meaning given by sub-clause 5.1;

Part-Time Employee means an Employee whose Salary Ratio is less than 1 but at least 0.1;

Prospective Benefit Points has the meaning given by sub-clause 5.1;

Public Sector Executives Superannuation Scheme means the superannuation scheme established under the *Public Sector Executives Superannuation Act 1989* (NSW);

Reserve means one or more accounts established and maintained by the Trustee in accordance with the deed whether such account is referred to as an account or a reserve;

Resign means cease to be employed by an Employer, but does not include:

(a) Retrenchment, Discharge or Dismissal; or

(b) ceasing to be employed because of death; or

(c) ceasing to be employed on the privatisation of an Employer; or

(d) ceasing to be employed on the grounds of incapacity in circumstances which entitle the Employee to a Benefit;

Retire means cease (otherwise than by reason of death) in any manner to be employed by an Employer on or after reaching the Early Retirement Age;

Retrenchment, in relation to a Contributor, means the termination of the employment of the Contributor with an Employer where the employment is expressed by the Employer to be:

(a) compulsorily terminated by the Employer on the ground that:

(i) the Employer no longer requires the Contributor's services and, on termination of the Contributor's employment, does not propose to fill the Contributor's position;

(ii) the work that the Contributor was engaged to perform has been completed; or

(iii) the amount of work that the Employer requires to be performed has diminished and, due to that fact, it has become necessary to reduce the number of Employees employed by the Employer; or

(b) terminated as a result of the acceptance by the Contributor of an offer by the Employer of terms of Retrenchment made on a ground specified in paragraph (a);

Salary, in relation to a Contributor, means Salary of the Contributor, determined in accordance with sub-clause 1.2 or 1.4 and expressed as an annual rate;

Salary Ratio, in relation to a Contributor at any time during a Contribution Period, means the number ascertained by dividing the Salary of the Contributor at the commencement of the Contribution Period by the Attributed Salary of the Contributor at that commencement;

Salary Sacrifice Amount means an amount in lieu of Contributions due by an Eligible Salary Sacrifice Contributor from the Contributor's remuneration to the Fund;

Senior Executive Officer has the same meaning as Senior Executive in the *Government Sector Employment Act 2013* (NSW);

Superannuation Guarantee Charge Acts means the *Superannuation Guarantee Charge Act 1992* (Cth) and the *Superannuation Guarantee (Administration) Act 1992* (Cth) and any other Act relating to the imposition, collection and administration of the superannuation guarantee charge and any regulations made under the foregoing Acts; and

Superannuation Year means the year commencing on 1 April 1988 and each subsequent year commencing on 1 April.

1.2 Definition of Salary

(a) For the purposes of this Annexure, ***Salary***, in relation to a Contributor (other than an Executive Officer) means the sum of:

(i) the remuneration, salary or wages payable in money to the Contributor in the Contributor's capacity as a Contributor, as reported to the Trustee from time to time by the Contributor's Employer, including:

(A) a loading in respect of any shift allowance, as determined in accordance with cub-clause 1.3;

(B) other allowances payable in money that are of a kind included within the value of leave paid on termination of employment; and

(C) weekly workers compensation paid to the Contributor as from the date the weekly workers compensation commences to be paid,

but not including the excluded amounts or allowances referred to in sub-clause 1.2(d); and

(ii) if approved employment benefits are provided to the Contributor, the cost of providing the approved employment benefits, as determined by the Trustee.

(b) The weekly workers compensation to be treated as Salary for the purposes of this Annexure does not include any amount by which the aggregate of:

(i) the weekly workers compensation paid to an injured Contributor; and

(ii) the Salary actually paid to the Contributor while partially incapacitated,

exceeds the Salary that the Contributor would probably have been earning but for the injury (assuming the Contributor had continued to be employed in the same or some comparable employment).

(c) The excluded amounts or allowances are:

(i) an amount paid for overtime or as a bonus, or an allowance instead of overtime;

(ii) except to the extent determined in accordance with sub-clause 1.3, as referred to in sub-clause 1.2(a), an amount paid as shift allowance;

(iii) except to the extent that this sub-clause 1.2 otherwise provides, a relieving allowance;

(iv) an expense allowance or an allowance for travelling, subsistence or other expenses;

(v) an equipment allowance;

(vi) an amount paid for rent or as a residence, housing or quarters allowance; and

(vii) an amount of weekly workers compensation excluded by sub-clause 1.2(b).

(d) If a Contributor's Employer, or a person authorised to do so on behalf of the Employer, certifies in writing to the Trustee that a relieving allowance to be, or being, paid to the Contributor in the Contributor's capacity as an Employee is likely to be paid for a continuous period of 1 year (whether or not the period is partly before the date of the certificate), the allowance is, as from:

(i) the date on which the certificate is lodged with the Trustee; or

(ii) the date from which the allowance becomes payable,

whichever is the later, Salary for the purposes of this Annexure.

(e) If a relieving allowance has been paid to a Contributor in the Contributor's capacity as an Employee for a continuous period of 1 year that ended after 1 April 1988 and, during that period, the allowance was not treated as part of the Contributor's Salary in accordance with sub-clause 1.2(d), the allowance shall be treated as part of the Contributor's Salary while its payment to the Contributor continues.

(f) If a Contributor is on secondment to another Employer, the Salary of the Contributor for the purposes of this Annexure is the Salary paid or payable to the Contributor by the other Employer.

(g) The Employer may, by notice in writing to the Trustee, declare unconditionally, or subject to conditions, that sub-clause 1.2(h) applies:

(i) to a Contributor specified in the order who is on secondment but not to another Employer; and

(ii) generally during the period of that secondment, or during such period as is specified in the order, being, in either case, a period commencing before, on or after the date of the order.

(h) During the period in which this sub-clause 1.2(h) is declared pursuant to sub-clause 1.2(g) to apply to a Contributor on secondment, the Contributor's Salary shall, for the purposes of this Act, be that paid or payable in respect of the employment to which he or she is seconded.

(i) In this sub-clause 1.2:

approved employment benefit means a Benefit provided to a Contributor at the cost of the Contributor's Employer (being a Benefit of a private nature) that is approved by the Trustee, for the purposes of this sub-clause 1.2 in relation to the Contributor or a class of Employees of which the Contributor is a member;

shift allowance means an allowance paid to an Employee in respect of shift work performed by the Employee, and includes amounts paid as penalty rates;

weekly workers compensation, in relation to a Contributor, means weekly payments of compensation under the *Workers Compensation Act 1987* (NSW) (or the provisions of the *Workers Compensation Act 1926* (NSW) as applied by that Act) payable to the Contributor because the Contributor is partially incapacitated for work through injury.

1.3 Determination of loading in respect of shift allowance

(a) In this sub-clause 1.3:

base salary, in relation to a Contributor, means the remuneration, Salary or wages payable to the Contributor under an award of an industrial tribunal or under an industrial or enterprise agreement, but excluding all additional allowances payable to the Contributor;

relevant period, in relation to a Contributor, means the period of 12 months ending with 31 December immediately preceding the date on which the Salary of the Contributor is to be calculated for the purposes of this Annexure;

relevant shift means a shift worked by an Employee in respect of which a shift allowance is payable by an Employer;

trade union means:

(i) an industrial organisation of Employees registered or recognised as such under the *Industrial Relations Act 1991* (NSW); or

(ii) an association of Employees registered as an organisation under the *Industrial Relations Act 1988* (Cth).

(b) For the purposes of sub-clause 1.2(a)(i), the loading (if any) to be treated as part of a Contributor's Salary for the purposes of this Annexure must be determined by reference to sub-clauses 1.3(c), 1.3(d) or 1.3(e) according to whichever sub-clause is appropriate to the Contributor.

(c) If:

(i) there is in force an agreement between, or a practice accepted by, a trade union and the Employer of a Contributor which was in force immediately before 18 December 1987;

(ii) the effect of the agreement or practice is that amounts that the Employer pays to the Contributor as shift allowances for relevant shifts worked by the Contributor during a relevant period are treated as a loading for superannuation purposes; and

(iii) the total of those amounts is greater than that which would be determined under sub-clause 1.3(d) for that year in respect of the Contributor,

then, for the purposes of sub-clause 1.2(a)(i) of this Annexure, that total is the Contributor's loading for those shift allowances.

(d) Except where sub-clause 1.3(c) or 1.3(e) applies, if a Contributor is paid shift allowances for shifts that the Contributor has worked during a relevant period, then, for the purposes of sub-clause 1.2(a)(i) of this Annexure, the Contributor's loading for those allowances is to be determined by reference to the number of shifts the Contributor is taken to have worked (as calculated in accordance with sub-clause 1.3(f)) during the relevant period. The loading is:

(i) if during the relevant period the Contributor is taken to have worked not more than 104 relevant shifts - no amount;

(ii) if during the relevant period the Contributor is taken to have worked more than 104 but not more than 156 relevant shifts - an amount equal to 10% of the Contributor's base salary for that period;

(iii) if during the relevant period the Contributor is taken to have worked more than 156 but not more than 208 relevant shifts - an amount equal to 15% of the Contributor's base Salary for that period; or

(iv) if during the relevant period the Contributor is taken to have worked more than 208 relevant shifts - an amount equal to 20% of the Contributor's base Salary for that period.

(e) If the amounts actually paid or payable to a Contributor as shift allowances for shifts that the Contributor has worked during a relevant period are less than the loading determined for the period in respect of the Contributor in accordance with sub-clause 1.3(d), then, for the purposes of sub-clause 1.2(a)(i), the total of those amounts is the Contributor's loading for those allowances.

(f) For the purposes of sub-clause 1.3(d), the number of shifts a Contributor is taken to have worked during a relevant period, being shifts for which a shift allowance is paid, is the number calculated as follows:

$$N = \frac{H \times S}{Ho}$$

where:

N is the number of such shifts the Contributor is taken to have worked during the relevant period.

H is the number of hours per shift regularly required to be worked in such shifts during the relevant period.

Ho is the smallest number of hours per shift regularly required to be worked (whether by the Contributor or any comparable worker) in such shifts during any calendar year after 1987, including the relevant period.

S is the number of such shifts the Contributor actually worked during the relevant period.

1.4 Salary of Executive Officers

(a) For the purposes of this Annexure, the Salary of an Executive Officer is the Salary as last nominated or changed in accordance with this sub-clause 1.4.

(b) An amount of Salary for the purposes of this Annexure must be nominated to an Executive Officer's Employer by the officer, on, or as soon as practicable after, being appointed as an Executive Officer. An amount may also be nominated to the officer's Employer by the officer on, or as soon as practicable after, being reappointed, or appointed to another position, as an Executive Officer.

(c) The amount nominated is to be not less than the monetary remuneration payable to the Executive Officer at the date of nomination and not more than the total value of the remuneration package paid to the officer (less the cost of providing the Employer's Contributions to superannuation and any performance-related incentive payment).

(d) If an Executive Officer fails to nominate an amount of Salary within 28 days of first being appointed as an Executive Officer or within such further period as the Trustee may allow, the officer is taken to have nominated an amount of Salary that is equal to the monetary remuneration payable to the officer at the end of the applicable period.

(e) An Executive Officer may, from time to time, by notice to the officer's Employer elect to reduce the amount of Salary nominated under this sub-clause 1.4, but not so that the amount is less than the monetary remuneration payable to the officer at the date of the election.

(f) An Executive Officer may, from time to time, by notice to the officer's Employer elect to increase the amount of Salary nominated under this sub-clause 1.4, but not so as to increase the amount nominated by a percentage of that amount that is more than the percentage by which the remuneration package of the officer has increased since the amount of Salary was last nominated or changed.

(g) An Employer must notify the Trustee of a nomination or election under this sub-clause 1.4. Any such nomination or election takes effect on the date of notification to the Trustee or on such other date as the Trustee may determine with the consent of the Executive Officer concerned.

(h) Nothing in this sub-clause 1.4 requires the nominated amount of Salary to be increased if, because of a variation in the remuneration package of an Executive Officer or in the proportions of the remuneration package comprising monetary remuneration and employment benefits of the officer, the amount of Salary as last nominated or changed for the purposes of this sub-clause 1.4 is less than the monetary remuneration of the officer.

(i) In this sub-clause 1.4, the ***monetary remuneration*** payable to an Executive Officer is:

(i) if the officer is a Chief Executive Officer or Senior Executive Officer, the monetary remuneration payable in accordance with the *Government Sector Employment Act 2013* (NSW); or

(ii) if the officer is an office holder nominated for the purposes of section 11A of the *Statutory and Other Offices Remuneration Act 1975* (NSW), the remuneration payable to the officer as reduced under that section by the cost of employment benefits provided to the officer; or

(iii) if the officer is an Eligible Person, the monetary remuneration payable to the officer.

1.5 Secondment of Employee otherwise than to Employer

(a) The Employer may, by notice in writing to the Trustee, declare unconditionally or subject to conditions that sub-clause 1.5(b) applies:

(i) to a Contributor specified in the order who is on secondment but not to another Employer; and

(ii) generally during the period of that secondment, or during such period as is specified in the order being, in either case, a period commencing before, on or after the date of the order.

(b) During the period in which this sub-clause is declared under sub-clause 1.5(a) to apply to a Contributor, the Employer specified in the declaration shall be deemed to be the Employer from whose employment the Contributor is seconded.

1.6 Part-Time employment with more than one Employer

Where a Contributor is in Part-Time Employment with more than one Employer at the same time, this Annexure apply to the Contributor separately in relation to each such employment as if, in relation to each such employment, the Contributor were a different person.

2. MAINTENANCE AND ADMINISTRATION

2.1 Payments in and out

(a) The Trustee shall cause to be held in the Fund for the purposes of this Annexure:

(i) Contributions or payments made by Employers and Employees;

(ii) income derived from investment of assets held for the purposes of this Annexure and any profit made from realisation of any investment of assets held for the purposes of this Annexure;

(iii) money borrowed for the purposes of the clauses in this Annexure; and

(iv) any other amounts payable for the purposes of this Annexure.

(b) The Trustee shall cause to be paid from the Fund for the purposes of this Annexure:

(i) administration costs incurred by the Trustee under this Annexure;

(ii) any Tax;

(iii) the Benefits payable under this Annexure; and

(iv) any other amounts payable for the purposes of this Annexure.

2.2 Contributors' Benefit Accounts

(a) The Trustee shall establish and maintain for the purposes of this Annexure a separate Benefit Account for each Contributor.

(b) There shall be credited to a Contributor's Benefit Account:

(i) contributions made by the Contributor; and

(ii) earnings being the share of income derived from investment of assets held for the purposes of this Annexure, and any profit made from realisation of those investments attributable to the particular Asset Portfolio applicable to that Contributor.

(c) There shall be debited to a Contributor's Benefit Account:

(i) where the Contributor is covered for the Additional Benefit, the amount of the Additional Benefit Levy;

(ii) such part of the amount of any Benefit paid to the Contributor as comprises the Contributor-Financed Benefit;

(iii) administration costs incurred by the Trustee under this Annexure in relation to the Contributor; and

(iv) any Tax.

(d) As at the last day of each month, each Contributor Benefit Account is to be adjusted as follows:

(i) earnings expressed as interest is to be credited (or debited) to each Contributor's Benefit Account on a daily balance pro rata basis at the rate declared by the Trustee, in accordance with sub-clause 2.10, to be the investment earning rate for that month for the particular Asset Portfolio applicable to that Contributor;

(ii) to each Contributor's Benefit Account is to be debited with the monthly unit management charge determined for that month in accordance with sub-clause 2.12; the particular to each Contributor's Benefit Account to which that charge is to be debited is to be at the discretion of the Trustee; and

(iii) any other amounts payable by a Contributor.

2.3 Additional Benefit Reserve

(a) The Trustee shall establish and maintain an Additional Benefit Reserve.

(b) There shall be credited to the Reserve the amounts debited under sub-clause 2.2(c)(i).

(c) There shall be credited to the Reserve the amounts debited under sub-clause 2.4(c)(iii).

(d) There shall be debited to the Reserve the amount of any Additional Benefits paid by the Trustee.

2.4 Reserves for Employers

(a) The Trustee shall establish and maintain for the purposes of this Annexure a separate employer reserve, or separate employer reserves as the case may be.

(b) There shall be credited to such an employer reserve:

(i) the Contributions made by the Employer or Employers to whom the reserve relates; and

(ii) earnings being the share of income derived from investment of assets held for the purposes of this Annexure, and any profit made from realisation of those investments attributable to the assets in that reserve.

(c) There shall be debited to the employer reserve:

(i) the amount of the Employer-Financed Benefits (but excluding any part of any Additional Benefit) included in the amount of any Benefit paid to, or in relation to, a Contributor who, immediately before the Benefit became payable, was an Employee of the Employer or an Employer to whom the reserve relates; and

(ii) administration costs incurred by the Trustee under this Annexure in relation to the Employer or an Employer to whom the reserve relates;

(iii) where the Contributor is covered for the Additional Benefit, an amount determined by the Trustee, after seeking actuarial advice, from time to time in respect of the Employer or an Employer to whom the reserve relates; and

(iv) any Tax.

(d) The Trustee may, after obtaining actuarial advice, adjust the amount credited to an employer reserve by crediting or debiting an amount, if it appears to the Trustee appropriate to do so because of a change in the constitution or nature of an Employer.

(e) Sub-clause 2.4(d) does not apply to a change in the constitution or nature of an Employer because of a Government privatisation initiative.

2.5 Adjustment of reserves and accounts for interest etc

(a) Whenever appropriate, the Trustee must fix a rate of interest for the purposes of sub-clause 2.5(b) after having regard to:

(i) the income for the purposes of this Annexure;

(ii) any Tax in respect of the investment of assets held to provide Benefits under this Annexure; and

(iii) such other matters as it considers relevant.

(b) Whenever appropriate, the Trustee must adjust each of the reserves and accounts established under this clause 2 by applying the rate of interest that is currently fixed under sub-clause 2.5(a).

(c) The Trustee may fix a rate of interest for the purpose only of enabling specific reserves or accounts to be adjusted.

2.6 Source of administration costs payments

The administration costs payable for the purposes of this Annexure are to be debited to the Employer Reserves and such other reserves and accounts in the Fund as the Trustee considers appropriate.

2.7 Funds, accounts and reserves generally

(a) The Trustee must:

(i) credit under this Annexure or, as the case may be, to the appropriate reserve or account any amount that is required by or under the Deed to be debited under this Annexure or to that reserve or account; and

(ii) debit under this Annexure or to the appropriate reserve or account any amount that is required by the Deed to be debited under this Annexure or to that reserve or account.

(b) The Trustee may:

(i) credit under this Annexure or, as the case may be, to the appropriate reserve or account any amount that is permitted by or under the Deed to be credited under this Annexure or to that reserve or account; and

(ii) debit under this Annexure or to the appropriate reserve or account any amount that is permitted by or under the Deed to be debited under this Annexure or to that reserve or account.

2.8 Salary Sacrifice

The Trustee will deal with a Salary Sacrifice Amount as follows:

(a) credit the Salary Sacrifice Amount to the Contributor's Benefit Account.

(b) the Contributor's Contribution obligation shall be reduced by the amount of the Salary Sacrifice Amount less any Tax attributable to that Salary Sacrifice Amount.

2.9 Other Accounts and Reserves and Asset Portfolios

(a) The Trustee may establish and maintain under this Annexure such other accounts and reserves as, in the opinion of the Trustee, are necessary or convenient for the administration of this Annexure.

(b) Without limiting sub-clause 2.9(a), the Trustee may establish separate Asset Portfolios, comprising assets attributable to Contributor's Benefit Accounts or Deferred Benefits allocated by the Trustee, for the purposes of this Annexure.

(c) A Contributor may, at any time, elect to have the Contributor's Benefit Account treated, for the purpose only of allocating Fund earnings, as being invested as part of one or more particular Asset Portfolios nominated by the Trustee to the Contributor. The Contributor may elect to vary or revoke any such election.

(d) Where no election has been made by a Member in accordance with sub-clause 2.9(c), the Trustee shall treat the Member's Benefit Account as being invested in the Diversified Portfolio or such other Asset Portfolio as the Trustee considers appropriate. The Trustee may take into account the Member's age in determining the appropriate Portfolio. The Asset Portfolio in which the Member's Benefit Account is to be invested where no election has been made shall be as set out in the Trustee's disclosure documentation for investment choice

(e) An election made in accordance with sub-clause 2.9(c) shall take effect on the day that is five working days after the day the election is received by the Trustee or such later date as may be specified in the election. However, where an election is received prior

to the day that Contributions are first credited to the account of the Contributor making the election, the election is to take effect on that day.

(f) A fee (determined by the Trustee from time to time) per election shall apply to all elections made in accordance with sub-clause 2.9(c) other than:

(i) the first election made by a Contributor; and

(ii) the first subsequent election made by that Contributor in each period of 12 months ended 30 June.

(g) For the purposes of this Annexure, the earnings rate of each particular Asset Portfolio or reserve shall be the rate declared by the Trustee in respect of that Asset Portfolio or reserve for any given period.

(h) The Trustee is to determine, for the purpose only of allocating earnings under this Annexure, the assets to be treated as being invested in a particular Asset Portfolio or Portfolios or reserve.

2.10 Adjustment of Accounts and Reserves for interest

(a) The Trustee may, from time to time, adjust each of the Accounts and reserves established under this Annexure at a rate or rates fixed by the Trustee, having regard to the income for the purposes of this Annexure and the earnings, as determined by the Trustee, of any Asset Portfolio or Portfolios in which the parts of them are treated as being invested or of any reserves and such other matters as the Trustee considers relevant.

(b) The Trustee may, for the purpose of adjusting a Contributor's Benefit Account or Deferred Benefits before paying out the balance at credit in the Account, fix a rate for that purpose only.

(c) In adjusting Accounts or reserves under this sub-clause 2.10, the Trustee may fix different rates for Accounts or reserves, or parts of Accounts or reserves, that are treated as being invested differently.

(d) For the purpose of adjusting Accounts and reserves, the Trustee may allocate any income for the purposes of this Annexure, or any losses, as being attributable to a particular Asset Portfolio or Portfolios, or reserve as it thinks fit.

2.11 How costs may be charged

(a) Costs incurred by the Trustee in the administration or execution of this Annexure, are to be charged to such reserves and accounts as the Trustee may determine.

(b) Costs incurred in investing an Asset Portfolio and managing any such investment are to be paid from the income from investment from the Asset Portfolio.

2.12 Fees and charges

The Trustee is to declare a monthly unit management charge to apply to Contributor Benefit Accounts as from such date as may be specified by the Trustee.

3. CONTRIBUTIONS BY EMPLOYEES

3.1 Closure to new Contributors

(a) Except as provided in sub-clauses 3.1(b) to 3.1(f) an Employee is not entitled to make an election to contribute under this Annexure.

(b) An Employee who resumes employment as an Employee in the circumstances set out in sub-clause 3.13 may make an application under that sub-clause and may resume Contributions.

(c) An Employee who has elected under sub-clause 5.11 to make provision for a Deferred Benefit before the commencement of this sub-clause 3.1, or who so elects after the commencement of this sub-clause 3.1, is entitled to elect to contribute under this Annexure of the Fund.

(d) An Employee who has elected under Division 3B of Part 4 of the *Superannuation Act 1916* (NSW) to defer a Benefit before the commencement of this sub-clause 3.1, or who so elects under clause 17 of Annexure 3 in the Pool B Sub-Division Rules after the commencement of this sub-clause 3.1, is entitled to elect to contribute under this Annexure.

(e) The election to contribute under this Annexure must be made when the Employee elects to make provision for a Deferred Benefit or to defer a Benefit.

(f) Despite sub-clause 3.1(e), an Employee who elected to make provision for a Deferred Benefit or to defer a Benefit before the commencement of that paragraph may elect to contribute under this Annexure at any time within 3 months after the commencement of that sub-clause.

(g) An election under sub-clauses 3.1(b) to 3.1(f) shall:

(i) be in a form approved by the Trustee for the purposes of this sub-clause 3.1;

(ii) specify the rate at which the Employee desires, subject to this Annexure, to contribute under this Annexure, being the rate of 1, 2, 3, 4, 5, 6, 7, 8 or 9 per cent of the Employee's Salary; and

(iii) be supported by a certificate by the Employee's Employer that is in a form approved by the Trustee.

(h) The certificate must state:

(i) the date of birth of the Employee;

(ii) the Salary (and, in the case of a Part-Time Employee, the Attributed Salary) of the Employee;

(iii) that the Employer has no reason to believe that the Employee will not continue to be an Employee within the meaning of this Annexure for at least 1 year from the date of the certificate; and

(iv) such other matters as the Trustee considers necessary or convenient for the purposes of this sub-clause 3.1.

(i) A failure to comply with sub-clause 3.1(g)(ii) does not invalidate an election and, in the event of such a failure, the form of election shall be deemed to specify a rate of 1%.

(j) An election made by an Employee under sub-clauses 3.1(b) to 3.1(f) is ineffective if, at the time the election would take effect, the Employee would be of or above the age of 70 years.

(k) An election made by an Employee under sub-clauses 3.1(b) to 3.1(f) (other than an election referred to in 3.1(j)) takes effect not later than the first day of the second Contribution Period after that in which the election is received in the office of the Trustee, but, if an Employee makes a subsequent election under sub-clause 3.9, ceases to be in force immediately before the subsequent election takes effect.

(l) If the Trustee approves, an Employee may, before an election made under this sub-clause 3.1 takes effect, vary the election.

(m) If a Contributor to another superannuation fund would become (but for being such a Contributor) entitled to elect to contribute under this Annexure by reason of a change of work category or for any other reason:

(i) the Contributor shall be deemed not to be a Contributor to the other superannuation fund for the purposes of making the election;

(ii) the Contributor may make the election on condition that the Trustee approves an application made by the person under sub-clause 3.2 to be covered for the Additional Benefit; and

(iii) the election takes effect as at a date determined by the Trustee.

3.2 Additional Benefit

(a) An Employee under the Early Retirement Age may lodge with the Trustee an application to be covered for the Additional Benefit.

(b) Such an application may be made:

(i) by an Employee who is not a Contributor at the time the Employee makes an election under sub-clause 3.1; or

(ii) except to the extent that sub-clause 3.5 or 3.6(f) otherwise provides at any time by a Contributor.

(c) Such an application shall:

(i) be in a form approved by the Trustee for the purposes of this sub-clause 3.2; and

(ii) be accompanied by such documents, evidence and information as the Trustee may require for the purposes of this sub-clause 3.2.

3.3 Medical examination

(a) This sub-clause 3.3 applies to an application made under sub-clause 3.2 by a person to be covered for the Additional Benefit.

(b) The Trustee may require the applicant:

(i) to submit to such medical examinations as may be required by the Trustee; and

(ii) to provide such medical reports, evidence and information as are specified by the Trustee.

(c) Where the applicant:

(i) fails, in the opinion of the Trustee, to pass a medical examination to which the applicant has submitted in accordance with a requirement under this sub-clause 3.3; or

(ii) fails to comply with a requirement under sub-clause 3.3,

the Trustee shall refuse the application.

(d) For the purpose of deciding whether or not to approve the application, the Trustee:

(i) may, under sub-clause 3.3(b), require the applicant to submit to further medical examinations or provide further medical reports; and

(ii) may obtain such evaluations of medical examinations or medical reports as it thinks fit.

3.4 Approval of application

(a) If the Trustee approves an application made under sub-clause 3.2:

(i) the Trustee shall appoint the day on and from which the applicant's cover for the Additional Benefit is to commence and shall notify the applicant accordingly; and

(ii) the applicant becomes, and remains, liable for payment of the Additional Benefit Levy in accordance with sub-clause 3.4(b).

(b) Payment by a Contributor of the Additional Benefit Levy:

(i) shall commence on a date appointed by the Trustee and shall be made at a rate determined by the Trustee and at times so determined;

(ii) shall be effected by transfer from the Contributor's Benefit Account; and

(iii) shall cease when the Contributor no longer has available to be taken into account any Prospective Benefit Points.

3.5 Refusal of application

If an application made under sub-clause 3.2 is refused, the applicant may not again make such an application before the expiration of:

(a) the period of 3 years that net succeeds the refusal; or

(b) in a particular case such shorter period as the Trustee may decide.

3.6 Revocation of approval

(a) If, after approving an application made under sub-clause 3.2, the Trustee forms the opinion that, in relation to the application, or to a medical examination of the applicant, an untrue statement was made and that its approval would not have been given had the untrue statement not been made, the Trustee shall, subject to this sub-clause 3.6, revoke the approval.

(b) For the purpose of deciding whether or not, in relation to an application or a medical examination of an applicant, it is of the opinion referred to in sub-clause 3.6(a), the Trustee may, if it thinks fit, require the applicant, within a time specified by the Trustee or within such further time as the Trustee may allow, to provide information, or to undergo a medical examination, or to provide medical reports, as specified by the Trustee.

(c) On the expiration of the time, or further time, referred to in sub-clause 3.6(b), the Trustee may, whether or not the requirement so referred to is complied with, proceed to decide whether or not it is of the opinion referred to in sub-clause 3.6(a).

(d) If the applicant fails to comply with a requirement under sub-clause 3.6(b), the Trustee may revoke the approval.

(e) An approval may be revoked whether it relates to a Contributor or a former Contributor and the revocation has effect as if the Contributor or former Contributor had never been entitled to the cover.

(f) If, under sub-clause 3.6(a) or 3.6(d), the Trustee revokes its approval of an application:

(i) the applicant (if a Contributor) ceases to be covered for the Additional Benefit and ceases to be liable to pay the Additional Benefit Levy;

(ii) the applicant (if a Contributor) is disqualified for 3 years from again applying to be covered for the Additional Benefit; and

(iii) the amount of any Additional Benefit Levy paid by the applicant (whether a Contributor or a former Contributor) before revocation of the approval is not recoverable.

3.7 Liability to contribute

(a) Where an Employee is a Contributor under this Annexure or where an election under sub-clause 3.1(b) to 3.1(f) takes effect, the person who made the election becomes, and remains, liable to pay under this Annexure the Contributions prescribed by this clause 3 and, except as provided by sub-clauses 3.9, 3.10, 3.11 and 4.4, to pay those Contributions in respect of successive Contribution Periods:

(i) commencing with the Contribution Period in which the Contributor's Entry Date occurs; and

(ii) ending with the last complete Contribution Period ending on or before the Contributor's Exit Date.

(b) A Contributor's Contributions under this Annexure are payable to the Trustee by the Employer by which the Contributor is employed at such times as the Trustee may

require. The Employer is entitled to deduct those Contributions from any amount or amounts that may become payable by the Employer to the Contributor, whether as Salary or otherwise.

(c) The Trustee may, in a particular case, charge interest calculated on a daily basis at a rate determined by the Trustee on a Contribution under this Annexure for any period during which the Contribution remains unpaid after the time allowed for payment and any such interest:

(i) shall be paid to the Trustee by the Employer in default; and

(ii) is not chargeable against any Employee.

3.8 Salary basis for Contributions

A Contributor's Contributions under this Annexure during a Superannuation Year shall be based on the Salary paid to the Contributor by his or her Employer at the rate applicable as at:

(a) 31 December last preceding the commencement of the Superannuation Year; or

(b) the Contributor's Entry Date,

whichever is the later.

3.9 Variations of Contribution rate

(a) A Contributor may, during the period that commences at the beginning of a Superannuation Year and ends on the next succeeding 31 December or such later date as the Trustee may approve, lodge with the Trustee an election to vary the rate per cent of the Contributor's Salary to be paid under this Annexure.

(b) An election under sub-clause 3.9(a):

(i) shall be in a form approved by the Trustee for the purposes of this sub-clause 3.9;

(ii) shall specify the varied rate per cent (being 1, 2, 3, 4, 5, 6, 7, 8 or 9 per cent) of the Contributor's Salary to be paid under this Annexure; and

(iii) takes effect on 1 April next succeeding receipt of the election in the office of the Trustee.

(c) Where the nature of the employment of a Contributor changes from Full-Time to Part-Time or from Part-Time to Full-Time, or the amount of time worked Part- Time by a Contributor changes, the amount of the Contributor's Contribution under this Annexure in respect of the Contribution Period during which the change operates, and each succeeding Contribution Period until varied in accordance with this Annexure, is the amount calculated by multiplying by the Contributor's Salary Ratio at the commencement of the period the amount of the Contribution that would be payable on the basis of the Contributor's Attributed Salary last applicable for the purpose of calculating Contributions under this Annexure.

(d) Except as provided by sub-clause 3.9(c) or to the extent that the Trustee upon the application of a Contributor otherwise directs, a reduction in the Salary of the

Contributor below that upon which his or her Contributions are based does not, until the beginning of the Superannuation Year that next succeeds the reduction, affect the amount of the Contribution that the Contributor is required to pay under this Annexure.

(e) Except in the case of a Contributor who applies for a direction of the Trustee under sub-clause 3.9(d), where a Contributor's Attributed Salary is reduced as a consequence of the Contributor's ill-health or in circumstances considered by the Contributor to be special, the Contributor may apply to the Trustee in a form that:

(i) is approved by the Trustee for the purposes of this sub-clause 3.9(e); and

(ii) is accompanied by such evidence of the cause of the reduction in Salary as the Trustee requires,

for the application of sub-clause 3.9(f) to the Contributor.

(f) Where the Trustee approves an application by a Contributor under sub-clause 3.9(e), the Attributed Salary of the Contributor shall, for the purposes of this Annexure, be deemed to be the same as the Contributor's Attributed Salary immediately before the reduction until:

(i) the beginning of the Superannuation Year that next succeeds a 31 December as at which the Contributor's Attributed Salary is equal to or greater than his or her Attributed Salary immediately before the reduction; or

(ii) the Trustee's approval is revoked on the application of the Contributor, whichever first occurs.

(g) Subject to sub-clause 3.10, an election that takes effect under this sub-clause 3.9 remains in force until a further election made under this sub-clause 3.9 takes effect.

3.10 Variations of Contribution rate: hardship

(a) Despite sub-clause 3.9(a), the Trustee may, if it is satisfied that a continuation of a Contributor's rate of Contribution under this Annexure would result in financial hardship for the Contributor, accept at any time an election under that sub-clause 3.9(a) to reduce, as from a date determined by the Trustee having regard to the circumstances of the Contributor, the rate per cent of the Contributor's Salary to be paid under this Annexure.

(b) Despite sub-clause 3.9(a), an election referred to in sub-clause 3.10(a) may specify as the varied rate the rate of 0 per cent.

(c) During a period when a rate of 0 per cent is in force, no Contributions are payable by the Contributor.

(d) After an election referred to in sub-clause 3.10(a) is accepted by the Trustee, the Trustee shall refund any resulting excess of Contributions made by the Contributor under this Annexure after the date determined by the Trustee for commencement of the new rate.

(e) The Trustee's acceptance of an election for a rate of 0 per cent shall be given for a limited period or periods.

3.11 Contributions during leave without pay and other matters

(a) In this sub-clause 3.11:

leave without pay means a period of leave from employment with an Employer (otherwise than on secondment as referred to in sub-clause 1.2(f)) during which the Contributor is not entitled to receive payment of Salary from the Employer;

prescribed leave means leave without pay during which the Contributor on leave is absent from employment with an Employer:

(i) pursuant to a grant of sick leave;

(ii) for a period during which the Contributor receives periodic payments under an Act relating to workers' compensation;

(iii) pursuant to a grant of maternity leave;

(iv) pursuant to an agreement with the Employer for the secondment of the Contributor to employment that is not employment with an Employer;

(v) to enable the Contributor to perform union duties unless, in a particular case, the Employer certifies that this paragraph is not to apply;

(vi) to enable the Contributor to perform duties that the Employer certifies to be in the interests of the Employer or the State;

(vii) on service with the naval, military or air forces of the Commonwealth; or

(viii) in circumstances approved by the Trustee for the purposes of this sub-clause 3.11.

(b) A Contributor who takes leave without pay that is prescribed leave is liable to make Contributions under this Annexure in respect of the Contribution Periods occurring wholly or partly while on prescribed leave.

(c) However, a Contributor who takes a single period of prescribed leave that is sick leave or maternity leave is not liable to make Contributions under this Annexure in respect of any Contribution Periods during the period of leave occurring wholly or partly more than 2 years after the period of leave commences.

(d) A Contributor who takes leave without pay that is not prescribed leave:

(i) is liable to make Contributions under this Annexure in respect of:

(A) a Contribution Period that begins before but finishes after the start of that leave; and

(B) a Contribution Period that begins before but finishes after the end of that leave; and

(ii) is not liable or entitled to make Contributions under this Annexure in respect of:

(A) a Contribution Period that begins on the first day of that leave and finishes before the end of that leave; or

(B) a Contribution Period that, having begun after the start of that leave, finishes on the last day of that leave; or

(C) a Contribution Period that falls between a Contribution Period referred to in sub-clause 3.11(d)(i)(A) or sub-clause 3.11(d)(ii) and a Contribution Period referred to in sub-clause 3.11(d)(i)(B) or sub-clause 3.11(d)(ii)(B) (whichever is relevant).

(e) For the purposes of this Annexure, a Contributor who is employed by an Employer for less than 10 hours a week for a single period of more than 2 years is not liable to make Contributions under this Annexure in respect of any Contribution Periods occurring wholly or partly more than 2 years after the period commences and while the Contributor is so employed for less than 10 hours a week.

(f) A Contributor liable to make Contributions under sub-clause 3.11(b) or 3.11(d) shall pay, in accordance with directions given by the Trustee, such Contributions as would have been deducted from the Salary of the Contributor in accordance with sub-clause 3.7 if the Contributor had continued to be paid Salary by the Employer during the Contribution Period or periods concerned at the rate at which the Contributor would have been paid but for being on leave without pay.

(g) A Contribution Period in respect of which a Contributor is not liable to make Contributions under this Annexure under this sub-clause 3.11 is not an Applicable Contribution Period in relation to the Contributor.

3.12 Other Contributions by Contributor

(a) A Contributor, who is not required by this Annexure to contribute merely because the Contributor is on authorised leave without pay as an employee, is entitled to remain a Contributor under this Annexure even though the Contributor is not contributing.

(b) This sub-clause applies to a Contributor only if:

(i) the leave is for the purpose of raising children of whom the Contributor is a parent, or for whom he or she has assumed the responsibility of a parent, and

(ii) he or she has been on that leave for less than seven years consecutively, and

(iii) he or she has a statutory or contractual right to resume employment at the end of the leave.

(c) In this Annexure, ***authorised leave*** means leave approved by the Contributor's Employer, or leave authorised by an agreement certified, or an award made, by a tribunal or body having the authority to do so under a law of New South Wales or the Commonwealth.

3.13 Resumption of Contributions after break in employment

(a) This sub-clause 3.13 applies to a Contributor where the employment of the Contributor with an Employer:

(i) ceases in circumstances entitling the Contributor to be paid a Benefit under sub-clause 5.5;

(ii) ceases in circumstances entitling the Contributor to be paid a Benefit under sub-clause 5.6 but the Contributor does not elect to make provision for a Deferred Benefit; or

(iii) ceases in circumstances entitling the Contributor to be paid a Benefit under sub-clause 5.7,

and the Contributor has not made an application for payment of the Benefit.

(b) If a Contributor to whom this sub-clause 3.13 applies resumes employment as an Employee (with the same or any other Employer) within three months of the end of the last Contribution Period in which the previous employment ceased, the Contributor may apply to the Trustee to have the contribution periods since the last Contribution Period recognised as Applicable Contribution Periods.

(c) If the Trustee approves an application under sub-clause 3.13(b), the Contribution Periods approved in the application shall be deemed to be Applicable Contribution Periods in relation to the Contributor as an Employee of the Employer with whom the Contributor resumed employment.

(d) If a Contributor to whom this sub-clause 3.13 applies resumes employment as an Employee (with the same or any other Employer) before the end of the Contribution Period in which the previous employment ceased, the Contributor may apply to the Trustee to have the Contribution Period recognised as an Applicable Contribution Period.

(e) If the Trustee approves an application under sub-clause 3.13(d), the Contribution Period shall be deemed to be an Applicable Contribution Period in relation to the Contributor as an Employee of the Employer with whom the Contributor resumed employment.

3.14 Contributor eligible for membership or a member of the Accumulation and Pension Section

(a) When a Contributor becomes eligible to become a member of the Accumulation and Pension Section, the Contributor must:

(i) elect to continue to contribute under this Annexure; or

(ii) elect to make provision for a Benefit provided by sub-clause 5.10(j)

(b) If a Contributor fails to make an election under sub-clause 3.14(a) within 2 months of being required to make that election, the Contributor, for the purposes of this sub-clause 3.13, is to be taken to have elected to continue to contribute under this Annexure.

(c) Nothing in this Annexure prevents a Contributor who elects to continue to contribute under this Annexure from also contributing to the Accumulation and Pension Section or another superannuation fund and such a Contributor is entitled to Benefits in accordance with this Annexure despite being a member of that Scheme or another fund.

(d) If a Contributor elects to continue to contribute under this Annexure, the Contributor may, at any time thereafter while being eligible to become a member of the Accumulation and Pension Section or being a member of the Accumulation and Pension Section, elect to make provision for a Benefit provided by sub-clause 5.10(j)

(e) A Contributor who elects, under this sub-clause 3.14, to make provision for a Benefit provided by sub-clause 5.10(j)

(i) is entitled to make provision for the Benefit even though he or she is not entitled to a Benefit (including any interest paid by the Trustee) of or exceeding the amount prescribed for the purposes of sub-clause 5.10(a); and

(ii) is not entitled to a Benefit payable under any other provision of this Annexure; and

(iii) is not entitled to elect to take the Benefit provided by sub-clause 5.10(l); and

(iv) may elect at any time before the Benefit is paid to have the Benefit paid to the credit of the Contributor in the Accumulation and Pension Section, if the Contributor is a member or is eligible to become a member of the Accumulation and Pension Section.

(f) If a Contributor makes an election under sub-clause 3.14(e)(iv):

(i) the Contributor is entitled to be paid the Benefit provided by sub-clause 5.10(j), but only in accordance with this sub-clause 3.14(f); and

(ii) the Trustee must, as soon as practicable thereafter, pay the amount of the Benefit to which the Contributor is entitled to the Accumulation and Pension Section; and

(iii) the Trustee must credit the amount to the account established or to be established for the person in the Accumulation and Pension Section.

(g) If a Contributor makes an election under sub-clause 3.14(a)(ii) or 3.14(d) within 12 months after being:

(i) appointed as a Chief Executive Officer or Senior Executive Officer; or

(ii) nominated as a office holder for the purposes of section 11A of the *Statutory and Other Offices Remuneration Act 1975* (NSW),

the Salary of the Contributor, for the purposes of determining the amount of the Benefit to which the election relates, is to be taken to be his or her salary immediately before that appointment or nomination took effect.

3.15 Transfer of Contributors under Public Authorities Superannuation Act 1985 (NSW)

(a) An Employee who, immediately before 1 April 1988 was a Contributor to the Public Authorities Superannuation Fund shall be deemed to have made an election under section 19 of the *State Authorities Superannuation Act 1987* (NSW) which took effect on 1 May 1988 and to which section 19(2) did not apply.

(b) Where pursuant to sub-clause 3.15(a), an Employee became a Contributor to the State Authorities Superannuation Scheme:

(i) the Employee ceases to be a Contributor to the Public Authorities Superannuation Fund; and

(ii) a Benefit under the *Public Authorities Superannuation Act 1987* (NSW) is not payable to or in relation to the Contributor.

(c) An application under sub-clause 3.2 may, subject to that sub-clause, be made at any time by an Employee who, pursuant to this sub-clause 3.15, became a Contributor.

3.16 Transferred Members - PSESS Election

(a) A person:

(i) who was a member of Division E in Pool B prior to the Pool B Transfer Date or who is an Executive Officer who is a member of the Accumulation and Pension Section;

(ii) who had a benefit transferred under regulation 7(b) of the Transfer Regulation; and

(iii) is employed by an Employer

is entitled to elect at any time to make provision for Benefits provided for by sub-clause 5.10(j).

(b) If the person makes an election under this sub-clause 3.16, then sub-clauses 3.14(e) and 3.14(f) apply to that Benefit.

4. CONTRIBUTIONS BY EMPLOYERS

4.1 Contributions by Employer

(a) If a Contributor is employed by an Employer, the Employer must pay under this Annexure Contributions at a rate determined by the Trustee on the advice of an actuary, at such times as the Trustee may require.

(b) In determining the Contributions payable by an Employer, the Trustee is to have regard to the amount required to meet the full costs of the liabilities under this Annexure of all Employers.

(c) The Trustee may require any such Employer to pay under this Annexure additional Contributions for a specified period if it appears to the Trustee that there is insufficient money in the reserve for Employers to meet the Employers' liabilities under this Annexure.

4.2 Employer may be required to make further payments in certain cases

(a) Whenever it appears to the Trustee that there is insufficient money in an Employer Reserve:

(i) to pay the Employer liability that is due to or in respect of a Contributor or former Contributor under this Annexure; or

(ii) to pay any other amounts that are payable from that reserve,

the Trustee may require the Contributor's Employer or former Employer, by notice in writing, to pay under this Annexure an amount equal to the amount of the insufficiency.

(b) If an Employer fails to pay an amount required to be paid under sub-clause 4.2(a) within 14 days after being notified of the requirement, the amount becomes an amount owing under this Annexure and the Trustee may recover that amount accordingly.

4.3 Transfers of credits between Employers of Transferred Contributors[2]

(a) In this sub-clause 4.3:

transferred contributor means a Contributor who ceases to be employed by an Employer and becomes employed by another Employer and who does not apply for payment of a Benefit under this Annexure in respect of the former employment;

transfer value in relation to a transferred contributor, means an amount equal to the Benefit that would have been payable if the transferred contributor, on becoming employed by the new Employer, had elected to make provision for a Deferred Benefit under sub-clause 5.10(a) and the Benefit provided sub-clause 5.10(j)(ii) had thereupon become payable.

(b) If the Trustee maintains a separate Employer reserve for each Employer, the Trustee shall debit the Employer reserve of the former Employer with the transfer value referable to a transferred contributor and shall credit the employer reserve of the new Employer with that value.

4.4 Acceptance of Contributions

(a) The Trustee may determine under the Deed, that it must not accept Contributions by or in respect of an Employee. The period during which Contributions may not be made is not an Applicable Contribution Period.

(b) An Employee is not entitled to contribute under this Annexure, and the Trustee is not to accept the contribution by an Employee, unless the Employee is under 70 years of age;

(c) The Contributor is not entitled to accrue Benefit Points after attaining the age of 70 years.

5. BENEFITS

5.1 Definitions

For the purposes of this Annexure:

[2] This clause 4.3 is referenced in the Treasury Payment Deed. Any future changes to this deed should seek to maintain the clause numbering for this provision.

Accrued Benefit Points, in relation to a Contributor at the Contributor's Exit Date, means:

(a) the Maximum Benefit Points for the Contributor; or

(b) if the number ascertained by adding together all the contributed points figures for the Contributor is less than the Maximum Benefit Points for the Contributor, that lesser number;

Additional Benefit, in relation to a Contributor, means the amount calculated in accordance with the formula:

$$L = S \times P \times 0.04$$

where:

L represents the amount to be ascertained;

S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and

P represents the Prospective Benefit Points for the Contributor at the Contributor's Exit Date;

Applicable Contribution Period, in relation to a Contributor, means a Contribution Period that occurs during the period that commences on the Contributor's Entry Date and ends on the Contributor's final contribution date, except where the Contributor was not liable to contribute under this Annexure in respect of that Contribution Period because it occurred during leave without pay;

average contribution rate per cent, in relation to a Contributor at the Contributor's Exit Date, means the lesser of:

(a) 6 per cent; and

(b) the rate per cent calculated in accordance with the formula:

$$R = \frac{S}{N}$$

where:

R represents the rate per cent to be ascertained;

S represents the sum of the rates per cent of Salary at which the Contributor was liable to pay a Contribution for each Applicable Contribution Period for the Contributor; and

N represents the number of those Applicable Contribution Periods;

contributed points figure, in relation to a Contributor, means the figure that, in relation to each Applicable Contribution Period for the Contributor, is calculated in accordance with the formula:

$$F = \frac{P \times R}{N}$$

where:

F represents the figure to be ascertained;

P represents the rate per cent of Salary at which the Contributor elected to pay the Contribution under this Annexure for that Contribution Period;

R represents the Salary Ratio applicable to the Contributor on the first day of that Contribution Period; and

N represents the number of Contribution Periods in a year;

Final Average Salary, in relation to a Contributor, means the average of the Attributed Salaries paid or payable to the Contributor at the rates applicable:

(a) on the Contributor's Exit Date;

(b) on 31 December last preceding the Contributor's Exit Date; and

(c) on 31 December last preceding the 31 December referred to in sub-clause 5.1(b);

final contribution date, in relation to a Contributor, means the last day in respect of which the Contributor is liable to contribute under this Annexure;

Final Salary, in relation to a Contributor, means the rate of Attributed Salary paid or payable to the Contributor on the Contributor's Exit Date;

Maximum Benefit Points, in relation to a Contributor at the Contributor's Exit Date, means:

(a) 180; or

(b) if the number ascertained by the formula:

$$M = \frac{6 \times S}{N}$$

where:

M represents the number to be ascertained;

S represents the sum of the Salary Ratios for the Contributor in respect of each Applicable Contribution Period for the Contributor; and

N represents the number of Contribution Periods in a year,

is less than 180, the number so ascertained;

Prospective Benefit Points, in relation to a Contributor at the Contributor's Exit Date, means:

(a) the number calculated in accordance with the formula:

$$P = \frac{C \times R \times S}{N}$$

where:

P represents the number to be ascertained;

C represents the Contributor's average contribution rate per cent;

R represents the Salary Ratio applicable to the Contributor's Exit Date;

S represents the number of Applicable Contribution Periods for the Contributor that would occur during the period that commences immediately after the Contributor's final contribution date and ends immediately before the Early Retirement Age; and

N represents the number of Contribution Periods in a year; or

(b) if it is a lesser number than that calculated under sub-clause 5.1(a), the number of Benefit points that, when added to the number of the Contributor's Accrued Benefit Points at the Exit Date, would produce a number equal to the Maximum Benefit Points that would have been attributable to the Contributor if Contributions had continued at the average contribution rate per cent, the Salary Ratio had remained constant until the Exit Date and the Exit Date had immediately preceded the Early Retirement Age.

5.2 Benefit at or after early Retirement or on death at or after Early Retirement Age

(a) The Benefit provided by this sub-clause 5.2 is payable by the Trustee when a Contributor Retires from employment with an Employer on or after reaching the Early Retirement Age or dies during employment with an Employer on or after reaching that age and is so payable:

(i) where the Benefit becomes payable on the Contributor retiring, to the Contributor; or

(ii) where the Benefit becomes payable on the death of the Contributor, in accordance with sub-clause 2.3 of the Defined Benefit Section Rules; or

(b) The Benefit provided by this sub-clause 5.2 is an amount equal to the sum of:

(i) the amount of the Contributor-Financed Benefit; and

(ii) an amount of Employer-Financed Benefits calculated in accordance with the formula:

$$E = F \times A \times 0.025$$

where:

E represents the amount to be ascertained;

F represents the Contributor's Final Average Salary; and

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date.

(c) If the Trustee makes a determination under sub-clause 5.12 in relation to a Benefit to be provided by this sub-clause 5.2, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

5.3 Benefit on death before Early Retirement Age

(a) The Benefit provided by this sub-clause 5.3 is payable by the Trustee where a Contributor dies before attaining the Early Retirement Age during employment with an Employer and is so payable in accordance with sub-clause 2.3 of the Defined Benefit Section Rules.

(b) The Benefit provided by this sub-clause 5.3 in relation to a Contributor is an amount equal to the sum of:

(i) the amount of the Contributor-Financed Benefit;

(ii) an amount of Employer-Financed Benefits calculated in accordance with the formula:

$E = S \times A \times 0.025$

where:

E represents the amount to be ascertained;

S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date; and

(iii) where an approval under sub-clause 3.2 is in force the amount of the Additional Benefit.

(c) If the Trustee makes a determination under sub-clause 5.12 in relation to a Benefit to be provided by this sub-clause 5.3, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

5.4 Benefit on total and permanent invalidity before Early Retirement Age

(a) The Benefit provided by this sub-clause 5.4 is payable by the Trustee to a Contributor where, before attaining the Early Retirement Age, the Contributor ceases to be employed by an Employer and the Trustee is satisfied:

(i) that the Contributor's cessation of employment was due, directly or indirectly, to the permanent physical or mental incapacity of the Contributor (not caused by any act or default of the Contributor intended to produce that incapacity); and

(ii) that the Contributor is, when the Contributor ceases to be employed by the Employer, permanently unable, by reason of that incapacity, to be engaged, or

to be employed, in any remunerative occupation in which, in the opinion of the Trustee, it would otherwise be reasonable to expect the Contributor to engage.

(b) The Benefit provided by this sub-clause 5.4 is an amount equal to the sum of:

(i) the amount of the Contributor-Financed Benefit;

(ii) an amount of Employer-Financed Benefits calculated in accordance with the formula:

$$E = S \times A \times 0.025$$

where:

E represents the amount to be ascertained;

S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date; and

(iii) where an approval under sub-clause 3.2 is in force, the amount of the Additional Benefit.

(c) The Trustee is entitled to rely on a certificate by an Employer as to any matter mentioned in sub-clause 5.4(a)(i) if it thinks fit.

(d) If the Trustee makes a determination under sub-clause 5.12 in relation to a Benefit to be provided by this sub-clause 5.4, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

5.5 Benefit on partial and permanent invalidity before Early Retirement Age

(a) The Benefit provided by this sub-clause 5.5 is payable by the Trustee to a Contributor where, before attaining the Early Retirement Age, the Contributor ceases to be employed by an Employer and the Trustee is satisfied:

(i) that the Contributors cessation of employment was due, directly or indirectly, to the permanent physical or mental incapacity of the Contributor (not caused by any act or default of the Contributor intended to produce that incapacity); and

(ii) that the Contributor is, when the Contributor ceases to be employed by the Employer, permanently unable, by reason of that incapacity, to perform the duties that the Contributor was required to perform before the Contributor suffered the incapacity.

(b) The Benefit provided by this sub-clause 5.5 for a Contributor is an amount equal to the sum of:

(i) the amount of the Contributor-Financed Benefit; and

(ii) an amount of Employer-Financed Benefits calculated in accordance with the formula:

$$E = S \times A \times 0.025$$

where:

E represents the amount to be ascertained;

S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date.

(c) The Trustee is entitled to rely on a certificate by an Employer as to any matter mentioned in sub-clause 5.5(a) if it thinks fit.

(d) If the Trustee makes a determination under sub-clause 5.12 in relation to a Benefit to be provided by this sub-clause 5.5, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

5.6 Benefit on Resignation, Dismissal or Discharge before Early Retirement Age

(a) The Benefit provided by this sub-clause 5.6 is payable by the Trustee to a Contributor:

(i) if, before attaining the Early Retirement Age, the Contributor, having Resigned, or having been Dismissed or Discharged, from employment with an Employer, elects under sub-clause 5.10(a) to take that Benefit and no other Benefit is payable under this Annexure; or

(ii) if the amount of that Benefit is less than $200.

(b) The Benefit provided by this sub-clause 5.6 for a Contributor for whom the period commencing on Entry Date and ending on Exit Date is 10 years or more is an amount equal to the sum of:

(i) the amount of the Contributor-Financed Benefit; and

(ii) an amount of Employer-Financed Benefit calculated in accordance with the formula:

$$W = \frac{V \times R \times A \times 0.025}{Y}$$

where:

W represents the amount to be ascertained;

V represents the period (expressed in years with any fractional part of a year being calculated on a basis of complete Contribution Periods) that commenced on the Contributor's Entry Date and ended on the Contributor's Exit Date;

R represents the amount of the Contributor-Financed Benefit;

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date; and

Y represents the number ascertained by adding together all the Contributor's contributed points figures calculated in relation to the Contributor for the Applicable Contribution Periods for the Contributor.

(c) If the Trustee makes a determination under sub-clause 5.12 in relation to a Benefit to be provided by this sub-clause 5.6, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

(d) The Benefit provided by this sub-clause 5.6 for a Contributor for whom the period commencing on Entry Date and ending on Exit Date is less than 10 years is the amount of the Contributor-Financed Benefit.

(e) Notwithstanding anything elsewhere contained in this Annexure where, on a Contributor ceasing employment with an Employer, the Benefit calculated by applying sub-clause 5.6 is greater than the Benefit otherwise payable to the Contributor, the Contributor will be entitled to the Benefit calculated under sub-clause 5.6 in lieu of the Benefit that would otherwise be payable.

5.7 Benefit on Retrenchment before Early Retirement Age

(a) The Benefit provided by this sub-clause 5.7 is payable by the Trustee to a Contributor if, before attaining the Early Retirement Age:

(i) the Contributor is retrenched; and

(ii) no other Benefit is payable under this Annexure; and

(iii) the Trustee is provided with a certificate from the Contributor's Employer confirming that the Contributor has been retrenched and specifying the ground for the Retrenchment.

(b) The Benefit provided by this sub-clause 5.7 for a Contributor is an amount equal to the sum of:

(i) the Contributor-Financed Benefit; and

(ii) an amount of Employer-Financed Benefit calculated in accordance with the formula:

$E = S \times A \times 0.025$

where:

E represents the amount to be ascertained;

S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date.

(c) If the Trustee makes a determination under sub-clause 5.12 or 5.13 in relation to a Benefit to be provided by this sub-clause 5.7, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

5.8 Benefit on attaining 65

(a) A Contributor who attains 70 years of age must be paid any Benefit to which the Contributor would be entitled on Retirement at that age but may elect to defer the whole of the Benefit. A Contributor may within three months of being notified by the Trustee of their entitlements under this sub-clause 5.8(a), elect that sub-clause 5.8(b) apply.

(b) In the case of a Contributor who had attained 70 years of age on or before the date this sub-clause 5.8(b) was introduced, or who elects under sub-clause 5.8(a) that this sub-rule apply, that Contributor may elect at any time to be paid the Benefit or to make an election to defer the Benefit.

(c) An employee may elect, at any time on or after attaining 65 years and before attaining 70 years:

(i) to be paid any Benefit to which the Employee is entitled at the time of the election; or

(ii) to defer the whole of the Benefit,

even though the Employee is not Retired.

(d) The Trustee is to adjust the amount of a Benefit payable under this sub-clause 5.8, having regard to any adjustment of a Contributor's Account.

(e) If an amount is deferred under this sub-clause 5.8, it is payable in the same way as a Benefit under sub-clause 5.10.

(f) A person paid a Benefit under this sub-clause is not entitled:

(i) to any further Benefit under this Annexure in respect of the same period of service, or

(ii) to contribute or to accrue any further Benefits under this Annexure.

5.9 Deferral of Benefit on Retrenchment before Early Retirement Age

(a) A Contributor who becomes entitled to be paid a Benefit under sub-clause 5.7 may elect:

(i) to take the Benefit as provided by that sub-clause 5.7; or

(ii) to defer a Benefit calculated in the same way as the Benefit provided by that sub-clause 5.7.

(b) The provisions of sub-clause 5.10 (except sub-clause 5.10(j)) apply in relation to a Benefit deferred under this sub-clause 5.9 in the same way as they apply in relation to a Benefit deferred under sub-clause 5.10.

5.9A Compulsory preservation of Benefits

(a) The Trustee must, when a Benefit becomes payable under this Annexure (including a Benefit provided by sub-clause 5.9, 5.10 or 5.11), preserve all or so much of the Benefit as is required to be preserved so as to be consistent with Relevant Law.

(b) The amount of a Benefit that must be preserved for the purposes of sub-clause 5.9A(a) is to be preserved in the Fund and is to be adjusted, having regard to any adjustment of the Contributor's account under sub-clause 2.2 or is to be preserved under sub-clause 5.9C.

5.9B Payment of compulsorily preserved Benefit

(a) The whole or part of a Benefit preserved under sub-clause 5.9A is payable by the Trustee in the circumstances in which the whole or part of a Benefit may be paid under Relevant Law.

(b) The whole or part of a Benefit preserved under sub-clause 5.9A must be paid by the Trustee, if it is required to be paid under Relevant Law.

(c) The Benefit is payable:

(i) unless the former Contributor has died, to the former Contributor, or

(ii) if the former Contributor has died, in accordance with sub-clause 2.3 of the Defined Benefit Section Rules.

5.9C Preserved Benefits

(a) Any amounts preserved by the Trustee under sub-clause 5.9A may be preserved in such funds, accounts or reserves as the Trustee determines, whether established under this Annexure or for the purposes of any other division or superannuation scheme administered by the Trustee.

(b) Any such preserved amounts payable by the Trustee under sub-clause 5.9A are to be paid from the appropriate fund, account or reserve referred to in this sub-clause 5.9C.

5.10 Deferred Benefit

(a) A Contributor who Resigns, or is Dismissed or Discharged, from employment with an Employer before attaining the Early Retirement Age may elect to take the Benefit provided by sub-clause 5.6 or (if that Benefit, including any interest paid by the Trustee, is not less than $200) to make provision for a Benefit provided by this sub-clause 5.10.

(b) A Contributor who becomes entitled to be paid a Benefit under sub-clause 5.5 may elect to take the Benefit provided by sub-clause 5.5 or (if that Benefit, including interest paid by the Trustee, is not less than $200) elect to defer the whole or a part of that Benefit.

(c) The provisions of sub-clause 5.10 (except sub-clauses 5.10(a), 5.10(d) 5.10(j), 5.10(k), 5.10(p), 5.10(q), 5.10(r), 5.10(s) and 5.10(t)) apply in relation to the whole or a part of a Benefit deferred under sub-clause 5.10(b) in the same way as they apply in relation to a Benefit deferred under sub-clause 5.10.

(d) A Contributor who is under 65 years of age may, instead of taking the Benefit payable under sub-clause 5.2, elect to make provision for a Benefit provided by this sub-clause 5.10 (but only if that Benefit, including any interest paid by the Trustee, is not less than $200).

(e) Where an election to make provision for a Benefit provided by this sub-clause 5.10 made by a Contributor under sub-clause 5.10(a) or 5.10(d) takes effect, a Benefit is not payable to, or in relation to, the Contributor under any provision of this Annexure other than this sub-clause 5.10.

(f) A Contributor who, being entitled to make an election under sub-clause 5.10(a) or 5.10(d), does not make such an election before the end of a period of 90 days from the date the Benefit becomes payable, or such longer period as the Trustee may allow, is taken to have elected to have made provision for a Benefit provided by this sub-clause 5.10.

(g) The Benefit provided by sub-clause 5.10(j) or 5.8 must be paid by the Trustee:

(i) if the former member:

(A) elected under sub-clause 5.10(a), or is taken under sub-clause 5.10(f) to have elected, to defer the Benefit; and

(B) attains the Early Retirement Age; and

(C) applies to the Trustee in writing for payment of the Benefit; or

(ii) if the former member:

(A) elected under sub-clause 5.10(d) or 5.8 to defer the Benefit; and

(B) applies to the Trustee in writing for payment of the Benefit; or

(iii) if the former member dies without making an application for payment of the Benefit; or

(iv) except in the case of a Benefit provided under sub-clause 5.10(d) or sub-clause 5.8 on the Trustee being satisfied that the former Member is incapable, from infirmity of body or mind, of being employed in any remunerative occupation in which, in the opinion of the Trustee, it would otherwise be reasonable to expect the former member to engage; or

(v) on the Trustee being satisfied that the former member has retired from the workforce and the former member applies for the benefit.

(h) Subject to sub-clause 5.10(g), the Benefit provided by sub-clause 5.10(j) is payable:

(i) except where the Contributor has died, to the Contributor; or

(ii) if the Contributor has died, in accordance with sub-clause 2.3 of the Defined Benefit Section Rules.

(i) The Benefit provided by sub-clause 5.10(l) is payable to a Contributor by the Trustee if:

(i) the Contributor has elected to take that Benefit; and

(ii) the election takes effect before the Benefit provided by sub-clause 5.10(j) becomes payable to or in respect of the Contributor.

(j) Subject to sub-clause 5.10(k), the Benefit provided by this sub-clause 5.10(j) is an amount equal to the sum of:

(i) the Contributor-Financed Benefit at Exit Date; and

(ii) an amount of Employer-Financed Benefits calculated in accordance with the formula:

$E = F \times A \times 0.025 \times K^n$

where:

E represents the amount to be ascertained;

F represents the Contributor's Final Average Salary;

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date;

K represents a discount factor determined by the Trustee after seeking actuarial advice; and

n represents the period (expressed in years with any fractional part of a year being calculated on the basis of complete Contribution Periods) between the Contributor's age at Exit Date and the Early Retirement Age,

as adjusted under sub-clause 5.10(n).

(k) For the purposes of calculating the Benefit provided under sub-clause 5.10(j) in the case of a Contributor who has attained the Early Retirement Age, "K" in the formula in sub-clause 5.10(j) is to equal 1.

(l) The Benefit provided by this sub-clause 5.10(l) is an amount equal to the amount of the Benefit under sub-clause 5.6 or 5.7 that would have been payable to the Contributor at the Contributor's Exit Date if the Contributor had not made the election under sub-clause 5.10(a), as adjusted under sub-clause 5.10(n).

(m) If the Trustee makes a determination under sub-clause 5.12 in relation to a Benefit to be provided by this sub-clause 5.10, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

(n) The Trustee is to adjust the amount of a Benefit payable under this sub-clause 5.10, having regard to any adjustment of a Contributor's Account under the Deed or this Annexure.

(o) A Contributor (other than a Contributor who is eligible to become or who is a member of the Accumulation and Pension Section in accordance with sub-clause 3.14) who becomes a Contributor to another superannuation fund while employed by the same Employer:

(i) is required to make provision for a Benefit provided by this sub-clause 5.10 despite anything to the contrary in sub-clause 5.10(a);

(ii) shall be deemed to have elected under sub-clause 5.10(a) to make provision for that Benefit on becoming a Contributor to that other superannuation fund; and

(iii) is not entitled to elect to take the Benefit provided by sub-clause 5.10(l) while employed by that same Employer.

(p) Sub-clauses 5.10(q) to 5.10(t) have effect with respect to Contributors who are transferred as a consequence of a Government initiative (other than a Government privatisation initiative) or who, while remaining with their existing Employer, elect or are required to become Contributors to another superannuation scheme.

(q) Transferred Contributors or Contributors electing or required to join another Superannuation Fund

(i) Sub-clauses 5.10(q) to 5.10(t) apply:

(A) to Contributors:

(1) who are employed in an area of an Employer's activities that is, or is to be, transferred to another Employer who is not, in respect of the Contributor, an Employer under this Annexure; and

(2) who have elected or are required to transfer to the employment of that other Employer; and

(3) whose transfer of employment is determined by the Trustee to be a transfer of employment to which sub-clauses 5.10(q) to 5.10(t) apply; and

(B) to Contributors:

(1) who, while remaining with their existing Employer, have elected or are required to become Contributors to another superannuation fund; and

(2) whose transfer to that Fund is determined by the Trustee to be a transfer of superannuation coverage to sub-clauses 5.10(q) to 5.10(t) apply.

(ii) Sub-clauses 5.10(q) to 5.10(t) do not apply to Contributors transferred as a consequence of a Government privatisation initiative.

(r) A Contributor to whom sub-clauses 5.10(q) to 5.10(t) apply is entitled to make provision for a Deferred Benefit even though he or she is not entitled to a Benefit of or exceeding the amount prescribed for the purposes of sub-clause 5.10(a).

(s) A Contributor to whom sub-clauses 5.10(q), 5.10(r), 5.10(s) or 5.10(t) applies and who elects to make provision for a Deferred Benefit is entitled to be paid the Benefit provided by sub-clause 5.10(j) on ceasing to be a Contributor, despite anything to the contrary in sub-clause 5.10.

(t) A Deferred Benefit is payable under sub-clauses 5.10(s) and 5.10(t) if, and only if:

(i) the Trustee is satisfied that the Benefit will be applied to the credit of the Contributor in another superannuation fund; and

(ii) any requirements specified by the Trustee with respect to the payment of the Benefit are complied with.

5.11 Deferral of Benefit for Contributors in certain circumstances

(a) This sub-clause 5.11 applies to a Contributor:

(i) who, as a result of a single reduction of Salary, has undergone a reduction of 20% or more in Attributed Salary; and

(ii) whose Employer certifies the matter referred to in sub-clause 5.11(a)(i).

(b) The fact that a person undergoes more than one Attributed Salary reduction of 20% or more does not mean that the person ceases to be a person to whom this sub-clause 5.11 applies.

(c) In this sub-clause 5.11, ***Exit Date***, in relation to an Employee to whom this sub- clause 5.11 applies, means the day immediately preceding the day of the reduction in Attributed Salary in relation to which the Employee makes an election under sub-clause 5.11(d).

(d) A Contributor to whom this sub-clause 5.11 applies may elect to make provision for a Benefit under sub-clause 5.10.

(e) An Employee may make only one election under this sub-clause 5.11 but the election may relate to any single reduction in Attributed Salary of 20% or more (not just the first reduction that occurs).

(f) The Benefit is deferred from the Exit Date.

(g) The initial value of a Deferred Benefit is to be calculated in accordance with sub-clause 5.10 as if the Contributor had ceased employment.

(h) If a Contributor has attained the Early Retirement Age before the Exit Date, for the purpose of calculating the value of the Employer-Financed Benefits to be preserved under sub-clause 5.11(a), "K" in the formula in sub-clause 5.10(j)(ii) is to equal one.

(i) A Benefit deferred under this sub-clause 5.11 may only be paid in accordance with sub-clause 5.10 and then only if the person in respect of whom the Benefit is payable has ceased employment or has died.

5.12 Power of the Trustee to reduce Benefits to offset certain Tax liabilities under this Annexure

(a) Whenever:

(i) a right to a Benefit under this Annexure accrues to or in respect of a Contributor or former Contributor; and

(ii) the Trustee has paid or is liable to pay Tax in respect of Employers' Contributions under this Annexure; and

(iii) a portion of that Tax is referable to the Employer-financed portion of that Benefit,

the Trustee must, subject to sub-clause 5.12(b);

(iv) calculate the amount necessary to offset the Trustee's liability to pay Tax so far as it is referable to the Employer-financed portion of that Benefit; and

(v) accordingly make a determination reducing the employer-financed portion of that Benefit by the amount so calculated.

(b) Sub-clause 5.12(a) does not authorise the reduction of a Benefit, unless:

(i) the Benefit is of a kind set out in sub-clauses 5.12(c) and 5.12(d); and

(ii) the reduction is calculated in accordance with the method set out in sub-clauses 5.12(e) to 5.12(i).

(c) Subject to sub-clause 5.12(d), the kinds of Benefits referred to in sub-clause 5.12 of this Annexure are Benefits provided under sub-clauses 5.2, 5.4, 5.5, 5.6, 5.7 or 5.10 of this Annexure.

(d) A Benefit arising as the result of the death of a person may be reduced by the Trustee to offset Tax liabilities under this Annexure only as provided by sub-clauses 5.12(j) to 5.12(m).

(e) Reduction for sub-clause 5.2:

(i) If a Benefit, other than a Benefit arising as the result of the death of the Contributor, becomes payable under sub-clause 5.2, the reduction in Benefit is the amount calculated in accordance with the formula set out in sub-clause 5.12(e)(ii).

(ii) For the purposes of sub-clause 5.12(e)(i), the formula is

$$R = \frac{A \times B \times 0.025 \times F \times 0.15}{C}$$

where:

R represents the amount of the reduction;

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date

B represents the period in days of continuous contributory service that began on the taxable date

C represents the period in days of continuous contributory service for the Contributor

F represents the Contributor's Final Average Salary.

(f) Reduction for sub-clauses 5.4 and 5.5:

(i) If a Benefit becomes payable under sub-clauses 5.4 or 5.5, the reduction in Benefit is the amount calculated in accordance with the formula set out in sub-clause 5.12(f)(ii).

(ii) For the purposes of sub-clause 5.12(f)(i), the formula is:

$$R = \frac{A \times B \times 0.025 \times S \times 0.15}{C}$$

where:

R represents the amount of the reduction;

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date;

B represents the period in days of continuous contributory service that began on the taxable date;

C represents the period in days of continuous contributory service for the Contributor;

S S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and

(g) Reduction for sub-clause 5.6:

(i) If:

(A) a Benefit becomes payable under sub-clause 5.6 of this Annexure; and

(B) the Contributor's period of continuous contributory service is 10 years or more,

the reduction in Benefit is the amount calculated in accordance with the formula set out in sub-clause 5.12(g)(ii).

(ii) For the purposes of sub-clause 5.12(g)(i), the formula is:

$$R = \frac{T \times C \times A \times 0.025 \times 0.15}{Y}$$

where:

R represents the amount of the reduction;

T represents the period (expressed in years, with any fractional part of a year being calculated on the basis of complete Contribution Periods) that commenced on the taxable date or the Contributor's entry date (whichever last occurred) and ended on the Contributor's Exit Date;

C represents the amount of the Contributor-Financed Benefit payable under sub-clause 5.6(b)(i);

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date;

Y represents the number ascertained by adding together all of the Contributor's contributed points figures calculated in relation to the Contributor for the Applicable Contribution Periods for the Contributor.

(iii) A benefit payable under sub-clause 5.6 of this Annexure is not to be reduced if the Contributor's period of continuous contributory service is less than 10 years.

(h) Reduction for sub-clause 5.7:

(i) If a Benefit becomes payable under sub-clause 5.7, the reduction in Benefit is the amount calculated in accordance with the formula set out in sub-clause 5.12(h)(ii).

(ii) For the purposes of sub-clause 5.12(h)(i), the formula is:

$$R = A \times B \times 0.025 \times S \times \frac{0.15}{C}$$

where:

R represents the amount of the reduction;

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date;

B represents the period in days of continuous contributory service that began on the taxable date;

C represents the period in days of continuous contributory service for the Contributor;

S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and

(i) Reduction for sub-clause 5.10.

(i) If a Contributor elects to make provision for a Deferred Benefit under sub-clause 5.10, the reduction in Benefit is the amount calculated in accordance with the formula set out in sub-clause 5.12(i)(ii).

(ii) For the purposes of sub-clause 5.12(i)(i), the formula is:

$$R = A \times B \times 0.025 \times F \times K^{n} \times 0.15 \quad C$$

where:

R represents the amount of the reduction;

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date;

B represents the period in days of continuous contributory service that began on the taxable date;

C represents the period in days of continuous contributory service for the Contributor;

F represents the Contributor's final average salary;

K represents the discount factor determined by the Trustee for the purposes of sub-clause 5.10(j)(ii);

n represents the period between the Contributor's age at his or her Exit Date and the Early Retirement Age, the period being expressed in years with any fractional part of a year being calculated on the basis of complete Contribution Periods.

(j) If a Transferred Contributor referred to in clauses 12 to 19, or any other person, having a right to do so, elects under sub-clause 17.1, to take a pension Benefit, then, subject to sub-clause 5.12(l), the reduction in Benefit referred to in this sub-clause 5.12 is the amount calculated in accordance with the formula set out in sub-clause 5.12(k).

(k) For the purposes of sub-clause 5.12(j), the formula is:

$$R = B \times 0.15 \times P\ C$$

where:

R represents the amount of the reduction;

B represents the period in days of continuous contributory service that began on the taxable date;

C represents the period in days of continuous contributory service for the Transferred Contributor concerned;

P represents:

(i) the proportion of the pension that is attributable to Accrued Benefit Points and that, but for sub-clauses 5.12(j) to 5.12(m), would be payable under sub-clause 17.3, 17.4, 17.5 or 17.6 to that Transferred Contributor; or

(ii) if that Transferred Contributor has died, the proportion of the pension that is attributable to Accrued Benefit Points and that, but for this clause, would be payable under clause 44 of that Regulation to the Spouse of that Contributor.

(l) If, in accordance with sub-clause 17.1 the Transferred Contributor or other person referred to in sub-clause 5.12(j) elects to convert to a pension Benefit only a portion of the Benefit points of the Transferred Contributor, the Benefit to be derived from the Benefit points remaining after conversion is subject to reduction in accordance with the relevant provisions of this sub-clause 5.12 that apply to that Benefit.

(m) If the Benefit of a Transferred Contributor within the meaning of the *State Authorities Superannuation (State Public Service Superannuation Scheme Transfer) Regulation 1989* is required to be reduced in accordance with a formula set out in sub-clauses 5.12(e), 5.12(f), 5.12(h) or 5.12(i), the multiple "0.025" specified in the formula is, in relation to the Contributor, to be read as the multiple "0.03".

(n) In this sub-clause 5.12:

continuous contributory service, in relation to a Contributor, means the period beginning with the Contributor's Entry Date and ending with the Contributor's Exit Date;

taxable date means 1 July 1988.

5.13 Compliance with superannuation guarantee legislation

(a) The Trustee must, after obtaining actuarial advice, determine what the minimum employer-financed benefit would have to be to ensure that there is no Superannuation Guarantee Shortfall.

(b) An employer-financed benefit provided by an Employer is, despite any other provision of the Deed or this Annexure, not to be less than the minimum Benefit determined under sub-clause 5.13(a). The Benefit that would otherwise be payable under this Annexure is increased to the extent necessary for the purposes of complying with this sub-clause 5.13.

(c) The amount of any increase in Benefit is to be debited by the Trustee from the appropriate Employer reserve established under the Deed.

(d) In this sub-clause***, employer-financed benefit*** means the sum of the employer-financed benefit under this Annexure, any 'Basic Benefit' under Annexure 2 of the Pool B Sub-Division Rules and any employer-financed benefit of a kind provided by Annexure 2 of the Pool B Sub-Division Rules.

5.14 Payment or release of benefit on the grounds of severe financial hardship and compassion

(a) The Trustee may, on the application of a Contributor, or former Contributor who has deferred a benefit under this Annexure, pay the person a Benefit:

(i) on the grounds of the person's severe financial hardship and the person satisfies guidelines for payment a Benefit established by the Superannuation Legislation;

(ii) on compassionate grounds and the member has produced to the Trustee written approval of APRA for payment of the Benefit.

(b) The amount of the Benefit:

(i) is not to exceed the amount permitted to be paid on the applicable ground;

(ii) in the case of a former Contributor is not to exceed the amount of the Benefit that would be payable to the former Contributor under sub-clause 5.10(l) if the former Contributor elected to be paid such a benefit; and

(iii) in the case of a Contributor is not to exceed the amount of the Contributor-Financed Benefit accrued at the time of payment.

(c) If a Benefit is paid to a person under sub-clause 5.14(a)(i), and the person subsequently becomes entitled to another Benefit under this Annexure, the Trustee must make a determination reducing the amount of the subsequent Benefit to take into account any Benefits previously paid under sub-clause 5.14(a)(i).

6. SPECIAL PROVISIONS RELATING TO HUNTER DISTRICT WATER BOARD EMPLOYEES

6.1 Definitions

In this clause 6:

Employee means an Employee of the Hunter Water Board;

notional accumulation, in relation to a Transferred HW Contributor, means an amount equal to the sum of:

(a) the amount transferred to the State Authorities Superannuation Fund under clause 5(4)(b) of the *State Authorities (Hunter District Water Board Employee's Provident Fund Transfer) Regulation 1990* (NSW) in respect of the Contributor from sub-Accounts 3 and 4 of the Provident Fund, as specified in clause A8.1a of the Trust Deed; and

(b) in respect of each Applicable Contribution Period from and including 1 July 1990, an amount equal to whichever is the smaller of the following:

(i) 0.85 of 6% of the Salary of that Contributor, multiplied by the Salary Ratio of that Contributor in respect of that period, based on the rate of Salary determined under sub-clause 3.8 in respect of that period; or

(ii) 0.85 of 1.5 times the Contributions paid or payable by that Contributor in that period under this Annexure,

together with interest at a rate or rates determined by the Trustee, but reduced by an amount or amounts calculated in such a manner as the Trustee determines in respect of

the costs of administering the clauses in this Annexure and such other charges (if any) as are determined by the Trustee;

the Trust Deed means the Hunter District Water Board Employees' Provident Fund Trust Deed;

Transferred HW Contributor means an Employee who was deemed to be a Contributor to the *State Authorities Superannuation Act 1987* (NSW) by reason of clause 5 of the *State Authorities Superannuation (Hunter District Water Board Employees Provident Fund Transfer) Regulation 1990* (NSW).

6.2 Application of certain definitions to Transferred HW Contributor

(a) For the purposes of applying this Annexure to a Transferred HW Contributor, the Contributor's Entry Date is to be taken to be the date or, if more than one, the latest date on which the Transferred Contributor commenced employment with the Hunter Water Board.

(b) For the purposes of applying sub-clause 5.1 to a Transferred HW Contributor, that Contributor's average contribution rate per cent referred to in the definition of Prospective Benefit Points is to be construed in such a way as to exclude from calculation any period which occurred before 1 July 1990.

(c) In relation to a Transferred HW Contributor, the definition ***Accrued Benefit Points*** in sub-clause 5.1 is to be construed as if the reference in that definition to contributed points figures included a reference to the number of transferred benefit points for the Contributor calculated in accordance with sub-clause 6.3.

(d) For the purposes of applying the definition of ***Final Average Salary*** in sub-clause 5.1 to a Transferred HW Contributor, that definition is to be read as if the Contributor had become a new Contributor on 1 July 1990.

6.3 Benefit points to be credited to a Transferred HW Contributor

(a) A Transferred HW Contributor is, in respect of his or her service before 1 July 1990, entitled to the number of transferred benefit points calculated in accordance with the following formula:

$$P = \frac{E}{0.025 \times W}$$

Where:

P represents the initial points credit; and

E represents the amount relating to the Contributor which was credited to the appropriate employer reserve in the State Authorities Superannuation Fund in accordance with clause 5(5)(c) of the *State Authorities Superannuation (Hunter District Water Board Employees' Provident Fund Transfer) (Savings and Transitional) Regulation 1990* (NSW) from sub-Accounts 3 and 4 of the Hunter District Water Board Employees' Provident Fund, as specified in clause A8.1a of the Trust Deed; and

W represents the Contributor's annual Salary at 1 July 1990.

(b) The Trustee may round off the number of a Transferred HW Contributor's accrued transferred Benefit points to not less than one decimal place, as it thinks fit.

6.4 Minimum Benefits for Transferred HW Contributors on death or invalidity

(a) This sub-clause 6.4(a) applies to a Transferred HW Contributor who:

(i) is not eligible to apply for the Additional Benefit; or

(ii) does not make an application for Additional Benefit coverage under sub-clause 3.2 of this Annexure; or

(iii) makes an application for such Additional Benefit coverage but the application is refused.

(b) If a Benefit under:

(i) sub-clause 5.3; or

(ii) sub-clause 5.4; or

(iii) sub-clause 5.5,

would have become payable to or in respect of a Transferred HW Contributor to whom this sub-clause 6.4(b) applies if the words "before attaining the Early Retirement Age" had been omitted from the sub-clause concerned, the employer-financed benefit is to be not less than the amount determined under sub-clause 6.4(c).

(c) The amount to be determined for the purposes of sub-clause 6.4(b) is the sum of:

(i) the notional accumulation; and

(ii) the amount calculated in accordance with the following formula:

$A = 1.95 \times M \times W$

where:

A represents the amount to be calculated; and

M represents the number of months of the Transferred HW Contributor's contributory service up to 65 years of age, divided by 12; and

W represents the Transferred HW Contributor's Final Salary divided by 52.2.

(d) If a Transferred HW Contributor to whom this sub-clause 6.4 applies has been assigned a medical classification of 1B under clause A10.1c of the Trust Deed, the Benefit payable under sub-clause 6.4(b) in relation to a Benefit under sub-clause 5.4 or 5.5 is the sum of:

(i) the notional accumulation; and

(ii) the amount calculated in accordance with the following formula:

A = 0.75 x P

where:

A represents the amount to be calculated; and

P represents the amount calculated in accordance with sub-clause 6.4(c)(ii).

6.5 Benefit for Transferred HW Contributors on Resignation, Dismissal or Discharge before Early Retirement Age

(a) If a Benefit under sub-clause 5.6 becomes payable to a Transferred HW Contributor, the Employer-Financed Benefit is not to be less than the amount determined under sub-clause 6.5(b).

(b) The amount to be determined for the purposes of sub-clause 6.5(a) is the amount calculated in accordance with the following formula:

B = S x E

where:

B represents the amount to be ascertained; and

S represents the lesser of 1.0 and the product of 0.025 times the number of complete years of service; and

E represents the notional accumulation as at the date of Resignation.

7. SPECIAL PROVISIONS RELATING TO CONTRIBUTORS TRANSFERRED FROM THE STATE PUBLIC SERVICE SUPERANNUATION FUND

7.1 Application

(a) This sub-clause 7.1 applies to Employees who were deemed to be a Contributor to the *State Authorities Superannuation Act 1987* (NSW) by reason of clause 4 of the *State Authorities Superannuation (State Public Service Superannuation Scheme Transfer) Regulation 1989* (NSW).

(b) A person to whom sub-clause 7.1(a) applies is referred to in this clause 7 as a ***Transferred SPS Contributor***.

7.2 Transferred SPS Contributors

(a) If a Transferred SPS Contributor was, immediately before 1 April 1989, covered for the supplementary benefit in accordance with section 13 of the *State Public Service Superannuation Act 1985* (NSW) (supplementary benefit), that Contributor:

(i) is taken to be covered for the Additional Benefit under this Annexure; and

(ii) is required to pay the Additional Benefit Levy as provided by sub-clause 3.4(b) as if that Contributor had lodged with the Trustee an application under sub-clause 3.2 and that application had been approved by the Trustee.

(b) If immediately before 1 April 1989, any allowance or other kinds of remuneration were treated as Salary for the purposes of the *State Public Service Superannuation Act 1985* (NSW) in relation to a Transferred SPS Contributor, they continue to be treated as Salary for the purposes of this Annexure, but only as regards that Contributor.

7.3 Application of Definitions

(a) For the purpose of applying the definition of ***Accrued Benefit Points*** in sub-clause 5.1 to a Transferred SPS Contributor, that definition is to be read as if the reference in it to contributed points figures included a reference to the total of the contributed points figures calculated in relation to that Contributor under the *State Public Service Superannuation Act 1985* (NSW) on 31 March 1989.

(b) For the purpose of applying the definition of ***contributed points figure*** in sub-clause 5.1 to a Transferred SPS Contributor, that definition is to be read as if the reference in that definition to Applicable Contribution Periods included a reference to applicable superannuation periods as defined by section 25 of the *State Public Service Superannuation Act 1985* (NSW).

(c) For the purpose of applying the definition of Early Retirement Age in sub-clause 1.1 to a Transferred SPS Contributor, the age of 55 years is applicable.

(d) For the purpose of applying this Annexure to a Transferred SPS Contributor, such a Contributor's Entry Date is to be taken to be the date that was regarded as the Entry Date applicable to the Transferred SPS Contributor under the *State Public Superannuation Act 1985* (NSW).

(e) For the purpose of applying the definition of Final Average Salary in sub-clause 5.1 to a Transferred SPS Contributor, that definition is to be read as if the Transferred SPS Contributor had become a new Contributor on 1 April 1989.

(f) For the purpose of applying the definition of Maximum Benefit Points in sub-clause 5.1 to a Transferred SPS Contributor, a reference to the number 180 in that definition:

(i) in respect of a Transferred SPS Contributor aged 55 years or less, is to be taken to be a reference to the number 162; and

(ii) in respect of a Transferred SPS Contributor aged more than 55 years but less than 58 years, is to be taken to be a reference to the number calculated in accordance with the following formula:

$$162 + \frac{(6 \times Z)}{N}$$

where:

Z represents the sum of the Salary Ratios for the Transferred SPS Contributor in respect of each Applicable Contribution Period for the Transferred SPS Contributor occurring since reaching 55 years of age; and

N represents the number of contribution periods in a year.

7.4 Employer-Financed Benefits for Transferred SPS Contributors

If:

(a) in any case an Employer-Financed Benefit is payable to or in respect of a Transferred SPS Contributor; and

(b) provision-is made in this Annexure for that Benefit to be calculated utilising the multiple 0.025,

the multiple 0.03 is to be substituted for that multiple, except in relation to a Benefit provided by sub-clause 5.6.

7.5 Qualifying period for Retrenchment Benefit for Transferred SPS Contributor

(a) This sub-clause 7.5 applies to a Transferred SPS Contributor who:

(i) was a Contributor to the State Public Service Superannuation Fund and the Public Authorities Superannuation Fund for a continuous period; and

(ii) was a person required by the *Public Authorities Superannuation Act 1985* (NSW) to make provision for a preserved benefit under that Act in respect of employment by an Employer within the meaning of that Act on becoming a Contributor to the State Public Service Superannuation Fund.

(b) In ascertaining the entitlement of a Transferred SPS Contributor referred to in sub-clause 7.5(a) to a Benefit under sub-clause 5.7 which is subject to the Contributors satisfying a requirement as to the duration of the period that has elapsed from the Contributor's Entry Date to his or her date of exit, the period is to be taken to include any period during which he or she was a contributor to the Public Authorities Superannuation Fund.

7.6 Payment on Retrenchment of a Benefit preserved under the Public Authorities Superannuation Act 1985 (NSW)

For the purpose of establishing the entitlement of a Transferred SPS Contributor referred to in sub-clause 7.5 to payment out of a preserved benefit under section 32 of the *Public Authorities Superannuation Act 1985* (NSW), a reference in subsection (3) of that section to the Public Service Superannuation Fund is to be read as a reference to the State Authorities Superannuation Fund.

8. SPECIAL PROVISIONS FOR INSURANCE POLICY HOLDERS AND FORMER LOCAL GOVERNMENT PROVIDENT FUND CONTRIBUTORS UNDER THE LOCAL GOVERNMENT AND OTHER AUTHORITIES (SUPERANNUATION) ACT 1927 (NSW)

8.1 Interpretation

(a) In this sub-clause 8.1:

current insurance policy, in relation to a person, means an insurance policy in force in respect of that person that:

(i) was effected by or in respect of that person or accepted by the Local Government Superannuation Board or its successor under Part 2 of the earlier Act; and

(ii) is kept in force by the payment of the premiums under section 6 of that Act;

earlier Act means the Local Government and Other Authorities (Superannuation) Act 1927 (NSW);

former fixed rate provident fund contributor means a person who was, immediately before becoming a Transferred LGI Contributor, a Contributor to the Provident Fund but who did not contribute to that fund as a result of having made a request under section 7C(1) or (3) of the earlier Act;

former variable provident fund contributor means a person who was, immediately before becoming a Transferred LGI Contributor, a Contributor to the Provident Fund by virtue of having contributed to the fund as a result of having made a request under section 7C(1) or (3) of the earlier Act;

Provident Fund means the Local Government Provident Fund established under section 8 of the earlier Act;

In this clause 8, ***transfer day*** means 1 May 1990;

Transferred LGI Contributor means a person who became a Contributor to the State Authorities Superannuation Fund by virtue of clause 4(1) or 5(1) of the *State Authorities (Closed Local Government Schemes Transfer) Regulation 1990*.

(b) In relation to a Transferred LGI Contributor, the definition of Accrued Benefit Points in sub-clause 5.1 is to be construed as if the reference in that definition to contributed points figures included a reference to the number of transferred benefit points for the Contributor calculated in accordance with sub-clause 8.2 or 9.2 as the case requires.

(c) For the purpose of applying the definition of Prospective Benefit Points in sub-clause 5.1 to a Transferred LGI Contributor, the reference in that definition to applicable contribution periods is to be construed in such a way as to exclude from calculation any of the Contributor's service that occurred before the transfer day.

(d) For the purposes of this clause 8, a Contributor's Entry Date is to be taken to be the date on which the Transferred LGI Contributor last became subject to the provisions of the earlier Act.

8.2 Definition of notional accumulation for the purposes of clause 8

(a) For the purposes of this clause 8:

notional accumulation in relation to a Transferred LGI Contributor who is a former holder of a current insurance policy or a former Contributor to the Provident Fund, means an amount equal to the sum of:

(i) the amounts credited to the appropriate Employer reserve; and

(ii) in respect of each Applicable Contribution Period since the transfer day, the amount determined in accordance with sub-clause 8.2(b),

together with interest at a rate or rates determined by the Trustee, less:

(iii) an amount or amounts, calculated in such manner as the Trustee may determine, in respect of the costs of administering the clauses under this Annexure; and

(iv) such other charges as may be determined by the Trustee.

(b) The amount referred to in sub-clause 8.2(a)(ii) of the definition of notional accumulation in sub-clause 8.2(a) is the lesser of the following:

(i) 0.85 of the Contributions paid or payable by the Transferred LGI Contributor under this Annexure; and

(ii) in the case of a Transferred LGI Contributor who is a former holder of a current insurance policy or a former fixed rate Provident Fund Contributor, an amount calculated in accordance with the formula set out in sub-clause 8.2(c), or, in the case of a Transferred LGI Contributor who is a former variable rate Provident Fund Contributor, an amount calculated in accordance with the formula set out in sub-clause 8.2(d).

(c) For the purpose of sub-clause 8.2(b)(ii), the formula in relation to a Transferred LGI Contributor who is a former holder of a current insurance policy or a former fixed rate Provident Fund Contributor is:

$$A = \frac{(0.85 \times S) \times SR}{100}$$

A represents the amount to be calculated; and

S represents the Salary of the Transferred LGI Contributor, based on the rate of salary determined under sub-clause 3.8 in respect of the Applicable Contribution Period concerned; and

SR represents the Salary Ratio of that Contributor in respect of that period.

(d) For the purpose of sub-clause 8.2(b)(ii), the formula in relation to a Transferred LGI Contributor who is a former variable rate Provident Fund Contributor is as follows:

$$A = \frac{(4.25 \times S) \times SR}{100}$$

where:

A represents the amount to be calculated; and

S represents the Salary of the Transferred LGI Contributor, based on the rate of salary determined under sub-clause 3.8 in respect of the Applicable Contribution Period concerned; and

SR represents the Salary Ratio of that Contributor in respect of that period.

8.3 Minimum Benefit for Transferred LGI Contributors who were formerly holders of current insurance policies or Provident Fund Contributors

(a) The Employer-Financed Benefit is to be not less than the notional accumulation if any of the Benefits specified in sub-clause 8.3(b) which becomes payable to a Transferred LGI Contributor who is a former holder of a current insurance policy or a former Contributor to the Provident Fund.

(b) The following Benefits are specified for the purposes of sub-clause 8.3(a):

(i) a Benefit under sub-clause 5.2; or

(ii) a Benefit under sub-clause 5.3; or

(iii) a Benefit under sub-clause 5.4; or

(iv) a Benefit under sub-clause 5.5; or

(v) a Benefit under sub-clause 5.6.

(c) However, if the Employer-Financed Benefit payable to or in respect of a Transferred LGI Contributor referred to in sub-clause 8.3(a) would, but for this sub-clause 8.3(c), be reduced by the operation of sub-clause 8.4, then that Benefit is to be not less than the notional accumulation.

8.4 Benefit to be adjusted in certain circumstances

(a) This sub-clause 8.4(a) applies to a Transferred LGI Contributor who is a former holder of a current insurance policy or a former Contributor to the Provident Fund and who, in the opinion of the Trustee, has received or will receive:

(i) in the case of a Transferred LGI Contributor whose service was terminated, or who died, before 1 July 1993 - a gratuity under section 97 of the *Local Government Act 1919*; or

(ii) in the case of a Transferred LGI Contributor whose service is terminated, or who dies, on or after that date - a similar gratuity, being a gratuity paid or to be paid by the council as an act of grace on the death or termination of service of an Employee of the council and calculated by reference to the period of the Employee's service with the council.

(b) If the Employer-Financed Benefit payable in respect of a Transferred LGI Contributor to whom this clause applies is determined without reference to the notional accumulation of that Contributor, the Trustee must deduct from the Employer-Financed Benefit otherwise payable under this Annexure the amount determined in accordance with sub-clause 8.4(c).

(c) For the purpose of sub-clause 8.4(b), the amount is an amount calculated in accordance with the formula set out in sub-clause 8.4(d), if greater than 0, otherwise the amount is 0.

(d) The formula referred to in sub-clause 8.4(c) is as follows:

$$A = (G + E) - M$$

A represents the amount to be calculated; and

G represents the amount referred to in sub-clause 8.4(a) as the gratuity payable to or in respect of the Transferred LGI Contributor;

E represents the Employer-Financed Benefit that would be payable under this Annexure but for this sub-clause 8.4(d); and

M represents the Employer-Financed Benefit that would have been payable to the Transferred LGI Contributor concerned if the employer-financed benefit had been based on the Maximum Benefit Points for that Contributor.

(e) An amount payable under sub-clause 8.4(b) is payable from the appropriate reserve.

(f) If the Employer-Financed Benefit payable is reduced by the operation of sub-clause 8.4(b), the number of Accrued Benefit Points for the Transferred LGI Contributor is to be taken to have been reduced in proportion to the amount by which the Benefit was reduced.

(g) If the Employer-Financed Benefit payable is reduced by the operation of sub-clause 8.4(b), the number of Accrued Benefit Points for a Transferred LGI Contributor to whom this sub-clause 8.4(g) applies is to be taken to have been reduced in proportion to the amount by which the Benefit was reduced.

8.5 Debiting of reserves - Transferred LGI Contributors who were formerly holders of current insurance policies or Provident Fund Contributors

Whenever the Trustee pays a Benefit in accordance with sub-clause 8.3 to a Transferred LGI Contributor, the Trustee must debit the appropriate employer reserve with the difference between the amount of the Benefit paid and the amount that, but for that sub-clause 8.3, would have been paid under this Annexure.

9. SPECIAL PROVISIONS FOR FORMER BENEFITS FUND CONTRIBUTORS UNDER THE LOCAL GOVERNMENT AND OTHER AUTHORITIES (SUPERANNUATION) ACT 1927 (NSW)

9.1 Definitions

(a) In this sub-clause 9.1:

Benefits Fund means the Superannuation Benefits Fund established under section 15S of the earlier Act;

earlier Act means the *Local Government and Other Authorities (Superannuation) Act 1927* (NSW);

In this clause 9, ***transfer day*** means 1 May 1990;

Transferred LGS Contributor means a person who became a Contributor to the *State Authorities Superannuation Fund* by virtue of clause 6(1) of the *State Authorities (Closed Local Government Schemes Transfer) Regulation 1990*.

(b) In relation to a Transferred Contributor, the definition of ***Accrued Benefit Points*** in sub-clause 5.1 is to be construed as if the reference in that definition to contributed

points figures included a reference to the number of transferred benefit points for the Contributor calculated in accordance with sub-clause 9.3.

(c) For the purpose of applying the definition of ***Prospective Benefit Points*** in sub-clause 5.1 to a Transferred Contributor, the reference in that definition to Applicable Contribution Periods is to be construed in such a way as to exclude from calculation any of the Contributor's service that occurred before the transfer day.

(d) For the purposes of this clause 9, a Contributor's Entry Date is to be taken to be the date on which the Transferred Contributor last became subject to the provisions of the earlier Act.

9.2 Definition of notional accumulation for the purposes of clause 9

(a) For the purposes of this clause 9:

notional accumulation, in relation to a Transferred Contributor who is a former Contributor to the Benefits Fund, means an amount equal to the sum of:

(i) the amounts credited to the appropriate employer reserve; and

(ii) in respect of each Applicable Contribution Period ending on or after the transfer day, the lesser of:

(A) an amount calculated in accordance with the formula set out in sub-clause 9.2(b); and

(B) an amount equal to 1.275 times the Contributions paid or payable by the Contributor under this Annexure,

together with interest at a rate or rates determined by the Trustee, but reduced by an amount or amounts calculated in such manner as the Trustee may determine in respect of the costs of administering the clauses under this Annexure and such other charges as may be determined by the Trustee.

(b) For the purpose of sub-clause 9.2(a)(ii)(A) of the definition of notional accumulation in sub-clause 9.2(a), the formula in relation to a Transferred LGS Contributor who is a former Contributor to the Benefits Fund is as follows:

$$A = \frac{(4.4625 \times S) \times SR}{100}$$

where:

A represents the amount to be calculated; and

S represents the Salary of the Transferred LGS Contributor, based on the rate of salary determined under sub-clause 3.8 in respect of the Applicable Contribution Period concerned; and

SR represents the Salary Ratio of that Contributor in respect of that period.

9.3 Minimum Benefit for Transferred LGS Contributors who were formerly Benefits Fund Contributors

(a) The Employer-Financed Benefit is to be not less than the notional accumulation:

(i) if

(A) a Benefit under sub-clause 5.2; or

(B) a Benefit under sub-clause 5.5,

becomes payable to or in respect of a Transferred LGS Contributor who was formerly a Contributor to the Benefits Fund; or

(ii) if a Transferred LGS Contributor who was formerly a Contributor to the Benefits Fund is not qualified for the Additional Benefit and:

(A) a Benefit under sub-clause 5.3; or

(B) a Benefit under sub-clause 5.4,

becomes payable to or in respect of the Contributor.

(b) However, if the Employer-Financed Benefit payable to or in respect of a Transferred LGS Contributor referred to in sub-clause 9.3(a) would, but for this sub-clause 9.3(b), be reduced by the operation of sub-clause 9.5, then that Benefit is to be not less than the notional accumulation.

9.4 Minimum Benefit for certain specially qualified Transferred LGS Contributors who were formerly Benefits Fund Contributors

(a) The Employer-Financed Benefit is to be not less than the amount determined under sub-clause 9.4(b), if:

(i) a Benefit under sub-clause 5.3; or

(ii) a Benefit under sub-clause 5.4,

becomes payable to or in respect of a Transferred LGS Contributor who was formerly a Contributor to the Benefits Fund and who:

(iii) becomes covered for the Additional Benefit under sub-clause 3.4; or

(iv) by virtue of clause 4(6) or 6(6) of the State Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1990, was taken at the Transfer Day to be covered for the Additional Benefit.

(b) The amount to be determined for the purposes of sub-clause 9.4(a) is the sum of:

(i) the notional accumulation; and

(ii) the amount calculated in accordance with the following formula:

$A = M \times S$

where:

A represents the amount to be calculated; and

M represents the number under the heading "Multiplier of Salary" in the table following, opposite the age specified in years in that table that was the age of the Transferred LGS Contributor concerned at that Contributor's Exit Date;

Age in years at Exit Date	**Multiplier of Salary**	**Age in years Exit Date**	**Multiplier of Salary**
20, or under 20	6.0	40	2.50
21	5.8	41	2.35
22	5.6	42	2.20
23	5.4	43	2.05
24	5.2	44	1.90
25	5.0	45	1.75
26	4.8	46	1.60
27	4.6	47	1.45
28	4.4	48	1.30
29	4.2	49	1.15
30	4.0	50	1.00
31	3.85	51	0.9
32	3.70	52	0.8
33	3.55	53	0.7
34	3.40	54	0.6
35	3.25	55	0.5
36	3.10	56	0.4
37	2.95	57	0.3
38	2.80	58	0.2
39	2.65	59	0.1
		60, or over 60	0

S represents:

(1) if the Transferred LGS Contributor concerned contributed under this Annexure at the rate of 1% of his or her Salary - two- sevenths of his or her final salary; or

(2) if that Contributor contributed under this Annexure at the rate of 2% of his or her Salary - four-sevenths of his or her final salary; or

(3) if that Contributor contributed under this Annexure at the rate of 3% of his or her Salary - six-sevenths of his or her final salary;

(4) if that Contributor contributed under this Annexure at a rate exceeding 3% of his or her Salary - his or her Final Salary.

(c) In sub-clause 9.4(b), a reference to a rate, in relation to a Transferred LGS Contributor referred to in sub-clause 9.4(a), is a reference to the rate at which the Contributor last elected to contribute, or is taken to have last elected to contribute, immediately before the Benefit became payable.

9.5 Benefit to be adjusted in certain circumstances

(a) This sub-clause 9.5 applies to a Transferred LGS Contributor who is a former Contributor to the Benefits Fund and who, in the opinion of the Trustee, has received:

(i) in the case of a Transferred LGI Contributor whose service was terminated, or who died, before 1 July 1993 - a gratuity under section 97 of the *Local Government Act 1919*; or

(ii) in the case of a Transferred LGI Contributor whose service is terminated, or who dies, on or after that date - a similar gratuity, being a gratuity paid or to be paid by the council as an act of grace on the death or termination of service of an Employee of the council and calculated by reference to the period of the Employee's service with the council.

(b) If the Employer-Financed Benefit payable in respect of a Transferred LGS Contributor to whom this sub-clause 9.5 applies is determined without reference to the notional accumulation of the Contributor, the Trustee must deduct from the Employer-Financed Benefit otherwise payable under this Annexure the amount determined in accordance with sub-clause 9.5(c).

(c) For the purpose of sub-clause 9.5(b), the amount is an amount calculated in accordance with the formula set out in sub-clause 9.5(d), if greater than 0, otherwise the amount is 0.

(d) The formula referred to in sub-clause 9.5(c) is as follows:

$A = (G + E) - M$

where:

A represents the amount to be calculated;

G represents the amount referred to in sub-clause 9.5(a) as the gratuity payable to or in respect of the Transferred LGS Contributor;

E represents the Employer-Financed Benefit that would be payable but for this sub-clause 9.5(d); and

M represents the Employer-Financed Benefit that would have been payable to or in respect of the Transferred LGS Contributor concerned if the Employer-financed Benefit had been based on the Maximum Benefit Points for that Contributor.

(e) If the Employer-Financed Benefit payable is reduced by the operation of sub-clause 9.5(b), number of Accrued Benefit Points for a Transferred LGS Contributor to whom this sub-clause 9.5(e) applies is to be taken to have been received in proportion to the amount by which the Benefit was reduced.

9.6 Debiting of reserves - Transferred LGS Contributors who were formerly Benefits Fund Contributors

(a) Whenever the Trustee pays a Benefit in accordance with sub-clause 9.3 to or in respect of a Transferred LGS Contributor who is a former Contributor to the Benefits Fund, the Trustee must debit the appropriate employer reserve with the difference between the amount of the Benefit paid and the amount that, but for sub-clause 9.3, would have been payable to or in respect of the Contributor under this Annexure.

(b) Whenever the Trustee pays a Benefit in accordance with sub-clause 9.4 in respect of a Transferred LGS Contributor who is a former Contributor to the Benefits Fund, the Trustee must:

(i) debit the Additional Benefit Reserve with the amount of the Additional Benefit which would have been payable in respect of the Contributor if an Additional Benefit had been paid under this Annexure; and

(ii) debit the remainder to the appropriate Employer reserve.

10. SPECIAL PROVISIONS FOR CERTAIN FORMER LOCAL GOVERNMENT SCHEME CONTRIBUTORS EMPLOYED UNDER INDUSTRIAL AWARDS ETC.

10.1 Definitions and Application

(a) This sub-clause 10.1 applies to an Employee within the meaning of the earlier Act who, immediately before the transfer day, was a Contributor to the Benefits Fund.

(b) For the purposes of this clause 10:

earlier act means the *Local Government and Other Authorities (Superannuation) Act 1927* (NSW);

relevant award or agreement means an award or industrial agreement which was in force under the *Industrial Arbitration Act 1940* immediately before 12 April 1990 and which is binding on Employees to whom this clause 10 applies and their respective Employees;

supplementary benefit means the amount (if any) by which the refund to an Employer under section 15Y(1)(b) of the earlier Act exceeds the amount of the Employer-Financed Benefit payable under the provisions of this Annexure;

transfer day means 1 May 1990.

10.2 Supplementary payments to Employees to whom clause 10 applies

(a) If the Trustee is satisfied that an Employee to whom this clause 10 applies is entitled to a Benefit payable under a relevant award or agreement, the Trustee must pay to the Employee the lesser of:

(i) the amount prescribed by the award or agreement; and

(ii) the amount of the supplementary benefit.

(b) The Trustee must also pay the amount of the supplementary Benefit to an Employee to whom this clause 10 applies if the Employee, having reached 55 but not having reached 58 years of age, has Retired from the service of Energy Australia on or after the date of transfer under this Annexure, and the Trustee is satisfied that the Employee:

(i) was employed by the Sydney County Council on 31 March 1977 and continued until Retirement to be employed by that Council and, where appropriate, by Sydney Electricity and Energy Australia; and

(ii) was continuously a Contributor to the Benefits Fund from and including 31 March 1997 to 1 May 1990; and

(iii) was continuously a Contributor to the State Authorities Superannuation Fund from and including 1 May 1990 to and including the date of transfer under this Annexure; and

(iv) was continuously a Contributor under this Annexure to and including the date of Retirement.

10.3 Additional Benefit for certain Sydney Electricity Employees

(a) A further Additional Benefit, determined in accordance with sub-clause 10.3(c), is payable to or in respect of an Employee to whom this clause 10 applies if:

(i) the Employee was employed by Sydney County Council on 31 March 1977 and has since continued to be employed by that Council and its successors, Sydney Electricity and Energy Australia; and

(ii) the Employee was continuously a Contributor to the Benefits Fund from and including 31 March 1977 to 1 May 1990 and has continuously been a Contributor to the State Authorities Superannuation Fund from and including that day; and

(iii) the Employee is covered or (because of the State Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1990 was at the date of Transfer under this Annexure taken to be covered for an Additional Benefit under the State Authorities Superannuation Act which Benefit now applies under the corresponding provision of this Annexure; and

(iv) a relevant Benefit becomes payable to or in respect of the Employee.

(b) A Benefit is a relevant Benefit if:

(i) it is a Benefit payable under sub-clause 5.3 or 5.4 of this Annexure; or

(ii) it is a Benefit payable under sub-clause 5.2 of this Annexure and the Trustee is satisfied that a Benefit would have been payable under sub-clause 5.3 or 5.4 had the Early Retirement Age been 60 rather than 55 years of age.

(c) A further Additional Benefit payable under this sub-clause 10.3(c) is to be calculated as follows:

$A = (M \times S) - AB$

where:

A represents the amount to be determined;

M represents the number under the heading "Multiplier of Salary" in the table contained in sub-clause 9.4(b) opposite the age specified in years in that table that was the age of the Employee at the Employee's Exit Date;

S represents:

(i) if the Employee contributed under this Annexure at the rate of 1% of Salary - two-sevenths of the Employee's Final Salary;

(ii) or if the Employee contributed under this Annexure at the rate of 2% of Salary - four-sevenths of that Employee's Final Salary; or

(iii) if the Employee contributed under this Annexure at the rate of 3% of Salary - six-sevenths of the Employee's Final Salary; or

(iv) if the Employee contributed under this Annexure at a rate exceeding 3% of Salary - the Employee's Final Salary; and

AB represents the amount of any Additional Benefit payable to the Employee under clause 5 of this Annexure.

(d) In sub-clause 10.3(c), ***rate*** means the rate at which the Employee concerned last elected or is taken to have last elected to contribute immediately before the relevant Benefit became payable.

(e) This sub-clause 10.3 applies to persons who are Employees to whom this clause 10 applies, or were such Employees at any time on or after the Transfer Day.

10.4 Debiting of accounts - payment of supplementary Benefits

(a) Whenever the Trustee makes a payment in accordance with sub-clause 10.3, the Trustee must debit the appropriate Employer reserve with the amount of the payment.

(b) An Additional Benefit paid under sub-clause 10.3 is to be regarded as an ***Additional Benefit*** for the purposes of this Annexure and the Trustee must debit the amount of that Benefit to the Additional Benefits Reserve.

11. MISCELLANEOUS PROVISIONS RELATING TO LOCAL GOVERNMENT EMPLOYEES

11.1 Early Retirement Age - female Contributors and Sydney County Council employees

(a) For the purposes of the definition of ***Early Retirement Age*** in sub-clause 1.1, the Early Retirement Age is 55 years:

(i) in relation to a female Transferred LGS Contributor who, immediately before 1 May 1990, was a Contributor to the Benefits Fund; and

(ii) in relation to a Transferred LGS Contributor who, immediately before 1 May 1990, was an employee of the Sydney County Council.

(b) Sub-clause 11.1(a) does not have effect in relation to a male Transferred LGS Contributor referred to in sub-clause 11.1(a)(ii) unless the Contributor has, at the Contributor's Exit Date, completed 20 years or more service with the Sydney County Council or its successors, Sydney Electricity and Energy Australia in terms of the industrial award that was applicable to the Contributor immediately before 1 May 1990.

12. SPECIAL PROVISIONS FOR TRANSFERRED PAS CONTRIBUTORS

12.1 Definitions

In clauses 12 to 18:

Board means the SAS Trustee Corporation established under the Administration Act;

current Act means the *State Authorities Superannuation Act 1987* (NSW);

earlier Act means the *Public Authorities Superannuation Act 1985* (NSW);

earlier Fund means the Public Authorities Superannuation Fund established in accordance with the earlier Act;

new Fund means the State Authorities Superannuation Fund established by the Board in accordance with the *Superannuation Administration Act 1987* (NSW) and when referred to in this Annexure includes the clauses in this Annexure;

pension means a pension payable under clauses 12 to 18;

Transferred PAS Contributor means a person who became a Contributor to the new Fund by virtue of clause 3 of Schedule 3 of the current Act (sub-clause 3.15 of this Annexure).

12.2 Transferred PAS Contributors

(a) If, immediately before 1 April 1988, a Transferred PAS Contributor was, in accordance with section 12 of the earlier Act, covered for the Additional Benefit, that Contributor:

(i) shall be taken at the date of transfer under this Annexure to be covered for the Additional Benefit under this Annexure; and

(ii) shall pay the Additional Benefit Levy as required by sub-clause 3.4(b) as if that Contributor had lodged with the Trustee an application under sub-clause 3.2 which had been approved by the Trustee.

(b) If, immediately before 1 April 1988, any allowances or other kinds of remuneration were treated as Salary for the purposes of the earlier Act in relation to a Transferred PAS Contributor, they shall continue to be treated as Salary for the purposes of this Annexure, but only as regards that Contributor.

12.3 Application of certain definitions to Transferred PAS Contributor

(a) For the purpose of applying the definition of ***Accrued Benefit Points*** in sub-clause 5.1 to a Transferred PAS Contributor, that definition shall be construed as if the reference in it to contributed points figures included a reference to the total of the contributed points figures calculated in relation to that Contributor under the earlier Act on 31 March 1988 but multiplied by 0.72.

(b) For the purposes of applying the *State Authorities Superannuation Act 1987* (NSW) and this Annexure to a Transferred PAS Contributor, such a Contributor's Entry Date shall be taken to be the date that was regarded as the Entry Date applicable to the Transferred PAS Contributor under the earlier Act.

(c) For the purpose of applying the definition of contributed points figure in sub-clause 5.1 to a Transferred PAS Contributor, that definition shall be construed as if the reference in that definition to Applicable Contribution Periods included a reference to applicable months as defined by section 24 of the earlier Act, but with the result derived from the formula for those months multiplied by 0.72.

(d) In applying the calculation of Prospective Benefit Points in sub-clause 5.1 to a Transferred PAS Contributor, that calculation shall be subject to a minimum value of 0.7 multiplied by the number of Prospective Benefit Points that would have been calculated under that Act if the Early Retirement Age had been 60 years.

12.4 Adjustment of Benefit where broken service recognised

(a) This sub-clause 12.4 applies to a Transferred PAS Contributor in respect of whom an order has been in force under the *New South Wales Retirement Benefits Regulation 1983* (NSW) at any time with respect to one or more periods of employment of that Contributor which occurred before 1 July 1985.

(b) If a Transferred PAS Contributor to whom this sub-clause 12.4 applies has received an allowance with respect to a period of employment to which an order under the *New South Wales Retirement Benefits Regulation 1983* (NSW) has been in force, the Employer-Financed Benefit payable under this Annexure to or in respect of the Transferred PAS Contributor shall be reduced by the following amount in respect of each such period:

$$J = S \times \frac{A}{W}$$

where:

J represents the amount by which the Employer-Financed Benefit is to be reduced;

S represents the amount of the Transferred PAS Contributor's Salary, as used in the calculation of the Benefit payable to or in respect of the Transferred PAS Contributor under this Annexure;

A represents the amount of the allowance received by the Transferred PAS Contributor; and

W represents the annual wages of the Transferred PAS Contributor, as determined by the Trustee, immediately before the allowance became payable to the Transferred PAS Contributor.

(c) In this sub-clause 12.4, ***allowance***, in relation to a Transferred PAS Contributor, means such part of the amount of a Benefit that has been paid to the Transferred PAS Contributor from a superannuation fund as, in the opinion of the Trustee, represents the employer-financed component of the Benefit.

13. SPECIAL CONDITIONS FOR FORMER LOCAL GOVERNMENT PENSION FUND CONTRIBUTORS

13.1 Definitions

In this clause 13:

applicable month has the meaning that that expression had under section 24 of the earlier Act;

former Act means the *Local Government and Other Authorities (Superannuation Act) 1927* (NSW);

former Fund means the Local Government Pension Fund established under the former Act;

guaranteed pension points, in relation to a Transferred LGP Contributor, means a number of points which is the greater of 0 and the number determined by the formula:

$S = (2/3 \times P) + (1/4 \times A) - (1/3 \times B) - R$

where:

S represents the number of guaranteed pension points to be calculated;

P represents the number of Prospective Benefit Points which would have been calculated under this Annexure if the age for early retirement had been 65 years;

A represents the number of Accrued Benefit Points calculated as if 1 April 1988 were the Transferred LGP Contributor's Exit Date under this Annexure;

B represents the number of Accrued Benefit Points at the Transferred LGP Contributor's Exit Date under this Annexure; and

R represents the number of Prospective Benefit Points calculated in respect of the Transferred LGP Contributor in accordance with sub-clause 5.1 as modified by sub-clause 12.3(d);

notional accumulation in relation to a Transferred LGP Contributor who became a Contributor to the former Fund under section 15AO, 15AP or 15AQ of the former Act, means an amount equal to the sum of:

(a) the amount credited to the general reserve or the special reserve of the former Fund under section 15AO(3), 15AP(9) or 15AQ(10) of the former Act in respect of that Contributor;

(b) in respect of each Superannuation Year during the period beginning with the date on which that Contributor became a Contributor to the former Fund and ending with 30 June 1985, an amount equal to:

(i) 5.25% of the Salary of that Contributor, based on the rate of Salary determined under section 15AV of the former Act in respect of that superannuation year; or

(ii) 1.5 times the Contributions paid or payable by that Contributor in that Superannuation Year under the former Act,

whichever is the less;

(c) in respect of each applicable month in relation to that Contributor under the earlier Act, an amount equal to:

(i) 5.25% of the Salary of that Contributor, multiplied by the Salary Ratio of that Contributor in respect of that month as determined by the Trustee, based on the rate of Salary determined under section 6 of the earlier Act in respect of that month; or

(ii) 1.5 times the Contributions paid or payable by that Contributor in that month under the earlier Act,

whichever is the less; and

(d) in respect of each Applicable Contribution Period since 1 April 1988, an amount equal to:

(i) 5.25% of the Salary of that Contributor, multiplied by the Salary Ratio of that Contributor in respect of that period, based on the rate of Salary determined under sub-clause 3.8 in respect of that period; or

(ii) 1.5 times the Contributions paid or payable by that Contributor under the current Act,

whichever is the less, together with interest at a rate or rates determined by the Trustee, but reduced by an amount or amounts calculated in such manner as the Trustee may determine in respect of the costs of administering the scheme and such other charges as may be determined by the Trustee;

Transferred LGP Contributor means a person who has become a Contributor to the new Fund by virtue of clause 3 of Schedule 3 to the current Act (sub-clause 3.15) after having become a Contributor to the earlier Fund by virtue of the operation of Schedule 6 to the earlier Act (transitional provisions Local Government Pension Fund).

13.2 Application of the definition of Prospective Benefit Points to Transferred LGP Contributor

For the purpose of applying sub-clause 5.1 to a Transferred LGP Contributor, that Contributor's average contribution rate per cent referred to in the definition of ***Prospective Benefit Points*** in that sub-clause shall be construed in such a way as to exclude from calculation any period which occurred before the date when the Transferred LGP Contributor last became a Contributor under Part IIID of the former Act.

13.3 Benefit to be adjusted in certain circumstances

(a) This sub-clause 13.3 applies to a Transferred LGP Contributor who, in the opinion of the Trustee, has received, or will receive:

(i) in the case of a Transferred LGI Contributor whose service was terminated, or who died, before 1 July 1993 - a gratuity under section 97 of the *Local Government Act 1919*; or

(ii) in the case of a Transferred LGI Contributor whose service is terminated, or who dies, on or after that date - a similar gratuity, being a gratuity paid or to be paid by the council as an act of grace on the death or termination of service of an Employee of the council and calculated by reference to the period of the Employee's service with the council.

(b) Where the Employer-Financed Benefit payable in respect of a Transferred LGP Contributor to whom this sub-clause 13.3 applies is determined without reference to the notional accumulation of that Contributor, the amount determined in accordance with sub-clause 13.3(c) shall be deducted from the Employer-Financed Benefit otherwise payable under this Annexure.

(c) For the purposes of sub-clause 13.3(b), the amount is:

(i) 0; or

(ii) an amount calculated in accordance with the formula set out in sub-clause 13.3(d),

whichever is the greater.

(d) The formula referred to in sub-clause 13.3(c) is as follows:

$A = (G + E) - M$

where:

A represents the amount to be calculated;

G represents the amount referred to in sub-clause 13.3(a) as the gratuity payable to or in respect of the Transferred LGP Contributor;

E represents the Employer-Financed Benefit that would be payable but for this sub-clause 13.3; and

M represents the Employer-Financed Benefit that would have been payable to the Transferred LGP Contributor concerned if the Employer-Financed Benefit had been based on the Maximum Benefit Points for that Contributor.

(e) If the Employer-Financed Benefit payable is reduced by the operation of sub-clause 13.3(b), the number of Accrued Benefit Points for the Transferred LGP Contributor shall be taken to have been reduced in proportion to the amount by which the Benefit was reduced.

13.4 Additional Benefit for qualified Transferred LGP Contributors

(a) This sub-clause 13.4 applies to a Transferred LGP Contributor who:

(i) becomes covered for the Additional Benefit under the current Act or this Annexure; or

(ii) by virtue of sub-clause 12.2, is taken at the date of transfer under this Annexure to be covered for that Additional Benefit.

(b) If:

(i) a Benefit becomes payable under sub-clause 5.3 or 5.4 to or in respect of a Transferred LGP Contributor to whom this sub-clause 13.4 applies; or

(ii) a Benefit is paid under sub-clause 5.2 and the Trustee is satisfied that a Benefit would have been payable under sub-clause 5.3 or 5.4 if the Early Retirement Age had been 60 years,

then in addition to any Additional Benefit referred to in sub-clause 5.1, a further lump sum Benefit calculated in accordance with the formula specified in sub-clause 13.4(c) is payable to or in respect of that Contributor.

(c) The formula referred to in sub-clause 13.4(b) is as follows:

$$L = \frac{S \times (P - R)}{100}$$

where:

L represents the amount to be calculated;

S represents the Transferred LGP Contributor's Final Salary;

P represents the number of Prospective Benefit Points which would have been calculated under sub-clause 12.3(d) if the Early Retirement Age had been 65 years; and

R represents the number of Prospective Benefit Points which would have been calculated under sub-clause 12.3(d).

(d) If, in applying the formula specified in sub-clause 13.4(c), P is not more than R, no lump sum is payable.

13.5 Minimum Benefit for qualified Transferred LGP Contributors

(a) In this sub-clause 13.5, a reference to an Employer-Financed Benefit includes a lump sum Benefit payable under sub-clause 13.4.

(b) This sub-clause 13.5 applies to a Transferred LGP Contributor who:

(i) becomes covered for the Additional Benefit under this Annexure; or

(ii) by virtue of sub-clause 12.2, is taken to be covered for that Additional Benefit,

and who in either case became a Contributor to the former Fund under section 15AO, 15AP or 15AQ of the former Act.

(c) If:

(i) a Benefit becomes payable under sub-clause 5.3 or 5.4 to or in respect of a Transferred LGP Contributor to whom this sub-clause 13.5 applies and no election is made under sub-clause 13.9 or 13.10; or

(ii) a Benefit is paid under sub-clause 5.2 and the Trustee is satisfied that a Benefit would have been payable under sub-clause 5.3 or 5.4 if the Early Retirement Age had been 60 years,

the Employer-Financed Benefit in respect of that Contributor shall be not less than the amount determined in accordance with sub-clause 13.5(d).

(d) For the purposes of sub-clause 13.5(c), the amount referred to in that sub-clause is the sum of:

(i) the notional accumulation; and

(ii) the amount calculated in accordance with the following formula:

$A = M \times S$

where:

A represents the amount to be calculated;

M represents the number under the heading Multiplier of Salary in clause 19 opposite the age specified in years in that clause that was the age of the Transferred LGP Contributor at that Contributor's Exit Date; and

S represents:

(A) if the Transferred LGP Contributor contributed to the new Fund at the rate of 1% of Salary - two-sevenths of that Contributor's Final Salary;

(B) if the Transferred LGP Contributor contributed to the new Fund at the rate of 2% of Salary - four-sevenths of that Contributor's Final Salary;

(C) if the Transferred LGP Contributor contributed to the new Fund at the rate of 3% of Salary - six-sevenths of that Contributor's Final Salary; or

(D) if the Transferred LGP Contributor contributed to the new Fund at a rate exceeding 3% of Salary - that Contributor's Final Salary.

(e) In sub-clause 13.5(d), a reference to a rate, in relation to a Transferred LGP Contributor, is a reference to the rate at which the Contributor last elected or is taken to have last elected to contribute immediately before the Benefit became payable.

(f) If a Benefit becomes payable under sub-clause 5.5 to a Transferred LGP Contributor to whom this sub-clause 13.5 applies, the Employer-Financed Benefit in respect of that Contributor shall be not less than the notional accumulation.

(g) If:

(i) a Benefit becomes payable under sub-clause 5.2 to or in respect of a Transferred LGP Contributor to whom this sub-clause applies;

(ii) no election is made under sub-clause 13.8; and

(iii) the Employer-Financed Benefit would, but for the operation of this sub-clause 13.5(g), be reduced by the operation of sub-clause 13.3,

the Employer-Financed Benefit in respect of the person shall be not less than the notional accumulation.

13.6 Minimum Benefit for Transferred LGP Contributors not qualified

(a) This sub-clause 13.6 applies to a Transferred LGP Contributor other than one who:

(i) becomes covered for the Additional Benefit under this Annexure; or

(ii) is taken, by virtue of sub-clause 12.2, to be covered for that Additional Benefit,

and who in either case became a Contributor to the former Fund under section 15AO, 15AP or 15AQ of the former Act.

(b) If:

(i) a Benefit becomes payable in respect of a Transferred LGP Contributor to whom this sub-clause 13.6 applies under sub-clause 5.3; and

(ii) no election is made under sub-clause 13.10,

the Employer-Financed Benefit in respect of that Contributor shall be not less than the notional accumulation.

(c) If a Benefit under:

(i) sub-clause 5.4; or

(ii) sub-clause 5.5,

becomes payable to a Transferred LGP Contributor to whom this sub-clause 13.6 applies, the Employer-Financed Benefit in respect of that Contributor shall be not less than the notional accumulation.

(d) If:

(i) a Benefit becomes payable to or in respect of a Transferred LGP Contributor to whom this sub-clause 13.6 applies under sub-clause 5.2;

(ii) no election is made under sub-clause 13.8; and

(iii) the Employer-Financed Benefit would, but for the operation of this sub-clause 13.6(d), be reduced by the operation of sub-clause 13.3,

the Employer-Financed Benefit in respect of that Contributor shall be not less than the notional accumulation.

13.7 Debiting of accounts

(a) Whenever the Trustee pays a Benefit in accordance with sub-clause 13.4 or sub-clause 13.5, the Trustee shall:

(i) debit the Additional Benefit Reserve established under this Annexure with the amount of the Additional Benefit which would have been payable if an Additional Benefit had been paid under this Annexure; and

(ii) debit the remainder to the appropriate Employer reserve.

(b) Whenever the Trustee pays a Benefit in accordance with sub-clause 13.6, the Trustee shall debit the appropriate Employer reserve with the difference between the amount of the Benefit so paid and the amount that, but for that sub-clause, would have been paid under this Annexure.

13.8 Pension rights exit after age 60

(a) A Transferred LGP Contributor who, having attained 60 years of age on or before the Contributor's Exit Date, Retires and thereby becomes entitled to be paid the Benefit provided by sub-clause 5.2 may elect to convert to a pension in accordance with sub-clause 17.4 benefit points to which the Transferred LGP Contributor is entitled.

(b) The benefit points to which the election referred to in sub-clause 13.8(a) relates are the Transferred LGP Contributor's Accrued Benefit Points.

(c) Those benefit points which the Transferred LGP Contributor does not elect to convert to a pension shall be applied towards payment of a lump sum in accordance with sub-clause 5.2.

13.9 Pension rights: total and permanent invalidity

(a) If:

(i) a Transferred LGP Contributor becomes entitled to be paid the Benefit provided by sub-clause 5.4; or

(ii) a Transferred LGP Contributor Retires and thereby becomes entitled to be paid the Benefit provided by sub-clause 5.2 and the Trustee is satisfied that that Contributor would have been entitled to be paid the Benefit provided by sub-clause 5.4 if the Early Retirement Age had been 60 years,

that Contributor may elect to convert to a pension in accordance with sub-clause 17.6 benefit points to which that Contributor is entitled.

(b) The benefit points to which the election referred to in sub-clause 13.9(a) relates are the Transferred LGP Contributor's Accrued Benefit Points, Prospective Benefit Points and guaranteed pension points.

(c) If the Transferred LGP Contributor does not elect to convert all of the benefit points specified in sub-clause 13.9(b) into a pension, the proportion of Accrued Benefit Points and Prospective Benefit Points which was not so converted shall be applied to the payment of a lump sum in accordance with sub-clause 5.2 or 5.4, as the case may require.

13.10 Pension rights death

(a) If the Spouse of a deceased Transferred LGP Contributor becomes entitled to be paid:

(i) the Benefit provided by sub-clause 5.3; or

(ii) the Benefit provided by sub-clause 5.2,

that Spouse may elect to convert to a pension in accordance with sub-clause 17.7 the benefit points to which that Contributor was entitled at death.

(b) The benefit points in respect of which an election under sub-clause 13.10(a) may be made are the Accrued Benefit Points, Prospective Benefit Points and guaranteed pension points which would have accrued in respect of the Transferred LGP Contributor had the Contributor become entitled to a Benefit under sub-clause 5.4.

(c) If the Spouse of the Transferred LGP Contributor does not elect to convert into a pension all of the benefit points referred to in sub-clause 13.10(b), the proportion of Accrued Benefit Points and Prospective Benefit Points which has not been so converted shall be applied towards the payment of a lump sum in accordance with sub-clause 5.2 or 5.4, as the case may require.

13.11 Payment of pensions

(a) Subject to sub-clause 13.11(a), a pension is payable to or in respect of a former Transferred LGP Contributor in accordance with clauses 17 and 18.

(b) If a Transferred LGP Contributor or a former Transferred LGP Contributor dies leaving a dependent child, a pension is, subject to sub-clause 17.9, payable in accordance with clause 17.

14. SPECIAL CONDITIONS FOR FORMER RETIREMENT FUND CONTRIBUTORS

14.1 Definitions

In this clause 14:

former Act means the *New South Wales Retirement Benefits Act 1972* (NSW);

Transferred RF Contributor means a person who has become a Contributor to the new Fund by virtue of clause 3 of Schedule 3 of the *State Authorities Superannuation Act 1987* (NSW) (sub-clause 3.15) after having become a Contributor to the earlier Fund by virtue of Schedule 7 of the earlier Act.

14.2 Application of certain definitions to Transferred RF Contributor

(a) For the purpose of applying the definition of ***Prospective Benefit Points*** in sub-clause 5.1 to a Transferred RF Contributor, the reference in that definition to Applicable Contribution Periods shall be construed as including any period occurring before that Contributor's Entry Date where that period would have been taken into account in calculating a Benefit payable to that Contributor under the former Act:

(i) if the Benefit had become payable immediately before 1 April 1988; and

(ii) if the former Act had then been in force.

(b) For the purpose of applying the definition of ***average contribution rate per cent*** in sub-clause 5.1 to a Transferred RF Contributor, that definition shall be construed as if a reference in it to the sum of rates per cent of Salary at which a Contributor was liable to pay a Contribution for a Contribution Period were a reference to the sum of Benefit points accrued by the Transferred RF Contributor.

14.3 Contribution rates

(a) A Transferred RF Contributor may contribute under this Annexure at a rate of Contribution which is not 1, 2, 3, 4, 5, 6, 7, 8 or 9 per cent of the Transferred RF Contributor's Salary, but no such Contributor may contribute to that Fund more than 9 per cent of his or her Salary.

(b) A Transferred RF Contributor who does not, before 31 December in any year, make an election under sub-clause 3.9 shall be taken to have made such an election specifying, in accordance with sub-clause 3.9(b)(ii), a rate equal to the rate which applied in respect of that Contributor on that date.

(c) A Transferred RF Contributor referred to in sub-clause 14.3(a) who wishes to make an election under sub-clause 3.9 may make that election by specifying the number of benefit points to be accrued for a Superannuation Year.

(d) An election made in accordance with sub-clause 14.3(c) shall be taken to specify a rate per cent of the Transferred RF Contributor's Salary sufficient to increase by the number of benefit points specified in the election the Accrued Benefit Points for the Superannuation Year concerned.

14.4 Adjustment of points accrual: persons under age 59 and 11 months

(a) This sub-clause 14.4 applies to a Transferred RF Contributor who, on 1 April 1986, had not attained the age of 59 years and 11 months and who, on 1 April in any succeeding Superannuation Year, has not attained that age.

(b) In this sub-clause 14.4:

adjusted points limit means the number calculated in accordance with the following formula:

$$A = \frac{((L \times 1.8) + 0.7) \times 9}{2.5}$$

where:

A represents the adjusted points limit to be determined; and

L represents one ninth of the maximum number of benefit points for which the Transferred RF Contributor could have contributed in accordance with rule 7 of Schedule 7 to the earlier Act in the Superannuation Year which commenced on 1 April 1987.

(c) For the purposes of this sub-clause 14.4, but subject to sub-clauses 14.4(d) and 14.4(e), for each 1% of Salary contributed to the new Fund by a Transferred RF Contributor for the Superannuation Year that commences on 1 April 1988, and each successive Superannuation Year, the number of benefit points accrued is:

(i) the number of points specified in Schedule 2 of the State Authorities Superannuation (Transitional Provisions) Regulation 1988 (NSW); or

(ii) the number of points that is equal to one-ninth of the adjusted points limit for the Transferred RF Contributor,

whichever is the greater.

(d) The maximum number of Benefit points that may be accrued in any Superannuation Year by the application of sub-clause 14.4(c)(i) is 9.

(e) The maximum number of Benefit points that may be accrued in any Superannuation Year by the application of sub-clause 14.4(c)(ii) is the adjusted points limit for the Transferred RF Contributor concerned.

14.5 Adjustment of points accrual: persons aged over 59 years and 11 months

(a) This sub-clause 14.5 applies to a Transferred RF Contributor who had attained the age of 59 years and 11 months on 1 April 1986.

(b) The adjusted points limit for a Transferred RF Contributor to whom this sub-clause 14.5 applies shall be calculated in accordance with the following formula:

$$L = \frac{(N \times 1\text{-}8) + 0\ 7}{2.5}$$

where:

L represents the adjusted points limit to be calculated; and

N represents the number of benefit points accrued by the Transferred RF Contributor in accordance with rule 7 of Schedule 7 to the earlier Act in the Superannuation Year which commenced on 1 April 1987.

(c) A Transferred RF Contributor to whom this sub-clause 14.5 applies is required to contribute the percentage of Salary determined in accordance with sub-clause 14.5(d) in order to accrue 1 benefit point.

(d) The percentage of Salary required to be contributed under sub-clause 14.5(c) is whichever of the following is the smaller:

(i) 1; or

(ii) the number calculated by the following formula:

$$K = \frac{C}{L}$$

where:

K represents the number to be calculated;

C represents the Transferred RF Contributor's Contribution rate per cent as at 31 March 1988; and

L represents the adjusted points limit calculated in accordance with sub-clause 14.5(b).

(e) The maximum number of benefit points that may be accrued in any Superannuation Year by the operation of sub-clause 14.5(d)(ii) is:

(i) the adjusted points limit for the Transferred RF Contributor; or

(ii) 9,

whichever is the greater.

(f) A Transferred RF Contributor to whom this sub-clause 14.5 applies whose Contribution rate per cent on 31 March 1988 is 0 shall be taken to have a Contribution rate per cent of 1 and the Trustee may make such arrangements as it thinks fit in relation to the deduction of Contributions for such a Contributor.

14.6 Pension rights exit after age 60

(a) A Transferred RF Contributor who, having attained 60 years of age on or before that Contributor's Exit Date, Retires and thereby becomes entitled to be paid the Benefit provided by sub-clause 5.2 may elect to convert to a pension in accordance with:

(i) sub-clause 17.3; or

(ii) sub-clause 17.4,

benefit points to which that Contributor is entitled.

(b) The benefit points to which the election referred to in sub-clause 14.6(a) relates are the Transferred RF Contributor's Accrued Benefit Points.

(c) Those benefit points which the Transferred RF Contributor does not elect to convert to a pension shall be applied to payment of a lump sum in accordance with sub-clause 5.2.

14.7 Pension rights: total and permanent invalidity

(a) If:

(i) a Transferred RF Contributor becomes entitled to be paid the Benefit provided by sub-clause 5.4; or

(ii) a Transferred RF Contributor Retires and thereby becomes entitled to be paid the Benefit provided by sub-clause 5.2 and the Trustee is satisfied that that Contributor would have been entitled to be paid the Benefit provided by sub-clause 5.4 if the Early Retirement Age had been 60 years,

that Contributor may elect to convert to a pension in accordance with:

(iii) sub-clause 17.5; or

(iv) sub-clause 17.6,

benefits points to which he or she is entitled.

(b) The benefit points to which the election referred to in sub-clause 14.7(a) relates are the Transferred RF Contributor's Accrued Benefit Points and Prospective Benefit Points.

(c) If the Transferred RF Contributor does not elect to convert all of the benefit points specified in sub-clause 14.7(b) into a pension, the proportion of Accrued Benefit Points and Prospective Benefit Points which was not so convened shall be applied towards the payment of a lump sum benefit in accordance with sub-clause 5.2 or 5.4, as the case may require.

14.8 Pension rights: death

(a) If the Spouse of a deceased Transferred RF Contributor becomes entitled to be paid:

(i) the Benefit provided by sub-clause 5.3; or

(ii) the Benefit provided by sub-clause 5.2,

that Spouse may elect to convert to a pension in accordance with sub-clause 17.7 the Benefit points to which that Contributor was entitled at death.

(b) The benefit points in respect of which an election under sub-clause 14.8(a) may be made are the Accrued Benefit Points and Prospective Benefit Points which would have accrued to the Transferred RF Contributor had that Contributor become entitled to a Benefit under sub-clause 5.4.

(c) If the Spouse of a Transferred RF Contributor does not elect to convert to a pension all of the benefit points referred to in sub-clause 14.8(b), the proportion of Accrued Benefit Points and Prospective Benefit Points which has not been so converted shall be applied towards the payment of a lump sum benefit in accordance with sub-clause 5.2 or 5.3, as the case may require.

14.9 Payment of pensions

A pension is payable to or in respect of a former Transferred RF Contributor in accordance with clauses 17 and 18.

14.10 Minimum Benefit in certain cases

(a) If the amount of a Benefit that would, but for this sub-clause 14.10, be payable under:

(i) sub-clause 5.3;

(ii) sub-clause 5.4; or

(iii) sub-clause 5.5,

to or in respect of a Transferred RF Contributor would be less than a lump sum benefit calculated in respect of that Contributor in accordance with sub-clause 14.10(b), the Trustee shall, instead of paying the first-mentioned Benefit, pay that lump sum benefit to that Contributor or, if the case so requires, to such person as would have been entitled under sub-clause 5.3 to the first-mentioned Benefit.

(b) The lump sum Benefit referred to in sub-clause 14.10(a) shall be calculated in accordance with the following formula:

$$Z = \frac{A}{30} \times \frac{(10 + N)}{12}$$

where:

Z represents the lump sum Benefit to be calculated;

A represents the Final Salary for the Transferred RF Contributor concerned; and

N represents the number of periods for that Contributor which would have been Applicable Contribution Periods for that Contributor if:

(A) the *State Authorities Superannuation Act 1987* (NSW) or this Annexure had been in force at that Contributor's Entry Date; and

(B) that Contributor had become a Contributor under the *State Authorities Superannuation Act 1987* (NSW) or this Annexure on that date.

(c) Whenever the Trustee pays a Benefit in accordance with this sub-clause 14.10, it shall:

(i) debit the Additional Benefit Reserve with the amount of the Additional Benefit which would have been payable if an Additional Benefit had been paid under this Annexure; and

(ii) debit the remainder to the appropriate employer reserve.

15. SPECIAL PROVISIONS FOR FORMER TRANSPORT FUND CONTRIBUTORS

15.1 Definitions

In this clause 15:

former Act means the *Transport Employees Retirement Benefits Act 1967* (NSW);

Transferred TF Contributor means a person who has become a Contributor to the new Fund by virtue of clause 3 of Schedule 3 of the *State Authorities Superannuation Act 1987* (NSW) (sub-clause 3.15) after having become a Contributor to the earlier Fund by virtue of the *Public Authorities Superannuation (Transport Retirement Fund Closure) Regulation 1986*.

15.2 Application of certain definitions to Transferred TF Contributors

(a) For the purpose of applying the definition of ***Prospective Benefit Points*** in sub-clause 5.1 to a Transferred TF Contributor, the reference in that definition to Applicable Contribution Periods shall be construed as including any period occurring before that Contributor's Entry Date where that period would have been taken into account in calculating a Benefit payable to that Contributor under the *New South Wales Retirement Benefits Act 1972* (NSW) if:

(i) the Benefit had become payable immediately before 1 April 1988;

(ii) that Contributor had been entitled to a Benefit under *State Authorities Superannuation Act 1987* (NSW) or this Annexure; and

(iii) the *State Authorities Superannuation Act 1987* (NSW) or this Annexure had been in force at the relevant time.

(b) For the purpose of applying the definition of average contribution rate per cent in sub-clause 5.1 to a Transferred TF Contributor, that definition shall be construed as if a reference in it to the sum of the rates per cent of Salary at which a Contributor was liable to pay a Contribution for a Contribution Period were a reference to the sum of benefit points accrued by the Transferred TF Contributor.

15.3 Pension rights: exit after age 60

(a) A Transferred TF Contributor who, having attained 60 years of age on or before the Contributor's Exit Date, Retires and thereby becomes entitled to be paid the Benefit provided by sub-clause 5.2 may elect to convert to a pension in accordance with:

(i) sub-clause 17.3; or

(ii) sub-clause 17.4,

benefit points to which that Contributor is entitled.

(b) The benefit points in respect of which an election may be made under sub-clause 15.3(a) are the Transferred TF Contributor's Accrued Benefit Points.

(c) Those benefit points which the Transferred TF Contributor does not elect to convert to a pension shall be applied towards payment of a lump sum benefit in accordance with sub-clause 5.2.

15.4 Pension rights: total and permanent invalidity

(a) If:

(i) a Transferred TF Contributor becomes entitled to be paid the Benefit provided by sub-clause 5.4; or

(ii) a Transferred TF Contributor retires and thereby becomes entitled to be paid the Benefit provided by sub-clause 5.2 and the Trustee is satisfied that a Benefit would have been payable to that Contributor under sub-clause 5.4 if the Early Retirement Age had been 60 years,

that Contributor may elect to convert to a pension in accordance with:

(iii) sub-clause 17.5; or

(iv) sub-clause 17.6,

benefit points to which that Contributor is entitled.

(b) The benefit points to which the election referred to in sub-clause 15.4(a) relates are the Transferred TF Contributor's Accrued Benefit Points and Prospective Benefit Points.

(c) If the Transferred TF Contributor concerned does not elect to convert all of the benefit points specified in sub-clause 15.4(b) into a pension, the proportion of Accrued Benefit Points and Prospective Benefit Points which was not so converted shall be applied towards the payment of a lump sum benefit in accordance with sub-clause 5.2 or 5.4, as the case may require.

16. SPECIAL PROVISIONS FOR CERTAIN FORMER LOCAL GOVERNMENT SCHEME CONTRIBUTORS

16.1 Definitions

In this clause 16:

applicable month has the meaning that that expression had under section 24 of the earlier Act;

former Act means the *Local Government and Other Authorities (Superannuation) Act 1927* (NSW);

notional accumulation, in relation to a Transferred LGA Contributor, means an amount equal to the sum of:

(a) the amounts credited to the appropriate employer reserve established under the former fund in accordance with rule 6(3) of the Public Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1986 in respect of that Contributor;

(i) in respect of each applicable month in relation to that Contributor under the earlier Act, an amount equal to:

(ii) 5.25% of the Salary of that Contributor, multiplied by the Salary Ratio of that Contributor in respect of that month as determined by the Trustee, based on the rate of Salary determined under section 6 of the earlier Act in respect of that month; or

(iii) 1.5 times the Contributions paid or payable by that Contributor in that month under the earlier Act,

whichever is the less; and

(b) in respect of each Applicable Contribution Period since 1 April 1988, an amount equal to:

(i) 5.25% of the Salary of that Contributor, multiplied by the Salary Ratio of that Contributor in respect of that period, based on the rate of salary determined under sub-clause 3.8 in respect of that period; or

(ii) 1.5 times the Contributions paid or payable by that Contributor under this Annexure,

whichever is the less,

together with interest at a rate or rates determined by the Trustee, but reduced by an amount or amounts calculated in such manner as the Trustee may determine in respect of the costs of administering the scheme and such other charges as may be determined by the Trustee;

Transferred LGA Contributor means a person who has become a Contributor to the new Fund by virtue of clause 3 of Schedule 3 of the *State Authorities Superannuation* (sub-clause 3.15) after having become a Contributor to the earlier Fund by virtue of the *Public Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1986*.

16.2 Application of certain definition to Transferred LGA Contributors

For the purpose of applying the definition of ***Prospective Benefit Points*** in sub-clause 5.1 to a Transferred LGA Contributor, the reference in that definition to ***Applicable Contribution Period*** shall be construed in such a way as to exclude from calculation any service which occurred before that Contributor's date of transfer to the earlier fund under the *Public Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1986* (NSW).

16.3 Benefit to be adjusted in certain circumstances

(a) The provisions of sub-clause 13.3 apply to a Transferred LGA Contributor as if that Contributor were a Transferred LGA Contributor to whom clause 13 applies if the Transferred LGA Contributor, in the opinion of the Trustee, has received or will receive:

(i) in the case of a Transferred LGA Contributor whose service was terminated, or who died, before 1 July 1993 - a gratuity under section 97 of the *Local Government Act 1919*, or

(ii) in the case of a Transferred LGA Contributor whose service is terminated, or who dies, on or after that date - a similar gratuity, being paid or to be paid by the council as an act of grace on the death or termination of service of an

Employee of the council and calculated by reference to the period of the Employee's service with the council.

16.4 Minimum Benefit for qualified Transferred LGA Contributors

(a) This sub-clause 16.4 applies to a Transferred LGA Contributor who:

(i) was, immediately before becoming a Contributor to the earlier Fund, a Contributor to the Superannuation Benefits Fund established under section 15S of the former Act; and

(ii) becomes covered for the Additional Benefit under the *State Authorities Superannuation Act 1987* (NSW) or this Annexure or, by virtue of sub-clause 12.2, is taken to be covered for that Additional Benefit.

(b) If a Benefit under:

(i) sub-clause 5.3; or

(ii) sub-clause 5.4,

becomes payable to or in respect of a Transferred LGA Contributor to whom this sub-clause 16.4 applies, the Employer-Financed Benefit shall be not less than the amount determined under sub-clause 16.4(c).

(c) The amount to be determined for the purposes of sub-clause 16.4(b) is the sum of:

(i) the notional accumulation; and

(ii) the amount calculated in accordance with the following formula:

A = M X S

where:

A represents the amount to be calculated;

M represents the number under the heading "Multiplier of Salary" in clause 19 opposite the age specified in years in that clause 19 that was the age of the Transferred LGA Contributor concerned at that Contributor's Exit Date; and

S represents:

(A) if the Transferred LGA Contributor contributed to the new Fund at the rate of 1% of Salary - two-sevenths of the Transferred LGA Contributor's Final Salary;

(B) if the Transferred LGA Contributor contributed to the new Fund at the rate of 2% of Salary - four-sevenths of the Transferred LGA Contributor's Final Salary;

(C) if the Transferred LGA Contributor contributed to the new Fund at the rate of 3% of Salary - six-sevenths of the Transferred LGA Contributor's Final Salary; or

(D) if the Transferred LGA Contributor contributed to the new fund at a rate exceeding 3% of Salary - the Transferred LGA Contributor's Final Salary.

(d) In sub-clause 16.4(c), a reference to a ***rate***, in relation to a Transferred LGA Contributor, is a reference to the rate at which the Contributor last elected or is taken to have last elected to contribute immediately before the Benefit became payable.

16.5 Debiting of accounts

Whenever the Trustee pays a Benefit in accordance with sub-clause 16.4, the Trustee shall:

(a) debit the Additional Benefit Reserve with the amount of the Additional Benefit which would have been payable if an Additional Benefit had been paid under this Annexure; and

(b) debit the remainder to the appropriate employer reserve.

17. PENSIONS

17.1 Election by Transferred Contributor to take pension Benefit

(a) An election by a Transferred Contributor or the Spouse of a Transferred Contributor to take a pension Benefit under clauses 12 to 19 shall:

(i) be in a form approved by the Trustee;

(ii) be signed by that Contributor or Spouse, as the case requires;

(iii) specify such matters and be accompanied by such information as the Trustee may require;

(iv) specify the proportion of benefit points to be convened to a pension, the proportion being the same for each class of benefit points which may be so converted; and

(v) be lodged at the office of the Trustee within the period of 3 months (or such extended period as the Trustee may in special circumstances allow) that immediately follows that Contributor's Exit Date or, if the case requires, the day on which that Contributor died.

(b) The Trustee is entitled to act on the information provided in accordance with sub-clause 17.1(a).

17.2 Payment of pension Benefit

(a) If a Transferred Contributor has elected to take a pension benefit under clauses 12 to 19, that Benefit shall be calculated with effect from that Contributor's Exit Date and is payable in equal fortnightly instalments.

(b) If the Spouse of a deceased Transferred Contributor has elected to take a pension Benefit under clauses 12 to 19, that Benefit shall be calculated with effect from the date of death of that Contributor and is payable in equal fortnightly instalments.

17.3 Employer-financed pension: normal retirement without reversion

(a) When an election is made by a Transferred Contributor to take the pension Benefit provided by this sub-clause 17.3, the pension shall be calculated in accordance with the following formula:

P = S x C x 0.002778 x (1 - 0.025 x T)

where:

P represents the annual pension payable;

S represents the Transferred Contributor's Final Average Salary;

C represents the number of Benefit points to which the election relates; and

T represents the number of whole years by which that Contributor's Exit Date precedes the date of his or her 65th birthday.

(b) For the purposes of symbol "T" in sub-clause 17.3(a), a fraction of a year which does not form part of a whole year counts as a whole year.

17.4 Employer-financed pension: normal retirement with reversion

When an election is made by a Transferred Contributor to take the pension Benefit provided by this sub-clause 17.4, the pension shall be calculated in accordance with the following formula:

P = S x C x 0.002223 x (1 - 0.025 x T)

where:

P, S, C and T have the same meanings as in sub-clause 17.3.

17.5 Employer-financed pension: invalidity without reversion

When an election is made by a Transferred Contributor to take the pension Benefit provided by this sub-clause 17.5, the pension shall be calculated in accordance with the following formula:

P = S x C x 0.002778

where:

P and C have the same meanings as in sub-clause 17.3; and

S represents the Transferred Contributor's Final Salary.

17.6 Employer-financed pension: invalidity with reversion

When an election is made by a Transferred Contributor to take the pension benefit provided by this sub-clause 17.6, the pension shall be calculated in accordance with the following formula:

P = S x C x 0.002223

where:

P and C have the same meanings as in sub-clause 17.3; and

S represents the Transferred Contributor's Final Salary.

17.7 Employer-financed pension: Spouse

When an election is made by the Spouse of a deceased Transferred Contributor to take the pension benefit provided by this sub-clause 17.7, the pension shall be calculated in accordance with the following formula:

P = S x C x 0.002223 x 0.625

where:

P and C have the same meanings as in sub-clause 17.3; and

S represents:

(i) the Transferred Contributor's Final Average Salary if that Contributor died after attaining the age of 60 years; or

(ii) the Transferred Contributor's Final Salary if that Contributor died before attaining that age.

17.8 Duration of pensions

(a) If a pension under sub-clause 17.4 or 17.6 is payable:

(i) that pension is payable during the lifetime of the Transferred Contributor; and

(ii) on the death of that Contributor, a pension is payable to the Spouse of that Contributor for life at an annual rate equal to 62.5% of the annual rate of pension that was payable to that Contributor immediately before that death.

(b) If a pension under sub-clause 17.3 or 17.5 is payable, that pension is payable only during the lifetime of the Transferred Contributor concerned.

(c) If a pension under sub-clause 17.7 is payable, that pension is payable only during the lifetime of the Spouse of the Transferred Contributor concerned.

(d) In this sub-clause 17.8:

spouse, in relation to a pension payable under sub-clause 17.4, 17.6 or 17.7, means the person who was the Spouse of the Transferred Contributor concerned at the time when the election to take the pension was made.

17.9 Pensions in respect of children and orphans

(a) In this sub-clause 17.9:

dependent child, in relation to a deceased Transferred LGP Contributor, means:

(i) a child of that Contributor who has not attained 16 years of age; or

(ii) a child of that Contributor, who has attained 16 years of age but not 25 years of age and who is, in the opinion of the Trustee, receiving full-time education at a school, college or university and not ordinarily employed or engaged in working for remuneration,

and who in either case was, in the opinion of the Trustee, wholly or substantially financially dependent on the Transferred LGP Contributor immediately before that Contributor's death;

notional pension, in relation to the Spouse of a deceased Transferred LGP Contributor or pensioner, means:

(i) where the Spouse is entitled to receive the pension provided by sub-clause 17.4 or 17.6, the pension that would have been payable to the deceased if he or she had elected to take the pension so provided and had lived; or

(ii) where the Spouse is entitled to receive the pension provided by sub-clause 17.7, the pension that would have been payable to the deceased if he or she had suffered total and permanent invalidity instead of death and had elected to take the pension provided by sub-clause 17.6;

pensioner means a person entitled to receive a pension payable in accordance with sub-clause 13.8, 13.9 or 13.10;

Transferred LGP Contributor has the same meaning as in clause 13.

(b) The provisions of this sub-clause 17.9 apply to the Spouse of a deceased pensioner in the same way as they apply to the Spouse of a deceased Transferred LGP Contributor.

(c) If a Transferred LGP Contributor or a pensioner dies leaving a dependent child, the Trustee shall:

(i) in respect of the child, pay a pension to the Spouse of that deceased Contributor or pensioner or the guardian of the child; or

(ii) if the Trustee thinks fit, expend the pension for the benefit of the child in such manner as it may determine.

(d) A pensioner in respect of whom there exists a notional pension is entitled to only so much of the pension or pensions under sub-clause 17.9(c) as would, when added to the pensioner's actual pension, not exceed that notional pension.

(e) A pension payable under sub-clause 17.9(c) ceases to be payable in respect of a child when the child ceases to be a dependent child.

(f) Subject to any periodical adjustment effected as a result of the operation of clause 18, the rate of pension payable under sub-clause 17.9(c) in respect of a child is:

(i) if a parent of the child is living, a fortnightly amount of $58.86; or

(ii) in any other case, a fortnightly amount of $139.76.

17.10 Definitions

In clause 17 (other than sub-clause 17.9) Transferred Contributor means, as the case requires, a Transferred PAS Contributor, a Transferred LGP Contributor, a Transferred RF Contributor, a Transferred TF Contributor or a Transferred LGA Contributor.

18. PERIODIC ADJUSTMENT OF PENSIONS

18.1 Definitions

(a) In this clause 18:

adjustment date, in relation to an adjustment period, means the first day of the pension pay period that ends on the first pension pay day in the October that next follows that adjustment period;

adjustment percentage, in relation to an adjustment period, means, subject to sub-clause 18.3(b), the percentage for that period calculated in accordance with sub-clause 18.3;

adjustment period means:

(i) the period of 6 months beginning on I January 1989; or

(ii) the period of 12 months beginning on 1 July 1989; or

(iii) the period of 12 months beginning on 1 July in any subsequent year.

as the case requires;

December quarter means the quarter commencing on 1 October in each year;

index number in relation to a June quarter, means the number for that June quarter appearing in the Consumer Price Index (All Groups Index) for Sydney published by the Commonwealth Statistician under the *Census and Statistics Act 1905* (Cth);

June quarter means the quarter commencing on 1 April in each year;

quarter, in relation to a year, means the period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in that year.

(b) If a pension is to be adjusted under this clause 18 by reference to the adjustment percentage for an adjustment period, a reference (however expressed) in this clause 18 to adjusting the pension is a reference to:

(i) where the adjustment percentage is calculated in accordance with the formula set out in sub-clause 18.3(a)(i), increasing the pension; or

(ii) where the adjustment percentage is calculated in accordance with the formula set out in sub-clause 18.3(a)(ii), reducing the pension.

18.2 Restriction on automatic adjustment of pension

(a) If the Trustee is of the opinion that an increase in accordance with this clause 18 in the pension payable to a person would prejudicially affect that person as regards some advantageous situation in which, but for being so affected, that person would be placed, the Trustee may:

(i) determine not to pay the amount of the increase; or

(ii) determine to pay a specified increase of a lesser amount; or

(iii) determine to decrease the pension to a specified amount.

(b) A determination made under sub-clause 18.2(a) has effect according to its tenor, and once the determination has had effect a person is not entitled to be paid or to recover any amount that would have been payable but for the determination.

(c) A determination made under sub-clause 18.2(a) must be disregarded in calculating a pension payable to the Spouse of a deceased pensioner to whom the determination relates but such a determination may be made in relation to the pension so calculated.

18.3 Calculation of adjustment percentage

(a) For the purposes of the definition of ***adjustment percentage*** in sub-clause 18.1, the percentage for an adjustment period is to be calculated:

(i) if, in relation to the adjustment period beginning on 1 January 1989, the index number for the June quarter in that period was greater than the index number for the immediately preceding December quarter or, if in relation to the adjustment period beginning on 1 July 1989 or 1 July in any subsequent year, the index number for the June quarter was greater than the index number for the immediately preceding June quarter in accordance with the following formula:

$$P = \frac{100\ (C - L)}{L};\ \text{or}$$

(ii) if, in relation to the adjustment period beginning on 1 January 1989, the index number for the June quarter in that period was less than the index number for the immediately preceding December quarter or, if in relation to the adjustment period beginning on 1 July 1989 or 1 July in any subsequent year, the index number for the June quarter was less than the index number for the immediately preceding June quarter in accordance with the following formula:

$$P = \frac{100\ (L - C)}{L}$$

where, in the case of either formula:

P represents the percentage to be obtained; and

C represents the index number for the June quarter in the adjustment period concerned; and

L represents the index number for the immediately preceding December quarter or the immediately preceding June quarter, as the case requires.

(b) There is to be no adjustment percentage for an adjustment period if:

(i) the percentage calculated for that period in accordance with this sub-clause 18.3 is less than 1%; or

(ii) the index number for the June quarter in that period is the same as the index number for the immediately preceding June quarter.

(c) If there is to be no adjustment percentage for an adjustment period, then, for the purposes of calculating the percentage for the next adjustment period:

(i) the index number for the June quarter in the first-mentioned period is to be taken to have not been published; and

(ii) the index number for that quarter is to be taken to be the same as the index number for the June quarter in the last year for which there was an adjustment percentage.

(d) If at any time, whether before, on or after 1 January 1989, the Commonwealth Statistician has published, or publishes in respect of a particular June quarter an index number in substitution for an index number previously published by him or her in respect of that quarter, then, for the purposes of this clause 18 the publication of the later index number must be disregarded.

(e) Despite sub-clause 18.3(d), if at any time after 1 January 1989 the Commonwealth Statistician has changed the reference base for the Consumer Price Index (All Groups Index) for Sydney, then, for the purposes of the application of this clause 18 (after the change takes place), regard must be had only to index numbers published in terms of the new reference base.

18.4 Adjustment of pensions: general cases

(a) Subject to this clause 18, if there is an adjustment percentage for a particular adjustment period, the pension payable on the adjustment date for that period to a person to whom this sub-clause 18.4 applies is adjusted, on and from that adjustment date, by that percentage.

(b) This sub-clause 18.4 applies:

(i) to a person who last became a pensioner on or before the first day of that particular adjustment period concerned; and

(ii) to a person who is the Spouse of a deceased pensioner, where that deceased pensioner last became a pensioner on or before the first day of the particular adjustment period concerned and died before the adjustment date for that period.

18.5 Adjustment of pensions: partial adjustment

(a) This sub-clause 18.5 applies:

(i) to a person who last became a pensioner during the period beginning with the first day of the particular adjustment period concerned and ending with 31 March next following; and

(ii) to a person who is the Spouse of a deceased pensioner, where that deceased pensioner last became a pensioner during the period beginning with the first day of the particular adjustment period concerned and ending with 31 March next following and died before the adjustment date for that adjustment period.

(b) Subject to this clause 18, if there is an adjustment percentage for a particular adjustment period, the pension payable on the adjustment date for that period to a person to whom this sub-clause 18.5 applies is adjusted, on and from that adjustment date, by the percentage calculated in accordance with the formula set out in sub-clause 18.5(c).

(c) The formula referred to in sub-clause 18.5(b) is:

(i) where the adjustment period is the adjustment period beginning on 1 January 1989;

$$A = \frac{P \times Q}{2}; \text{ or}$$

(ii) where the adjustment period is the adjustment period beginning on 1 July 1989 or on 1 July in any subsequent year:

$$A = \frac{P \times Q}{4}$$

where, in the case of either formula:

A represents the percentage by which the pension is to be adjusted; and

P represents the adjustment percentage for the particular adjustment period; and

Q represents the number of whole quarters of the particular adjustment period, being the whole quarters after, and (if applicable) the whole quarter on the first day of which:

(A) in the case of a person referred to in sub-clause 18.5(a)(i) the person last become a pensioner; or

(B) in the case of a person referred to in sub-clause 18.5(a)(ii) the deceased Spouse of that person last became a pensioner.

18.6 Minimum amount to which pensions may be reduced

Irrespective of anything in this clause 18:

(a) a pension (other than a pension payable to a person by virtue of that person being the Spouse of a pensioner) must not be reduced below the fortnightly amount that would have been payable but for this clause 18; and

(b) a pension payable to a person by virtue of that person being the Spouse of a pensioner must not be reduced below the fortnightly amount that would have been payable by reference to the pension that would have been payable to the former pensioner but for this clause 18.

18.7 Calculation of percentages

If a percentage that is calculated under this clause 18 is or includes a fraction of one-tenth of 1%, then:

(a) if the fraction is less than one-half of one-tenth the fraction is to be disregarded; and

(b) if the fraction is not less than one-half of one-tenth the fraction is to be treated as one-tenth.

19. SCALE FOR CALCULATING ADDITIONAL DEATH BENEFITS AND ADDITIONAL DISABLEMENT BENEFITS

Age in years at Exit Date	Multiplier of Salary	Age in years at Exit Date	Multiplier of Salary
20, or under 20	6.0	40	2.50
21	5.8	41	2.35
22	5.6	42	2.20
23	5.4	43	2.05
24	5.2	44	1.90
25	5.0	45	1.75
26	4.8	46	1.60
27	4.6	47	1.45
28	4.4	48	1.30
29	4.2	49	1.15
30	4.0	50	1.00
31	3.85	51	0.9
32	3.70	52	0.8
33	3.55	53	0.7
34	3.40	54	0.6
35	3.25	55	0.5

Age in years at Exit Date	Multiplier of Salary	Age in years at Exit Date	Multiplier of Salary
36	3.10	56	0.4
37	2.95	57	0.3
38	2.80	58	0.2
39	2.65	59	0.1
		60, or over 60	0

20. OTHER CONTRIBUTORS TRANSFERRED UNDER THE TRANSFER REGULATIONS

(a) In respect of those transferred contributors transferred pursuant to clause 11 of the Transfer Regulations, the Benefits of those members shall be determined in accordance with the provisions of the Acts and Regulations set out in sub-clause 20(b) below insofar as they apply to each of those members.

(b) The Acts and Regulations referred to in sub-clause 20(a) are:

(i) *New South Wales Retirements Benefits Act 1972* (NSW);

(ii) *Local Government & Other Authorities (Superannuation) Act 1927* (NSW);

(iii) *Public Authorities Superannuation Act 1985* (NSW);

(iv) *Transport Employees Retirement Benefits Act 1967* (NSW); and

(v) Parts 2, 3 and 6 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988* (NSW).

Annexure 2 for the Pool B Sub-Division in the Defined Benefits Section of the Fund

BASIC BENEFITS FOR FORMER POOL B MEMBERS
(This Annexure 2 sets out the rules for the additional "Basic Benefit" provided to former State Authorities Non-Contributory Superannuation Scheme members who were transferred to Pool B on 1 July 1997 and subsequently to the Fund on the Pool B Transfer Date)

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1. INTERPRETATION

1.1 Definitions

In this Annexure:

Attributed Salary, in relation to a Member at any time, means:

(a) where the Member is a Full-Time Employee at that time, the Salary of the Member at that time, or

(b) where the Member is a Part-Time Employee at that time, the Salary that would be payable to the Member at that time if employed as a Full-Time Employee.

Basic Benefit means the Basic Benefit referred to in sub-clause 4.2.

Chief Executive Officer has the same meaning as Chief Executive in the *Government Sector Employment Act 2013* (NSW).

Contribution Period means a named month or such other period as may be determined by the Trustee in relation to any class of persons or circumstances.

Co-contribution Amount means the Contributions made by the Government.

Co-contribution Member means a Member in respect of whom the Trustee receives a Co-Contribution Amount.

Executive Officer means an Employee who is:

(a) a Chief Executive Officer, or

(b) a Senior Executive Officer,

(c) an office holder nominated for the purposes of section 11A of the *Statutory and Other Offices Remuneration Act 1975* (NSW);

(d) an Eligible Person; or

(e) such other person as is nominated by the Employer in accordance with sub-clause 3.7 in the Defined Benefit Section Rules.

Exit Date in relation to a Member, means the day on which the Member ceases employment with an Employer, that cessation of employment being:

(a) the only such cessation; or

(b) where there has been more than one such cessation of employment of the Member the later or latest of those cessations of employment.

Final Average Salary, in relation to a Member, means the average of the Attributed Salaries paid or payable to the Member at the rates applicable:

(a) on the Member's Exit Date;

(b) on 31 December (or such other date as the Trustee may determine) last preceding the Member's Exit Date; and

(c) on 31 December (or such other date as the Trustee may determine) last preceding the date referred to in paragraph (b).

Final Salary, in relation to a Member, means the rate of Attributed Salary paid or payable to the Member on the Member's Exit Date.

Full-Time Employee means a Member whose Salary Ratio is 1.

Other Contributions Account means the account established pursuant to sub-clause 2.3.

Part-Time Employee means a Member whose Salary Ratio is less than 1 but at least 0.1.

Reserve means an Account.

Resign, in relation to a Member, means cease to be employed by an Employer before reaching the age of 55 years, otherwise than on account of:

(a) death, or

(b) invalidity, where the Trustee is satisfied:

(i) that the ceasing to be employed was due, directly or indirectly to the permanent physical or mental incapacity of the Member (not caused by any act or default of the Member intended to produce that incapacity; and

(ii) that the Member is permanently unable, by reason of that incapacity, to be engaged in, or to be employed in, any remunerative occupation in which, in the opinion of the Trustee, it would otherwise be reasonable to expect the Member to engage.

Retire means cease (otherwise than by reason of death) in any manner to be employed by an Employer on or after reaching the age of 55 years.

Retrenchment, in relation to a Member, means the termination of the employment of the Member with an Employer where the employment is expressed by the Employer to be:

(a) compulsorily terminated by the Employer on the ground that:

(i) the Employer no longer requires the Member's services and, on termination of the Member's employment, does not propose to fill the Member's position; or

(ii) the work that the Member was engaged to perform has been completed; or

(iii) the amount of work that the Employer requires to be performed has diminished and, due to that fact, it has become necessary to reduce the number of persons employed by the Employer; or

(b) terminated as a result of the acceptance by the Member of an offer by the Employer of terms of retrenchment made on a ground specified in paragraph (a).

Salary, in relation to a Member, means Salary of the Member, determined in accordance with sub-clause 1.2 or 1.4 and expressed as an annual rate.

Salary Ratio, in relation to a Member at any time during a Contribution Period, means the number ascertained by dividing the Salary of the Member at the commencement of that Contribution Period by the Attributed Salary of the Member at that commencement.

Senior Executive Officer has the same meaning as Senior Executive in the *Government Sector Employment Act 2013* (NSW).

1.2 Definition of Salary

(a) For the purposes of this Annexure, Salary, in relation to a Member (other than an Executive Officer) means the sum of:

(i) the remuneration, salary or wages payable in money to the Member in the Member's capacity as an Employee, as reported to the Trustee from time to time by the Member's Employer, including:

(A) a loading in respect of any shift allowance, as determined in accordance with sub-clause 1.3;

(B) other allowances payable in money that are of a kind included within the value of leave paid on termination of employment; and

(C) weekly workers compensation paid to the Member, as from the date the weekly workers compensation commences to be paid,

but not including the excluded amounts or allowances referred to in sub-clause 1.2(c), and

(ii) if approved employment Benefits are provided to the Member, the cost of providing the approved employment Benefits, as determined by the Trustee.

(b) The weekly workers compensation to be treated as Salary for the purposes of this Annexure does not include any amount by which the aggregate of:

(i) the weekly workers compensation paid to an injured Member; and

(ii) the salary actually paid to the Member while partially incapacitated,

exceeds the salary that the Member would probably have been earning but for the injury (assuming the Member had continued to be employed in the same or some comparable employment).

(c) The excluded amounts or allowances are:

(i) an amount paid for overtime or as a bonus, or an allowance instead of overtime;

(ii) except to the extent determined in accordance with sub-clause 1.3, as referred to in sub-clause 1.2(a), an amount paid as shift allowance;

(iii) except to the extent that this sub-clause 1.2 otherwise provides, a relieving allowance;

(iv) an expense allowance or an allowance for travelling, subsistence or other expenses;

(v) an equipment allowance;

(vi) an amount paid for rent or as a residence, housing or quarters allowance; and

(vii) an amount of weekly workers compensation excluded by sub-clause 1.2(b).

(d) If a Member's Employer, or a person authorised to do so on behalf of the Employer, certifies in writing to the Trustee that a relieving allowance to be, or being, paid to the Member in the Member's capacity as an Employee is likely to be paid for a continuous period of 1 year (whether or not the period is partly before the date of the certificate), the allowance is, as from:

(i) the date on which the certificate is lodged with the Trustee; or

(ii) the date from which the allowance becomes payable,

whichever is the later, Salary for the purposes of this Annexure.

(e) If a relieving allowance has been paid to a Member in the Member's capacity as an Employee for a continuous period of 1 year that ends after 1 April 1988 and, during that period, the allowance has not been treated as part of the Member's Salary in accordance with sub-clause 1.2(h), the allowance shall, as from the expiration of that period of 1 year, be treated as part of the Member's Salary while its payment to the Member continues.

(f) If a Member is on secondment to another Employer, the Salary of the Member for the purposes of this Annexure is the Salary paid or payable to the Member by the other Employer.

(g) The Employer may by notice in writing to Trustee determine, unconditionally or subject to conditions, that sub-clause 1.2(h) applies:

(i) to a particular Member who is on secondment but not to another Employer; and

(ii) generally during the period of that secondment, or during such other period as is determined, being, in either case, a period commencing before, on or after the date of the determination.

(h) During the period in which this sub-clause 1.2(h) is declared pursuant to sub-clause 1.2(g) to apply to a Member on secondment, the Member's Salary shall, for the purposes of this Annexure, be that paid or payable in respect of the employment to which he or she is seconded.

(i) In this sub-clause 1.2:

approved employment benefit means a Benefit provided to a Member at the cost of the Member's Employer (being a Benefit of a private nature) that is approved by the Trustee, for the purposes of this sub-clause 1.2 in relation to the Member or a class of Members of which the Member is a member.

shift allowance means an allowance paid to a Member in respect of shift work performed by the Member, and includes amounts paid as penalty rates.

weekly workers compensation, in relation to a Member, means weekly payments of compensation under the *Workers Compensation Act 1987* (NSW) (or the provisions of the *Workers Compensation Act 1926* (NSW) as applied by that Act) payable to the Member because the Member is partially incapacitated for work through injury.

1.3 Determination of loading in respect of shift allowance

(a) In this sub-clause 1.3:

base salary in relation to a Member, means the remuneration, salary or wages payable to the Member under an award of an industrial tribunal or under an industrial or enterprise agreement, but excluding all allowances payable to the Member;

relevant period in relation to a Member, means the period of 12 months ending with 31 December immediately preceding the date on which the Salary of the Member is to be calculated for the purposes of this Annexure;

relevant shift means a shift worked by a Member in respect of which a shift allowance is payable by an Employer;

trade union means:

(i) an industrial organisation of employees registered or recognised as such under the *Industrial Relations Act 1991* (NSW); or

(ii) an association of employees registered as an organisation under the *Industrial Relations Act 1988* (Cth).

(b) For the purposes of sub-clause 1.2(a)(i)(A), the loading (if any) to be treated as part of a Member's Salary for the purposes of this Annexure must be determined by reference to sub-clause 1.3(c), 1.3(d) or 1.3(e), according to whichever is appropriate to the Member.

(c) If:

(i) there is in force an agreement between, or a practice accepted by, a trade union and the Employer of a Member which was in force immediately before 18 December 1987; and

(ii) the effect of the agreement or practice is that amounts that the Employer pays to the Member as shift allowances for relevant shifts that the Member works during a relevant period are treated as a loading for superannuation purposes; and

(iii) the total of those amounts is greater than that which would be determined under sub-clause 1.3(d) for that year in respect of the Member,

then, for the purposes of sub-clause 1.2(a)(i)(A), that total is the Member's loading for those shift allowances.

(d) Subject to sub-clause 1.3(c) or 1.3(e) if a Member is paid shift allowances for shifts worked by the Member during a relevant period, then, for the purposes of sub-clause 1.2(a)(i)(A), the Member's loading for those allowances is to be determined by reference to the number of shifts the Contributor is taken to have worked (as calculated in accordance with sub-clause 1.3(f)) during the relevant period. The loading is:

(i) if during the relevant period the Member is taken to have worked not more than 104 relevant shifts - no amount; or

(ii) if during the relevant period the Member is taken to have worked more than 104 but not more than 156 relevant shifts - an amount equal to 10% of the Member's base salary for that period; or

(iii) if during the relevant period the Member is taken to have worked more than 156 but not more than 208 relevant shifts - an amount equal to 20% of the Member's base salary for that period; or

(iv) if during the relevant period the Member is taken to have worked more than 208 relevant shifts - an amount equal to 20% of the Member's base salary for that period.

(e) If the amounts actually paid or payable to a Member as shift allowances for shifts that the Member has worked during a relevant period are less than the loading determined for that period in respect of the Member in accordance with sub-clause 1.3(d), then, for the purposes of sub-clause 1.2(a)(i)(A), the total of those amounts is the Member's loading for those allowances.

(f) For the purposes of sub-clause 1.3(d), the number of shifts a Contributor is taken to have worked during a relevant period, being shifts for which a shift allowance is paid, is the number calculated as follows:

$$N = \frac{H \times S}{Ho}$$

where:

N is the number of such shifts the Contributor is taken to have worked during the relevant period.

H is the number of hours per shift regularly required to be worked in such shifts during the relevant period.

Ho is the smallest number of hours per shift regularly required to be worked (whether by the Contributor or any comparable worker) in such shifts during any calendar year after 1987, including the relevant period.

S is the number of such shifts the Contributor actually worked during the relevant period.

1.4 Salary of Executive Officers

(a) For the purposes of this Annexure, the Salary of an Executive Officer is the salary as last nominated or changed in accordance with this sub-clause 1.4.

(b) An amount of Salary for the purposes of this Annexure must be nominated to an Executive Officer's Employer by the officer, on, or as soon as practicable after, being appointed as an Executive Officer. An amount may also be nominated to the Employer by the officer on, or as soon as practicable after, being reappointed, or appointed to another position, as an Executive Officer.

(c) The amount nominated is to be not less than the monetary remuneration payable to the Executive Officer at the date of nomination and not more than the total value of the remuneration package paid to the officer (less the cost of providing Employer's contributions to superannuation and any performance-related incentive payment).

(d) If an Executive Officer fails to nominate an amount of Salary within 28 days of first being appointed as an Executive Officer or within such further period as the Trustee may allow, the officer is taken to have nominated an amount of Salary that is equal to the monetary remuneration payable to the officer at the end of the applicable period.

(e) An Executive Officer may, from time to time, by notice to the officer's Employer elect to reduce the amount of Salary nominated under this sub-clause 1.4, but not so that the amount is less than the monetary remuneration payable to the officer at the date of the election.

(f) An Executive Officer may, from time to time, by notice to the officer's Employer elect to increase the amount of Salary nominated under this sub-clause 1.4, but not so as to increase the amount nominated by a percentage of that amount that is more than the percentage by which the remuneration package of the officer has increased since the amount of Salary was last nominated or changed.

(g) An Employer must notify the Trustee of a nomination or election under this sub-clause 1.4. Any such nomination or election takes effect on the date of notification to the Trustee or on such other date as the Trustee may determine with the consent of the Executive Officer concerned.

(h) Nothing in this sub-clause 1.4 requires the nominated amount of salary to be increased if, because of a variation in the remuneration package of an Executive Officer or in the proportions of the remuneration package comprising monetary remuneration and employment Benefits of the officer, the amount of Salary as last nominated or changed for the purposes of this sub-clause 1.4 is less than the monetary remuneration of the officer.

(i) In this sub-clause 1.4, the monetary remuneration payable to an Executive Officer is:

(i) if the officer is a Chief Executive Officer or Senior Executive Officer, the monetary remuneration payable in accordance with the *Government Sector Employment Act 2013* (NSW); or

(ii) if the officer is an office holder nominated for the purposes of section 11A of the *Statutory and Other Officer's Remuneration Act 1975* (NSW), the remuneration payable to the officer as reduced under that section by the cost of employment benefits provided to the officer; or

(iii) if the officer is an Eligible Person, the monetary remuneration payable to the officer.

1.5 Determination of Eligible Service

(a) The eligible service accrued by a Member for any day is such proportion of a day as is equal to the Salary Ratio of the Member on that day.

(b) A Member who is on leave without pay that is not prescribed leave has a Salary Ratio of 0 in respect of that leave.

(c) A continuous period of leave without pay is not to be regarded as leave without pay for the purposes of this sub-clause 1.5 if the period is not prescribed leave and the period is 5 days or less.

(d) For the purposes of sub-clauses 1.5(b) and 1.5(c):

leave without pay, in relation to a Member, means a period of leave from employment with an Employer (otherwise than on secondment as referred to in sub-clause 1.2) during which the Member is not entitled to receive payment of Salary from the Employer;

prescribed leave, in relation to a Member, means leave without pay during which the Member on leave is absent from employment with an Employer:

(i) because of a grant of sick leave; or

(ii) for a period during which the Member receives periodic payments under an Act providing compensation for workers' injuries; or

(iii) because of a grant of maternity leave; or

(iv) under an agreement with the Employer for the secondment of the Member to employment that is not employment with a person who is not an Employer within the meaning of this Annexure; or

(v) for the purpose of enabling the Member to perform trade union duties unless, in a particular case, the Employer certifies to the Trustee in writing that this paragraph is not to apply; or

(vi) for the purpose of enabling the Member to perform duties that the Employer certifies to the Trustee in writing to be in the interests of the Employer or the State; or

(vii) while on service with the naval, military or air forces of the Commonwealth; or

(viii) in other circumstances decided by the Trustee for the purposes of this sub-clause 1.5.

2. MAINTENANCE AND ADMINISTRATION

2.1 Establishment and maintenance of funds

(a) The Trustee shall cause to be held in the Fund, for the purposes of this Annexure:

(i) contributions made by Employers;

(ii) income derived from investment of assets held for the purposes of this Annexure, and any profit made from realisation of those investments, and

(iii) money borrowed for the purposes of this Annexure.

(b) The Trustee shall cause to be paid from the Fund, for the purposes of this Annexure:

(i) administration costs incurred by the Trustee;

(ii) any Tax; and

(iii) the Benefits payable under this Annexure.

2.2 Reserves for Employers

(a) The Trustee shall establish and maintain a separate employer reserve, or separate employer reserves as the case may be.

(b) There shall be credited to such employer reserve the Contributions made by the Employer or Employers to whom the reserve relates.

(c) There shall be debited to such employer reserve:

(i) the amount of any Benefit paid to, or in relation to, a Member who, immediately before the Benefit became payable, was an Employee of the Employer or an Employer to whom the reserve relates; and

(ii) administration costs incurred by the Trustee in relation to the Employer or an Employer to whom the reserve relates.

(d) The Trustee may, after obtaining actuarial advice, adjust the amount credited to an employer reserve by crediting or debiting an amount, if it appears to the Trustee appropriate to do so because of a change in the constitution or nature of an Employer.

(e) Sub-clause 2.2(d) does not apply to a change in the constitution or nature of an Employer because of a Government privatisation initiative.

2.3 Co-contributions and other contribution amounts

(a) The Trustee shall establish a separate reserve in relation to co-contributions and other contributions and within that reserve an Other Contributions Account in respect of each Member.

(b) The Trustee shall credit to each Other Contributions Account:

(i) the Co-contribution Amount in relation to each Co-contribution member; and

(ii) any other amounts or contributions in respect of the Member; and

(iii) any income derived from the investment of assets attributable to the Other Contributions Account, and any profit made from realisation of those investments.

(c) The Trustee shall debit from each Other Contributions Account:

(i) administration costs incurred by the Trustee;

(ii) any Tax; and

(iii) the Benefits payable under this Annexure.

2.4 Adjustment of reserves and accounts for interest etc

(a) Whenever appropriate, the Trustee must fix a rate of interest for the purposes of sub-clause 2.4(b) after having regard to:

(i) the income in respect of this Annexure;

(ii) any Tax in respect of the investment of assets held to provide Benefits under this Annexure; and

(iii) such other matters as it considers relevant.

(b) Whenever appropriate, the Trustee must adjust each of the reserves and any accounts established under this clause 2 by applying the rate of interest that is currently fixed under sub-clause 2.4(a).

(c) The Trustee may fix a rate of interest for the purpose only of enabling specific reserves or accounts to be adjusted.

2.5 Source of administration costs payments

The administration costs payable for the purposes of this Annexure are to be debited to the Employer Reserves and such other reserves and accounts in the Fund as the Trustee considers appropriate.

2.6 Funds, accounts and reserves generally

(a) The Trustee must:

(i) credit for the purposes of this Annexure or, as the case may be, to the appropriate reserve or account any amount that is required by or under the Deed to be debited under this Annexure or to that reserve or account; and

(ii) debit for the purposes of this Annexure or to the appropriate reserve or account any amount that is required by the Deed to be debited under this Annexure or to that reserve or account.

(b) The Trustee may:

(i) credit for the purposes of this Annexure or, as the case may be, to the appropriate reserve or account any amount that is permitted by or under the Deed to be credited under this Annexure or to that reserve or account; and

(ii) debit for the purposes of this Annexure or to the appropriate reserve or account any amount that is permitted by or under the Deed to be debited under this Annexure or to that reserve or account.

3. CONTRIBUTIONS BY EMPLOYERS

3.1 Contributions

(a) If an Employee is employed by an Employer, the Employer must pay at such times as the Trustee may require, Contributions at a rate determined by the Trustee.

(b) The rate is to be determined by the Trustee after obtaining actuarial advice.

(c) In determining the contributions payable by an Employer, the Trustee is to have regard to the amount required to meet the full costs of the liabilities under this Annexure of all Employers.

(d) The Trustee may require any such Employer to pay into the fund additional Contributions for a specified period if it appears to the Trustee that there is insufficient money in the reserve for Employers to meet the Employers' liabilities under this Annexure.

3.2 Employer may be required to make further payments in certain cases

(a) Whenever it appears to the Trustee that there is insufficient money in an Employer Reserve:

(i) to pay the Employer liability that is due to or in respect of a Contributor or former Contributor under this Annexure; or

(ii) to pay any other amounts that are payable from that reserve,

the Trustee may require the Contributor's Employer or former Employer, by notice in writing, to pay under this Annexure an amount equal to the amount of the insufficiency.

(b) If an Employer fails to pay an amount required to be paid under sub-clause 3.2(a) within 14 days after being notified of the requirement, the amount becomes an amount owing under this Annexure and the Trustee may recover that amount accordingly.

3.3 Acceptance of contributions

The Trustee may determine, for the purposes of Relevant Law, that it must not accept contributions by or in respect of a Member. The period during which such Contributions may not be made is not included as eligible service for the purposes of calculating the Basic Benefit.

3.4 Transfer of Members

The Trustee shall determine the value of the Basic Benefit at the date of cessation of employment with a former Employer and shall if the Trustee has separate employer reserves:

(a) debit the Employer reserve of the former Employer with that value; and

(b) credit the Employer reserve of the new Employer with that value.

4. BENEFITS

4.1 Definitions

(a) In this clause 4:

Final Average Salary, in relation to a Member, means the average of the Attributed Salaries paid or payable to the Member at the rates applicable:

(i) on the Member's Exit Date;

(ii) on 31 December (or such other date as the Trustee may determine) last preceding the Member's Exit Date; and

(iii) on 31 December (or such other date as the Trustee may determine) last preceding the date referred to in sub-clause 4.1(a)(ii).

Final Salary, in relation to a Member, means the rate of Attributed Salary paid or payable to the Member on the Member's Exit Date.

(b) Different dates may be determined by the Trustee for the purposes of the definition of Final Average Salary in sub-clause 4.2(a), so as to apply differently according to different classes of Members.

4.2 Basic Benefit[1]

(a) The Basic Benefit provided by this Annexure for a Member is an amount equal to the amount calculated in accordance with the formula:

$B = (0.03 \times F \times Y) + C$

where:

B represents the amount to be ascertained,

F represents:

(i) in the case of the Member's death or Retrenchment, or the Member ceasing to be employed because of physical or mental incapacity, before reaching the age of 55 years the Member's Final Salary; or

(ii) in any other case the Member's Final Average Salary; and

Y represents the years of eligible service on a daily basis, commencing on or after 1 April 1988.

C represents the amount standing in the Other Contributions Account on the Member's Exit Date.

(b) If the Trustee makes a determination under sub-clause 4.7 in relation to a Basic Benefit to be provided by this sub-clause 4.2, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

(c) For the purpose of determining the amount of a Basic Benefit provided by sub-clause 4.5 that becomes payable in respect of a person within 12 months after the person:

(i) has been appointed as a Chief Executive Officer or Senior Executive Officer; or

(ii) has been nominated as an office holder for the purposes of section 11A of the *Statutory and Other Officer's Remuneration Act 1975* (NSW),

the person's Salary is taken to be his or her salary as a Member immediately before the appointment or nomination took effect.

[1] This clause 4.2 is referenced in the Treasury Payment Deed. Any future changes to this deed should seek to maintain the clause numbering for this provision.

4.3 Benefit immediately payable

(a) The Basic Benefit in respect of a person is payable by the Trustee when:

(i) the person has satisfied a condition of release which does not have a nil cashing restriction - by transfer of the amount to the Accumulation and Pension Section; or

(ii) the person has satisfied a condition of release which has a nil cashing restriction; or

(iii) the person has produced to the Trustee written approval of APRA for payment of the Benefit; or

(iv) the Trustee has given approval for payment of the Benefit under guidelines established by APRA.

(b) The Basic Benefit in respect of a person is payable by the Trustee if the person becomes eligible under an Approved Benefit Arrangement for a Benefit that is of the same kind as a Benefit provided by this Annexure and the Trustee has been requested to pay the Benefit to the Approved Benefit Arrangement.

(c) The Basic Benefit in respect of a former Member is payable:

(i) unless the former Member has died, in accordance with sub-clause 4.3(b) or, subject to Relevant Law, to the former Member; or

(ii) if the former Member has died, in accordance with sub-clause 2.3 of the Defined Benefit Section Rules.

(d) For the purposes of the payment under sub-clause 4.3(a)(iv) of a Benefit on compassionate grounds, or severe financial hardship the Trustee may only pay the Benefit if the Trustee is satisfied that the circumstances are such that a Benefit would be payable on the grounds of severe financial hardship or compassionate grounds as the case may be.

(e) If a person has been paid a benefit on compassionate grounds or on the grounds of severe financial hardship and the person subsequently becomes entitled to another Benefit under this Annexure, the Trustee must reduce the amount of the subsequent benefit to take into account the Benefit previously paid and associated loss of earnings to the Fund.

4.4 Benefit on attaining 65

(a) A person who attains 65 years of age may elect to be paid the Basic Benefit to which the person would be entitled on retirement at that age or may elect to defer the whole of the Benefit.

(b) If an amount is deferred under this sub-clause 4.4, it is payable in the same way as a Benefit under sub-clause 4.5.

(c) A person to whom this sub-clause 4.4 applies is not entitled to any other Benefit under this Annexure in respect of the same period of service, or to be paid or defer a Benefit under this sub-clause 4.4 more than once.

4.5 Benefit to be Deferred

(a) The Basic Benefit in respect of a person must be deferred by the Trustee if the Benefit is not otherwise payable under this Annexure.

(b) The Basic Benefit must also be deferred by the Trustee when a Member becomes eligible under another superannuation fund for a Benefit that is of the same kind as a Benefit provided by this Annexure and the Trustee has not been requested to pay the Benefit to another superannuation fund.

(c) The Basic Benefit deferred under this sub-clause 4.5 must be paid by the Trustee when:

(i) the person has satisfied a condition of release which has a nil cashing restriction; or

(ii) the person has produced to the Trustee written approval of APRA for payment of the benefit; or

(iii) otherwise where the Trustee is required to pay the Benefit under Superannuation.

(d) The Basic Benefit in respect of a former Member is payable:

(i) unless the former Member has died, in accordance with sub-clause 4.3(b) or, subject to Relevant Law, to the former Member; or

(ii) if the former Member has died, in accordance with sub-clause 2.3 of the Defined Benefit Section Rules.

4.6 Deferral of Benefit for Members in certain circumstances

(a) This sub-clause 4.6 applies to a Member:

(i) who, as a result of a single reduction of Salary, has undergone a reduction of 20% or more in Attributed Salary; and

(ii) whose Employer certifies the matter referred to in sub-clause 4.6(a)(i).

(b) The fact that a person undergoes more than one Attributed Salary reduction of 20% or more does not mean that the person ceases to be a person to whom this sub-clause 4.6 applies.

(c) In this sub-clause 4.6, ***exit date***, in relation to a Member to whom this sub-clause 4.6 applies, means the day immediately preceding the day of the reduction in Attributed Salary in relation to which the Member makes an election under sub-clause 4.6(d).

(d) A Member to whom this sub-clause 4.6 applies may elect to defer his or her Benefit under this Annexure in accordance with this sub-clause 4.6.

(e) A Member may make only one election under this sub-clause 4.6 but the election may relate to any single reduction in Attributed Salary of 20% or more (not just the first reduction that occurs).

(f) The Benefit is deferred from the exit date.

(g) The value of a deferred Benefit in respect of a Member to whom this sub-clause 4.6 applies is to be calculated in accordance with sub-clause 4.2 as if the Member had ceased employment.

(h) A Benefit deferred under this sub-clause 4.6 may only be paid in accordance sub-clause 4.5.

4.7 Power of the Trustee to reduce Benefits to offset certain Tax liabilities

(a) Whenever:

(i) a right to a Benefit accrues to or in respect of a Member or former Member; and

(ii) the Trustee has paid or is liable to pay Tax in respect of the Employers' contributions under this Annexure; and

(iii) a portion of that Tax is referable to that Benefit,

the Trustee must, subject to sub-clause 4.8(b):

(iv) calculate the amount necessary to offset the Trustee's liability to pay Tax so far as it is referable to that Benefit; and

(v) accordingly make a determination reducing the Benefit by the amount so calculated.

4.8 Benefit Reduction Provisions

(a) In this sub-clause 4.8, ***taxable rate*** means 1 July 1988.

(b) Prescription of Benefits

(i) The kinds of Benefits to which sub-clause 4.7 applies are the Benefits provided by sub-clauses 4.1 and 4.5.

(ii) The Benefits referred to in sub-clause 4.8(b)(i) do not include a Benefit payable as a result of the death of a Member.

(c) Reduction of Basic Benefit - ordinary cases

(i) Whenever the Basic Benefit:

(A) is payable under sub-clause 4.3 in respect of a Member; or

(B) is preserved in respect of a Member in accordance with sub-clause 4.5,

the reduction in Benefit prescribed for the purposes of sub-clause 4.7 is the amount calculated in accordance with the formula set out in sub-clause 4.8(c)(ii)(ii).

(ii) For the purposes of sub-clause 4.8(c)(i), the formula is:

$R = 0.03 \times F \times Z \times 0.15$

where:

R represents the amount of the reduction;

F represents:

(A) in the case of the Member's resignation or retirement - the Member's Final Average Salary; or

(B) in any other case - the Member's Final Salary;

Z represents the Member's years of eligible service calculated on a daily basis, commencing on or after the taxable date.

(iii) This sub-clause 4.8(c) does not apply if the Basic Benefit is payable as a result of the death of a person who was, immediately before death, a Member.

Annexure 3 for the Pool B Sub-Division in the Defined Benefits Section of the Fund

FORMER POOL B DIVISION D MEMBERS
(This Annexure 3 applies to former members of the State Superannuation Scheme established under the *Superannuation Act 1916* (NSW) who transferred to Pool B on 1 July 1997 and subsequently to the Fund on the Pool B Transfer Date)

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1. INTERPRETATION

1.1 Definitions

(a) In this Annexure, unless inconsistent with the content or subject-matter:

Abandoned Unit, in relation to a Member, means:

(i) a unit of pension which the Member has, in accordance with this Annexure, elected to abandon;

(ii) a unit of pension in respect of which the Member is not to contribute, or has ceased contributing, by reason of electing, in accordance with this Annexure, to reduce the number of units of pension in respect of which the Member is to contribute;

(iii) a unit of pension in respect of which the Member has, in accordance with this Annexure, elected not to contribute; or

(iv) a unit of pension the Contributions for which are refunded to the Member or the Member's Spouse under sub-clause 9.2(c);

but does not include a unit of pension to which an election under sub-clause 6.1(b) relates.

Annual Adjustment Day in relation to a contributor, means the day determined to be the Contributor's Annual Adjustment Day under sub-clause 4.2.

Annual Review Day, in relation to a Contributor, means the day determined to be the Contributor's Annual Review Day under sub-clause 4.2.

Chief Executive Officer has the same meaning as Chief Executive in the *Government Sector Employment Act 2013* (NSW).

Child means a Child who has not attained the age of 18 years and, without limiting the operation of the *Status of Children Act 1996* (NSW), includes an ex-nuptial or adopted Child (whether or not the adoption took place in Australia).

Contribution Period means a four-weekly period commencing on and including a date specified in Column 2 of sub-clause 1.6 and ending on and including the date specified opposite thereto in Column 3 of that sub-clause.

Contributor means a Member and includes a person who has elected to take the benefit of clause 16, but does not include a Member while exempted from contributing under this Annexure.

Contributors' Reserve means the reserve for Contributors' Contributions established and maintained under sub-clause 2.2(a).

Contributory Unit means a unit of pension other than a Reduced Value Unit, an Abandoned Unit or a reserve unit of pension under sub-clause 11.7.

De Facto Relationship is the relationship described in paragraph (b) of the definition of Spouse in the Deed between a Contributor or pensioner and a De Facto Spouse.

De Facto Spouse is a Spouse referred to in paragraph (b) of the definition of Spouse in the Deed.

Discharged has the meaning given to that expression by sub-clause 12.6(b).

Dismissed has the meaning given to that expression by sub-clause 12.9.

Eligible Salary Sacrifice Contributor means a Contributor whose Employer has agreed to pay contributions by way of salary sacrifice under this Annexure.

Employer Reserve means a reserve referred to in sub-clause 2.2(a)(ii).

Entry Payment Day, in relation to a Member, means that Member's Entry Payment Day for the purposes of the *Superannuation Act 1916* (NSW).

Executive Officer means a Contributor who is:

(i) a Chief Executive Officer;

(ii) a Senior Executive Officer;

(iii) an office holder nominated for the purposes of section 11A of the *Statutory and Other Offices Remuneration Act 1975* (NSW);

(iv) an eligible person

Exit Day, in relation to a Member, means the last day on which the Member is, in the opinion of the Trustee an Employee, whether he is an Employee for the whole or part fonly of that day.

Financial Year means the year commencing 1 July.

Maturity Age means:

(i) in the case of a Member who, being a woman Contributor, elected to contribute at the rate prescribed for retirement at the age of 55 years, that age; or

(ii) in the case of any other Member, the age of 60 years.

Part-time Employee means a person appointed by an Employer to a position certified to the Trustee by the Employer not to be a full-time position, having regard to the number of hours per week for which the person is required to work in that position.

Prescribed means under the *Superannuation Act 1916* (NSW) or, if no such prescription has been made, after the Transfer Day means as determined from time to time by the Trustee.

Prescribed Age means:

(i) in the case of a Member who, being a woman Contributor, elected to contribute at the rate prescribed for retirement at the age of 50 years, that age; or

(ii) in the case of any other Member, the age of 55 years.

Public Sector Executives Superannuation Scheme means the superannuation scheme established under the *Public Sector Executives Superannuation Act 1989* (NSW).

Reduced Value Unit means a Reduced Value Unit allocated under sub-clause 14.1.

Relieving Allowance means an allowance paid to the holder of an office or position for performing any or all of the duties of another office or position, without being appointed to that other office or position on a permanent basis.

Reserve means an Account.

Resigned has the meaning given to that expression by sub-clause 12.10.

Retrenched has the meaning given to that expression by sub-clause 12.6(a).

Salary, in relation to a Contributor, means Salary of the Contributor, determined in accordance with sub-clause 1.2 or sub-clause 1.3 and expressed as an annual rate.

Salary Sacrifice Amount means an amount in lieu of Contributions due by an Eligible Salary Sacrifice Contributor from the Contributor's remuneration to the Fund.

Senior Executive Officer has the same meaning as Senior Executive in the *Government Sector Employment Act 2013* (NSW).

Service means Service under, or employment by, one or more Employers.

State Superannuation Scheme means the superannuation scheme established under the *Superannuation Act 1916* (NSW).

Superannuation Guarantee Shortfall has the same meaning as in the *Superannuation Guarantee (Administration) Act 1992* (Cth).

(b) A person who is an Employee and a Contributor does not cease to be a Contributor just because at any time after the Commencement Date the person is paid at hourly, daily, weekly or fortnightly rates, or by piece-work.

(c) For the purposes of this Annexure, the salary group within which a Salary falls is the Salary group in the scale in section 12(1) of the *Superannuation Act 1916* (NSW) in which the Salary would fall if the scale were extended to express the unit entitlement for that Salary as provided by sub-clause 11.1(a).

(d) For the purposes of this Annexure, the number of Abandoned Units of pension that a person has at a particular time after 28 November 1972 is the number (if any) by which:

(i) the number of units of pension that, pursuant to sub-clause 11.1(a), is appropriate for a Salary equal to that person's Salary at that time,

exceeds:

(ii) the number of units of pension in respect of which pension would be paid:

(A) if the person had reached the age entitling the person to Retire under sub-clause 13.1(a) and had so retired; and

(B) if any contributions under sub-clause 9.2, 11.3 or 11.5 outstanding at that time in respect of any of those units of pension had been paid.

(e) A reference in this Annexure to a pension payable to a person who is a Spouse is a reference to a pension payable under sub-clause 13.6, 13.7 or 16.7 to the person in the person's capacity as a Spouse.

(f) A reference in this Annexure (except in sub-clause 13.10 and sub-clause 13.24(b)) to a Child in respect of whom a pension is payable (being a pension payable at a rate determined in accordance with sub-clause 22.2 or 22.3) includes a reference to a student in respect of whom a pension is payable under sub-clause 13.23 or 16.10 at that rate.

(g) Where, under this Annexure, any period is required to be expressed as a fractional part of a year, the period shall be expressed as a fractional part of 365.25 days.

1.2 Salary of Executive Officers

(a) For the purposes of this Annexure, the ***Salary*** of an Executive Officer is the Salary as last nominated or changed in accordance with this sub-clause 1.2.

(b) An amount of Salary for the purposes of this Annexure must be nominated to an Executive Officer's Employer by the officer, on, or as soon as practicable after, being appointed as an Executive Officer. An amount may also be nominated to the officer's Employer by the officer on, or as soon as practicable after, being reappointed, or appointed to another position, as an Executive Officer.

(c) The amount nominated is to be not less than the monetary remuneration payable to the Executive Officer at the date of nomination and not more than the total value of the remuneration package paid to the officer (less the cost of providing Employer's contributions to superannuation and any performance-related incentive payment).

(d) If an Executive Officer fails to nominate an amount of Salary within 28 days of first being appointed as an Executive Officer or within such further period as the Trustee may allow, the officer is taken to have nominated an amount of Salary that is equal to the monetary remuneration payable to the officer at the end of the applicable period.

(e) An Executive Officer may, from time to time, by notice to the officer's Employer elect to reduce the amount of Salary nominated under this sub-clause 1.2, but not so that the amount is less than the monetary remuneration payable to the officer at the date of the election.

(f) An Executive Officer may, from time to time, by notice to the officer's Employer elect to increase the amount of Salary nominated under this sub-clause 1.2, but not so as to increase the amount nominated by a percentage of that amount that is more than the percentage by which the remuneration package of the officer has increased since the amount of Salary was last nominated or changed.

(g) An Employer must notify the Trustee of a nomination or election under this sub-clause 1.2. Any such nomination or election takes effect on the date of notification to the Trustee or on such other date as the Trustee may determine with the consent of the Executive Officer concerned.

(h) Nothing in this sub-clause 1.2 requires the nominated amount of Salary to be increased if, because of a variation in the remuneration package of an Executive Officer or in the

proportions of the remuneration package comprising monetary remuneration and employment benefits of the officer, the amount of Salary as last nominated or changed for the purposes of this sub-clause 1.2 is less than the monetary remuneration of the officer.

(i) In this sub-clause 1.2, the ***monetary remuneration*** payable to an Executive Officer is:

(i) if the officer is a Chief Executive Officer or Senior Executive Officer, the monetary remuneration payable in accordance with the *Government Sector Employment Act 2013* (NSW); or

(ii) if the officer is an office holder nominated for the purposes of section 11A of the *Statutory and Other Offices Remuneration Act 1975* (NSW), the remuneration payable to the officer as reduced under that section by the cost of employment benefits provided to the officer; or

(iii) if the officer is an Eligible Person, the monetary remuneration payable to the officer.

1.3 Definition of Salary

(a) For the purposes of this Annexure, ***Salary***, in relation to a Contributor (other than an Executive Officer) means the sum of:

(i) the remuneration, salary or wages payable in money to the Contributor in the Contributor's capacity as a Contributor, as reported to the Trustee from time to time by the Contributor's Employer, including:

(A) a loading in respect of any shift allowance, as determined by or under this Annexure;

(B) other allowances payable in money that are of a kind included within the value of leave paid on termination of employment; and

(C) weekly workers compensation paid to the Contributor as from the date the weekly workers compensation commences to be paid,

but not including the excluded amounts or allowances referred to in sub-clause 1.3(c); and

(ii) if approved employment benefits are provided to the Contributor, the cost of providing the approved employment benefits, as determined by the Employer and notified to the Trustee.

(b) The weekly workers compensation to be treated as Salary for the purposes of this Annexure does not include any amount by which the aggregate of:

(i) the weekly workers compensation paid to an injured Contributor; and

(ii) the Salary actually paid to that Contributor while partially incapacitated,

exceeds the Salary that the Contributor would probably have been earning but for the injury (assuming the Contributor had continued to be employed in the same or some comparable employment).

(c) The excluded amounts or allowances are:

(i) an amount paid for overtime or as a bonus, or an allowance instead of overtime;

(ii) except to the extent determined in accordance with sub-clause 1.7, as referred to in sub-clause 1.3(a), an amount paid as shift allowance;

(iii) except to the extent that this sub-clause 1.3 otherwise provides, a Relieving Allowance;

(iv) an expense allowance or an allowance for travelling, subsistence or other expenses;

(v) an equipment allowance;

(vi) an amount paid for rent or as a residence, housing or quarters allowance; and

(vii) an amount of weekly workers compensation excluded by sub-clause 1.3(b).

(d) If a Contributor's Employer, or a person authorised to do so on behalf of the Employer, certifies in writing to the Trustee that a Relieving Allowance to be, or being, paid to the Contributor in the Contributor's capacity as an Employee is likely to be paid for a continuous period of 1 year (whether or not the period is partly before the date of the certificate), the allowance is, as from the later of:

(i) the date on which the certificate is lodged with the Trustee; and

(ii) the date from which the allowance becomes payable,

Salary for the purposes of this Annexure.

(e) If a Relieving Allowance has been paid to a Contributor in the Contributor's capacity as an Employee for a continuous period of 1 year that ends after the commencement of this sub-clause 1.3 and, during that period, the allowance has not been treated as part of the Contributor's Salary in accordance with sub-clause 1.3(d), the allowance shall, as from the expiration of that period of 1 year, be treated as part of the Contributor's Salary while its payment to the Contributor continues.

(f) In this sub-clause 1.3:

approved employment Benefit means a Benefit provided to a Contributor at the cost of the Contributor's Employer (being a Benefit of a private nature) that is approved by the Trustee, for the purposes of this sub-clause 1.3 in relation to the Contributor or a class of Employees of which the Contributor is a member;

shift allowance means an allowance paid to an Employee in respect of shift work performed by the Employee, and includes amounts paid as penalty rates.

weekly workers compensation, in relation to a Contributor, means weekly payments of compensation under the *Workers Compensation Act 1987* (NSW) (or the provisions of the *Workers Compensation Act 1926* (NSW) as applied by that Act) payable to the Contributor because the Contributor is partially incapacitated for work through injury.

(g) Any allowances or other kinds of remuneration treated as Salary immediately before the commencement of this sub-clause 1.3 in relation to a Contributor shall continue to be treated as Salary for the purposes of this Annexure, but only in relation to that Contributor.

1.4 Certain Persons not entitled to Contribute

(a) Notwithstanding any other provision of this Annexure (except sub-clause 1.4(c)), a person is not required or entitled to commence contributing under this Annexure on or after 1 July 1985.

(b) Sub-clause 1.4(a) applies, subject to sub-clause 1.4(c), to a person who was previously a Contributor to the State Superannuation Scheme, whether before or after 1 July 1985.

(c) Sub-clause 1.4(a) does not apply to:

(i) a person who was, immediately before 1 July 1985, an Employee but was not contributing to the State Superannuation Scheme, being a person to whom sub-clause 1.5 applies and who elects to become a Contributor under this Annexure in accordance with that sub-clause 1.5;

(ii) a person who makes an election under sub-clause 13.20 and complies with that sub-clause; or

(iii) a person who is re-employed by an Employer under sub-clause 15.4(a) after the restoration of the person's health.

1.5 Existing Employees who may elect to contribute to Fund

(a) Except as provided by sub-clause 1.5(b), this sub-clause 1.5 applies to a person:

(i) who was, immediately before 1 July 1985, an Employee but was not contributing to the State Superannuation Scheme; and

(ii) who would, but for section 1A of the *Superannuation Act 1916* (NSW), have been required or entitled, subject to the provisions of that Act, to contribute to the State Superannuation Scheme.

(b) This sub-clause 1.5 does not apply to:

(i) a person exempted from contributing to the State Superannuation Scheme under section 10T of the *Superannuation Act 1916* (NSW); or

(ii) a person who was, under section 10D of the *Superannuation Act 1916* (NSW), treated by the State Authorities Superannuation Board as if he or she were not an Employee.

(c) A person to whom this sub-clause 1.5 applies may elect to contribute under this Annexure if:

(i) before 1 July 1985, the Employer of the person had notified the State Authorities Superannuation Board that the person was an Employee; or

(ii) on or before 31 December 1985:

(A) the Employer of the person notified the State Authorities Superannuation Board that the person was an Employee; or

(B) the person lodges at the office of the Trustee a certificate signed by or on behalf of his or her Employer stating that the person is an Employee.

(d) Where, immediately before 1 July 1985, a person was an Employee but was, under section 10C of the *Superannuation Act 1916* (NSW), being treated by the State Authorities Superannuation Board as if he or she were not an Employee, the person may elect to contribute under this Annexure only if:

(i) the person had not attained the Maturity Age before that day or, if the person had attained that age, has not served for at least 10 years with any one or more Employers;

(ii) on or before 30 September 1985 the person lodged a request with his or her Employer that arrangements be made for the person to submit himself or herself to a prescribed medical examination (as defined in section 10A of the *Superannuation Act 1916* (NSW)); and

(iii) the person submits himself or herself to the examination arranged pursuant to that request and, in the opinion of the Trustee, passes that examination.

(e) A person who would, but for sub-clause 1.4, be required or entitled, subject to the provisions of this Annexure, to contribute under this Annexure and who makes an election in accordance with this sub-clause 1.5 shall, upon the election taking effect, be so required or entitled to contribute under this Annexure.

(f) Sub-clause 1.5(e) ceases to apply in respect of a person to whom this sub-clause 1.5 applies if, pursuant to sub-clause 3.2, the Trustee treats the person as if the person had not been an Employee and sub-clause 1.5(e) shall not thereafter apply in respect of that person.

(g) Where a Contributor to the State Public Service Superannuation Fund or the Public Authorities Superannuation Fund becomes a Contributor under this Annexure in accordance with an election made under this sub-clause 1.5, the Contributor shall, for the purposes of the *State Public Service Superannuation Act 1985* (NSW) or the *Public Authorities Superannuation Act 1985* (NSW), as the case requires, be deemed to have Resigned from employment with an Employer.

(h) Where a Contributor to the Public Authorities Superannuation Fund (being a person entitled to make an election under this sub-clause 1.5) does not become a Contributor under this Annexure in accordance with such an election, section 12(7) of the *State Public Service Superannuation Act 1985* (NSW) applies to the Contributor.

1.6 Four-weekly Contribution Periods

Column 1	**Column 2**	**Column 3**
Period No.	**Commencing Date**	**Terminating Date**
1.	1st July.	28th July.

Column 1	Column 2	Column 3
Period No.	**Commencing Date**	**Terminating Date**
2.	29th July.	25th August.
3.	26th August.	22nd September.
4.	23rd September.	20th October.
5.	21st October.	17th November.
6.	18th November.	15th December.
7.	16th December.	12th January.
8.	13th January.	9th February.
9.	10th February.	9th March.
10	10th March.	6th April.
11.	7th April.	4th May.
12.	5th May.	1st June.
13.	2nd June.	30th June.

1.7 Shift Allowance

(a) In this sub-clause 1.7:

agreement means an industrial agreement in force under the *Industrial Arbitration Act 1940* (NSW) as in force immediately before 18 December 1987;

award means an award in force under the *Industrial Arbitration Act 1940* (NSW) as in force immediately before 18 December 1987;

base salary, in relation to a Contributor, means the remuneration, salary or wages payable to the Contributor under an award or agreement after excluding all allowances;

industrial organisation means:

(i) an industrial union of Employees registered under the *Industrial Arbitration Act 1940* (NSW) as in force immediately before 18 December 1987; or

(ii) an organisation of Employees registered under the *Conciliation and Arbitration Act 1904* (Cth) as in force immediately before 18 December 1987;

relevant period, in relation to a Contributor, means the period of 12 months ending on 31 December preceding the date on which the Salary of the Contributor is to be calculated for the purposes of sub-clause 1.3.

(b) For the purposes of sub-clause 1.3(a)(i) the loading (if any) to be treated as part of a Contributor's Salary is determined by reference to whichever of the provisions of sub-clause 1.7(c), 1.7(d) or 1.7(e) is applicable to the Contributor.

(c) If:

(i) there is in force an agreement between, or a practice accepted by, an industrial organisation and the Employer of a Contributor which was in force immediately before 18 December 1987; and

(ii) the effect of the agreement or practice is that an amount in respect of any shift allowance paid to the Contributor by the Employer for shifts worked by the Contributor during a relevant period is to be treated as a loading for superannuation purposes; and

(iii) that amount is greater than that which would be determined for that period in respect of the Contributor under sub-clause 1.7(d),

then the amount referred to in sub-clause 1.7(c)(ii) is, for the purposes of sub-clause 1.3(a)(i), the loading for the Contributor in respect of that shift allowance.

(d) Unless sub-clause 1.7(c) or 1.7(e) applies, if a Contributor is paid a shift allowance for shifts worked by the Contributor during a relevant period, the loading for the Contributor in respect of that shift allowance is to be determined by reference to the number of shifts the Contributor is taken to have worked (as calculated in accordance with sub-clause 1.7(f)) during the relevant period. The loading is:

(i) nil, if during the relevant period the Contributor is taken not to have worked more than 104 shifts; or

(ii) an amount equal to 10% of the Contributor's base salary for the relevant period, if during that period the Contributor is taken to have worked more than 104 shifts but not more than 156 shifts; or

(iii) an amount equal to 15% of the Contributor's base salary for the relevant period, if during that period the Contributor is taken to have worked more than 156 shifts but not more than 208 shifts; or

(iv) an amount equal to 20% of the Contributor's base Salary for the relevant period, if during that period the Contributor is taken to have worked more than 208 shifts.

(e) If the amount actually paid or payable to a Contributor as a shift allowance in respect of shifts worked by the Contributor during a relevant period is less than the amount of loading for that period determined in respect of the Contributor in accordance with sub-clause 1.7(d), the amount so paid is, for the purposes of sub-clause 1.3(a)(i), the loading for the Contributor in respect of that shift allowance.

(f) For the purposes of sub-clause 1.7(d), the number of shifts a Contributor is taken to have worked during a relevant period, being shifts for which a shift allowance is paid, is the number calculated as follows:

$$N = \frac{H \times S}{Ho}$$

where:

N is the number of such shifts the Contributor is taken to have worked during the relevant period.

H is the number of hours per shift regularly required to be worked in such shifts during the relevant period.

Ho is the smallest number of hours per shift regularly required to be worked (whether by the Contributor or any comparable worker) in such shifts during any calendar year after 1987, including the relevant period.

S is the number of such shifts the Contributor actually worked during the relevant period.

2. MAINTENANCE AND ADMINISTRATION

2.1 Payments

(a) The Trustee shall cause to be held in the Pool B Sub-Division in respect of this Annexure:

(i) Contributions or payments made by Employers and Members under this Annexure;

(ii) income derived from investment of assets held in respect of this Annexure, and any profit made from realisation of any investment held in respect of this Annexure;

(iii) subject to Relevant Law, money borrowed for the purposes of this Annexure; and

(iv) any other amounts payable under this Annexure.

(b) The Trustee shall cause to be paid from the Pool B Sub-Division in respect of this Annexure:

(i) the administration costs incurred by the Trustee;

(ii) Benefits payable under this Annexure;

(iii) amounts in repayment of money borrowed for the purposes of this Annexure;

(iv) any Tax; and

(v) any other amounts payable under this Annexure.

2.2 The Trustee required to establish certain reserves

(a) The Trustee shall establish and maintain in respect of this Annexure the following reserves:

(i) a reserve for Contributors' contributions;

(ii) in relation to Employers a reserve or reserves as the case may be.

(b) The Trustee may also establish and maintain under this Annexure such other reserves and such accounts as, in its opinion, are necessary or convenient for the proper management and administration of this Annexure.

2.3 Contributors' Reserve

(a) The Trustee must ensure that there is credited to the Contributors' Reserve the contributions that Contributors make under this Annexure or have made to the State Superannuation Scheme on or after 1 July 1988.

(b) The Trustee must ensure that there is debited to the Contributors' Reserve that portion of any Benefit payable to or in respect of a Contributor from the Contributors' Reserve in accordance with sub-clause 13.14(b)(i).

2.4 Employer Reserves

(a) Whenever an Employer makes a contribution under this Annexure in respect of a Contribution Period, the Trustee must ensure that the contribution is credited to the appropriate Employer Reserve.

(b) The Trustee must ensure that there is debited to the appropriate Employer Reserve:

(i) the portion of any Benefit payable to or in respect of a Contributor in accordance with sub-clause 13.14(b)(ii);

(ii) any administration costs incurred by the Trustee in relation to the Employer or an Employer to whom the reserve relates, and contributors who are employees of that employer;

(iii) any Tax in respect of contributions to the reserve that are attributable to the Employer or an Employer to whom the reserve relates; and

(iv) any other amounts that are properly debited to the reserve.

2.5 Adjustment of reserves and accounts for interest etc.

(a) Whenever appropriate, the Trustee must fix a rate of interest for the purposes of sub-clause 2.5(b) after having regard to:

(i) the income in respect of this Annexure;

(ii) any Tax in respect of the investment of assets held to provide Benefits under this Annexure; and

(iii) such other matters as it considers relevant.

(b) Whenever appropriate, the Trustee must adjust each of the reserves and accounts established under this clause 2 by applying the rate of interest that is currently fixed under sub-clause 2.5(a).

(c) The Trustee may fix a rate of interest for the purpose only of enabling specific reserves or accounts to be adjusted.

2.6 Source of administration costs payments

The administration costs payable under this Annexure are to be debited to the Employer Reserves and such other reserves (the Contributors' Reserve excepted) and accounts in the Fund as the Trustee considers appropriate.

2.7 Funds, accounts and reserves generally

(a) The Trustee must:

(i) credit under this Annexure or, as the case may be, to the appropriate reserve or account any amount that is required by or under the Deed to be debited under this Annexure or to that reserve or account; and

(ii) debit under this Annexure or to the appropriate reserve or account any amount that is required by the Deed to be debited under this Annexure or to that reserve or account.

(b) The Trustee may:

(i) credit under this Annexure or, as the case may be, to the appropriate reserve or account any amount that is permitted by the Deed to be credited under this Annexure or to that reserve or account; and

(ii) debit under this Annexure or to the appropriate reserve or account any amount that is permitted by the Deed to be debited under this Annexure or to that reserve or account.

3. MEDICAL EXAMINATION OF CONTRIBUTORS

3.1 Medical Examination

(a) The Trustee may require a person to undergo a medical examination.

(b) A person shall submit to a medical examination as soon as practicable after the person has been required to undergo such an examination.

3.2 Failure etc. to undergo medical examination

(a) Where a person submits to a medical examination and, in the opinion of the Trustee, fails to pass the examination, the Trustee shall, subject to this sub-clause 3.2, treat the person as if the person had not, for the period of the person's employment, been an Employee and, if the person is still an Employee, as if the person were not an Employee.

(b) Where a person is being treated by the Trustee under sub-clause 3.2(a) as if the person were not an Employee and the person subsequently passes a medical examination:

(i) the Trustee shall cease treating the person in that way pursuant to that sub-clause 3.2(a) as from the time when, in the opinion of the Trustee, the person so passed the examination; and

(ii) if at that time the person would, apart from this sub-clause 3.2, have been an Employee, the Trustee shall treat him as if the person had become an Employee at that time.

(c) Where:

(i) a person has been required to submit to a medical examination; and

(ii) the Trustee forms the opinion that the person refused or wilfully neglected to submit to the examination,

the Benefit payable on the person ceasing, or, as the case may be, having ceased, to be an Employee (whether by reason of his death or in any other circumstances except those referred to in sub-clause 12.1) shall be that which would be payable if the person had Resigned and elected under sub-clause 13.19 to take the Benefit of sub-clause 13.17 and no pension or other Benefit shall be payable to the person or to, or in respect of, any other person as a consequence of the person so ceasing or having ceased to be an Employee.

(d) Where the Trustee forms the opinion referred to in sub-clause 3.2(c) in relation to a person and the person subsequently submits to a medical examination and, in the opinion of the Trustee, passes the examination:

(i) sub-clause 3.2(c) does not apply to the person in respect of the person ceasing to be an Employee; and

(ii) any pension or other Benefit payable as a result of the person ceasing to be an Employee shall be calculated as if the person had become a Contributor from the time when, in the opinion of the Trustee the person so passed the examination.

(e) Except as provided by sub-clause 3.2(f), where an Employee who, in the opinion of the Trustee, did not submit to a medical examination as required by sub-clause 3.1(b), being an Employee who is not a person to whom sub-clause 3.2(c) applies, ceases to be an Employee (whether by reason of death or in any other circumstances), the Trustee shall treat the person as if the person had not, for the period of the person's employment, been an Employee.

(f) Sub-clause 3.2(e) does not apply in respect of a person:

(i) who, in the opinion of the Trustee, did not submit to a medical examination; and

(ii) in respect of whom, but for this sub-clause 3.2(f), sub-clause 3.2(e) would apply,

where the Trustee is of the opinion, having regard to such evidence as is available to it, that the person would have passed a medical examination.

3.3 Suppressed or misleading information

(a) This sub-clause 3.3 applies to a person if the person was medically examined at a medical examination and the examining medical practitioner, at any time after a report is made with respect to the examination, forms the opinion that the person suppressed information, or gave misleading information, in connection with the examination and that, as a result, the report would have been different if all information, or correct information, in that connection had been given.

(b) The Trustee may require a person to whom this sub-clause 3.3 applies to undergo a medical examination.

(c) The Trustee may, in relation to a person to whom this sub-clause 3.3 applies (whether or not the person has undergone a medical examination in accordance with a requirement under sub-clause 3.3(b)):

(i) treat the person for the purposes of this Annexure in such manner; and

(ii) take such action,

as will, in the opinion of the Trustee, result in the person, and the person's Spouse and children, as the case may require, being placed, as nearly as possible, in the position under this Annexure that they would be or would have been placed at all relevant times had all the information, or correct information, been given as referred to in sub-clause 3.3(a).

(d) The action which the Trustee may take under sub-clause 3.3(c) may include any or all of the following:

(i) discontinuing or varying the rate of any pension;

(ii) paying the whole or any part of a lump sum;

(iii) refunding all or any contributions made under this Annexure;

(iv) recovering the whole or part of any pension paid or any amount paid by reason of a commutation of pension.

4. CONTRIBUTIONS

4.1 Definitions

(a) In this clause 4, except in so far as the context or subject-matter otherwise indicates or requires:

half-year means a period of 6 months:

(i) commencing on and including 1st January and ending on and including 30th June; or

(ii) commencing on and including 1st July and ending on and including 31st December;

relevant period, in relation to an Employee, means the half-year in which the Employee's birthday does not fall.

(b) In this clause 4, a reference:

(i) to the number of units of pension for which the annual cost is equal to a particular amount includes a reference to the largest number of units of pension for which the annual cost is less than that amount; and

(ii) to the annual cost to a person for a unit of pension:

(A) where the contributions in respect of the unit are required to be made by the person in accordance with the tables of contributions fixed by or under this Annexure, is a reference to an amount equal to 13 of those contributions; or

(B) where contributions in respect of the unit are required to be made by the person by instalments under sub-clause 9.2 is a reference to an amount equal to 13 of those instalments.

4.2 Determination of Annual Review Day and Annual Adjustment Day

(a) The Trustee shall, in respect of a Contributor, determine:

(i) a day in each relevant period to be the Contributor's Annual Review Day; and

(ii) a day in each relevant period to be the Contributor's Annual Adjustment Day.

(b) A Contributor's Annual Adjustment Day for a relevant period may be the same as, or later than, but not earlier than, the Contributor's Annual Review Day for that period.

(c) A Contributor may not have more than one Annual Review Day, nor more than one Annual Adjustment Day, in a relevant period.

4.3 General provisions as to determinations under this clause 4

(a) The Trustee may amend or revoke a determination under this clause 4.

(b) A determination may be made under this clause 4 so as to apply to a specified Employee or a specified class of Employees.

5. LIABILITY OF EMPLOYEES TO CONTRIBUTE

5.1 Requirement to contribute

Subject to the Deed, every Employee who is a Member under this Annexure shall contribute in accordance with this Annexure.

5.1A Salary Sacrifice

The Trustee shall credit as a Contribution by the Contributor an amount equal to the Salary Sacrifice Amount less any Tax attributable to that Salary Sacrifice Amount.

5.2 Existing Contributors and Employees

(a) An Employee who was contributing to the State Superannuation Scheme on 12th January 1977 shall, subject to sub-clause 6.1, contribute, and continue to do so, under this Annexure for the number of units of pension for which, and at the rate for each such unit at which, the Employee was required to contribute on that date or at such other rates as may from time to time be fed by or under this Annexure.

(b) Where:

(i) a Contributor's first Annual Adjustment Day under the *Superannuation Act 1916* (NSW) fell before 31st December 1977;

(ii) the Contributor contributed to the State Superannuation Scheme in respect of an additional number of units of pension as on and from that adjustment day; and

(iii) the Contributor was a Contributor to the State Superannuation Scheme at 12th January 1977,

the Contributor shall, for the purposes of sub-clause 13.3, be deemed to have commenced contributing for those units as from 13th January 1976, or the day on which the Contributor became a Contributor, whichever is the later.

5.3 Commencement of contributions

A person who became a Contributor to the State Superannuation Scheme on or after 13th January 1977 shall contribute under this Annexure in accordance with this Annexure by reference to the rate of Salary actually being paid to the person on his entry review date (as determined under the State Superannuation Scheme).

5.4 Increase of contributions: Annual Review Days

(a) Subject to the Deed, where the number of units of pension that, pursuant to sub-clause 11.1(a), is appropriate for the Salary actually being paid to a Contributor (including a Contributor referred to in sub-clause 5.2) on the Contributor's Annual Review Day in any half-year is higher than the aggregate of:

(i) the number of units of pension (if any) for which the Contributor is contributing at that time;

(ii) the number of units of pension (if any) for which the Contributor has completed contributing; and

(iii) the number of the Contributor's Abandoned Units (if any),

the Contributor shall, as on and from the Contributor's Annual Adjustment Day in that half-year, contribute under this Annexure in respect of the additional number of units of pension in accordance with this Annexure.

(b) On a Contributor's Annual Review Day in any half-year:

(i) if the annual cost to the Contributor for the units of pension for which contributions are payable by the Contributor is not less than an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid, the additional units of pension referred to in sub-clause 5.4(a) are optional units of pension; and

(ii) if:

(A) the annual cost to the Contributor for the units of pension or which contributions are payable by the Contributor is less than an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid; and

(B) the number of additional units of pension referred to in sub-clause 5.4(a) is in excess of the number for which the annual cost to the Contributor is equal to the shortfall under sub-clause 5.4(b)(ii)(A),

the excess additional units of pension are optional units of pension.

(c) A Contributor may, within 2 months after the Contributor's Annual Review Day in any half-year, elect to abandon any 1 or more of the optional units of pension in respect of which, but for the election, the Contributor, would be required by this sub-clause 5.4 to commence contributing under this Annexure.

(d) Where a Contributor entitled to make an election under sub-clause 5.4(c) dies without making such an election before the expiration of the period within which, but for the Contributor's death, the Contributor could have made the election, the Contributor's Spouse may, before the expiration of that period, make the election.

5.5 Abandoned Units to be taken up if contributions fall below 6% of Salary

(a) On a Contributor's Annual Review Day, if the Contributor has Abandoned Units and the annual cost to the Contributor for the units of pension for which contributions are payable by the Contributor is less than an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid:

(i) where there are no additional units of pension as referred to in sub-clause 5.4(a), the Contributor shall take up the lesser of all of the Abandoned Units and the number of Abandoned Units for which the annual cost is equal to the shortfall; or

(ii) where there are additional units of pension as so referred to but the annual cost to the Contributor for the additional units is less than the shortfall, the Contributor shall take up the lesser of all of the Abandoned Units and the number of Abandoned Units for which the annual cost is equal to the balance of the shortfall.

(b) Where, under this sub-clause 5.5, a Contributor is required to take up an Abandoned Unit which the Contributor had on the Contributor's Annual Review Day in any half-year:

(i) the Contributor shall commence to contribute for the unit as from the Contributor's Annual Adjustment Day in that half-year; and

(ii) the unit ceases to be an Abandoned Unit as from the Annual Adjustment Day.

5.6 Limitation on increase in contribution by certain Contributors

(a) This sub-clause 5.6 applies to a Contributor on an Annual Review Day of the Contributor if:

(i) the Contributor's Entry Payment Day was before 1 July 1985;

(ii) the Contributor has any Abandoned Units; and

(iii) the number of units of pension for which contributions are payable by the Contributor on the Annual Review Day is less than the number for which the

annual cost is equal to an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid on the net preceding Annual Review Day of the Contributor.

(b) On an Annual Review Day on which this sub-clause 5.6 applies to a Contributor, sub-clauses 5.4 and 5.5 shall be construed, in their application to the Contributor on that day, as if references in those sub-clauses to 6% were references to the minimum prescribed percentage referred to in sub-clause 5.6(c).

(c) For the purpose of sub-clause 5.6(b), ***the minimum prescribed percentage*** in relation to a Contributor on an Annual Review Day is the lesser of:

(i) the sum of:

(A) 1%; and

(B) the percentage, on the next preceding Annual Review Day, of the annual Salary of the Contributor at the rate actually being paid at that preceding Annual Review Day that represents the amount that is equal to the annual cost to the Contributor for the units of pension for which contributions were payable by the Contributor on the Annual Adjustment Day of the Contributor next following that preceding Annual Review Day; and

(ii) 6%.

5.7 Increase of contributions: Exit Days

(a) Subject to the Deed, where the number of units of pension that, pursuant to sub-clause 11.1(a), is appropriate for the Salary actually being paid to a Contributor on the Contributor's Exit Day is higher than the aggregate of:

(i) the number of units of pension (if any) for which the Contributor is contributing at that time;

(ii) the number of units of pension (if any) for which the Contributor has completed contributing; and

(iii) the number of the Contributor's Abandoned Units (if any),

the former Contributor or the former Contributor's Spouse shall, within one month after the Contributor's Exit Day, or within such further period as the Trustee may, in special circumstances, allow, contribute under this Annexure in respect of the additional number of units of pension in accordance with this Annexure.

(b) On a Contributor's Exit Day:

(i) if the annual cost to the Contributor for the units of pension for which contributions are payable by the Contributor is not less than an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid, the additional units of pension referred to in sub-clause 5.7(a) are optional units of pension; and

(ii) if:

(A) the annual cost to the Contributor for the units of pension for which contributions are payable by the Contributor is less than an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid; and

(B) the number of additional units of pension referred to in sub-clause 5.7(a) is in excess of the number for which the annual cost is equal to the shortfall under sub-clause 5.7(b)(ii)(A),

the excess additional units of pension are optional units of pension.

(c) A Contributor may, within 1 month after the Contributor's Exit Day, elect to abandon any 1 or more of the optional units of pension in respect of which, but for the election, the Contributor would be required by this sub-clause 5.7 to make a contribution under this Annexure.

(d) Where a person entitled to make an election under sub-clause 5.7(c) dies without making such an election before the expiration of the period within which, but for the Contributor's death, the Contributor could have made the election, the person's Spouse may, before the expiration of that period, make the election.

(e) This sub-clause 5.7 does not apply to or in respect of a former Contributor unless:

(i) the former Contributor or the former Contributor's Spouse is entitled to a pension under this Annexure (other than a pension under sub-clause 13.4) consequent on the former Contributor's ceasing to be an Employee; or

(ii) the former Contributor elects to take the Benefit of sub-clause 13.15.

5.8 No contributions for more than appropriate number of units

Except in the circumstances specified in clause 6 and except in consequence of an approval under section 13A of the *Superannuation Act 1916* (NSW) (as in force at any time before 13th January 1977), an Employee shall not contribute in respect of a number of units of pension that is greater than the number that, pursuant to sub-clause 11.1(a), is appropriate for his Salary.

5.9 Cessation of contributions

An Employee is not entitled to contribute to under this Annexure and the Trustee is not to accept a contribution offered by an Employee after the Employee attains 70 years of age.

5.10 Exemptions from contributing

A person who was exempted from contributing to the State Superannuation Scheme on or before 30 June 1994 is exempted from contributing under this Annexure.

5.11 Consequences of exemption

Where a person is exempted under this Annexure from contributing under this Annexure, neither he nor any other person claiming through him is entitled to any Benefit under this Annexure, but the contributions (if any) paid by the person so exempted shall be refunded.

5.12 Other Contributions by Contributors

(a) A Contributor, who is not required to contribute under this Annexure merely because the Contributor is on authorised leave without pay as an employee, is entitled to remain a Contributor even though the Contributor is not contributing under this Annexure.

(b) This sub-clause applies to a Contributor only if:

(i) the leave is for the purposes of raising children of whom the Contributor is a parent, or for whom he or she has assumed the responsibilities of a parent, and

(ii) he or she has been on that leave for less than seven years consecutively, and

(iii) he or she has a statutory or contractual right to resume employment at the end of the leave.

(c) Sub-clauses 11.3(a) and 11.3(b) apply to a Contributor, and to the period of leave of the Contributor, during any period during which this sub-clause applies to the Contributor.

(d) In this Annexure, authorised leave means leave approved by the Contributor's Employer, or leave authorised by an agreement certified, or an award made, by a tribunal or body having the authority to do so under a law of New South Wales or the Commonwealth.

6. DECREASES IN SALARY OR UNIT ENTITLEMENT

6.1 Decrease in Salary

(a) Where the Salary of a Contributor is reduced, the Contributor shall continue to contribute for any units of pension that are in excess of the number of units that is, pursuant to sub-clause 11.1(a), appropriate to the Contributor's Salary as reduced.

(b) Where the Salary of a Contributor is reduced (whether before, on or after 13th January 1977) and the Salary as reduced is actually paid as from a date after 12th January 1977, the Contributor may, within 2 months after the date on which the reduced Salary is actually paid to the Contributor, elect not to contribute for one or more units of pension, not exceeding the difference between:

(i) the number of units that is, pursuant to sub-clause 11.1(a), appropriate to the Contributor's Salary as reduced; and

(ii) the number of units that is, pursuant to sub-clause 11.1(a), appropriate to the Contributor's Salary as at the latest of whichever of the following days is applicable to the Contributor, namely:

(A) the Contributor's last Annual Review Day;

(B) the day as from which the number of units of pension for which the Contributor was contributing was last reduced under this sub-clause 6.1 or sub-clause 6.3 or 6.4

but so that the number of units in respect of which the Contributor contributes is not reduced to less than 6.

(c) Where a Contributor elects not to contribute for a unit of pension under sub-clause 6.1(b), the Contributor's contributions under this Annexure in respect of the unit shall cease on and from the first day of the Contribution Period in which the Salary as reduced is actually paid and shall be refunded to the Contributor.

(d) No person has any rights under this Annexure in respect of a unit of pension to which an election under sub-clause 6.1(a) relates.

(e) No person has any rights under this Annexure in respect of an excess unit of pension referred to in sub-clause 6.1(a) and not the subject of an election under sub-clause 6.1(b), unless the Trustee is satisfied that the Contributor's Salary was reduced by reason of ill health or for some other reason which the Trustee, having regard to the circumstances of the case, considers warrants the retention of entitlement to Benefits under this Annexure in respect of the unit.

(f) Where no person has any rights under this Annexure in respect of a unit of pension, as referred to in sub-clause 6.1(e), and the Contributor ceases to be an Employee, any contributions made by the Contributor in respect of the unit shall be refunded to him.

(g) Where a Contributor elects not to contribute for a unit of pension under sub-clause 6.1(b), and subsequently the Contributor's Salary is increased, this Annexure apply in relation to the increase as if the Contributor had not been formerly entitled to the unit.

(h) A unit of pension in respect of which a Contributor is contributing under this Annexure ceases to be an excess unit of pension, as referred to in sub-clause 6.1(a), if the Contributor's Salary is increased and that unit is one of the number of units that, pursuant to sub-clause 11.1(a), is appropriate to the Contributor's Salary as increased.

6.2 Fluctuations in Salary

(a) Where the number of units of pension that, pursuant to sub-clause 11.1(a), was appropriate to the Salary actually being paid to a Contributor at any time after 12 January 1976 was higher than the number of units that, pursuant to sub-clause 11.1(a), was or is appropriate to the Salary actually being paid to the Contributor at the Contributor's net review day after that time, the Trustee may determine that the Contributor's Salary as at the review day shall be treated as if it had been equal to the Contributor's Salary as at the earlier time.

(b) A determination under this sub-clause 6.2 shall not take effect unless the appropriate contributions in respect of the additional units of pension (being the contributions that would have been already or would be payable in accordance with this Annexure had the greater Salary in fact been paid to the Contributor at the review day) have been or are paid to the Trustee within a period approved by the Trustee.

(c) Where a determination under this sub-clause 6.2 has effect, then, for all purposes of this Annexure:

(i) the Contributor's Salary shall be treated in accordance with the determination; and

(ii) the Contributor shall be deemed to have been contributing for the additional units of pension as from the commencement of the period to which the contributions referred to in sub-clause 6.2(b) relate.

(d) In this sub-clause 6.2:

Contributor includes former Contributor;

review day means Annual Review Day or Exit Day.

6.3 Decrease in unit entitlement on taking leave of absence

(a) Where, on the commencement, or extension, by a Contributor of a period of leave of absence, or on the commencement of a period for which a deduction factor is applied under sub-clause 11.3(e), 11.4(a) or 11.5(d), the number of units of pension (if any) for which the Contributor has completed contributing and the number of units of pension (if any) for which, but for this sub-clause 6.3, contributions would be payable by the Contributor is greater than the number of units of pension that, pursuant to sub-clause 11.1(a), is appropriate to the Salary actually being paid to the Contributor, the Contributor shall cease to contribute for the number of units of pension equal to the difference.

(b) On the termination of a period of leave of absence by a Contributor in respect of which sub-clause 11.3(a) or 11.3(e) applies before the expiration of the period or of a period in respect of which sub-clause 11.4(a) or 11.5(d) applies:

(i) the Contributor shall be deemed not to have ceased to contribute for the number of units of pension for which the Contributor ceased to contribute under sub-clause 6.3(a) but shall be deemed to have ceased to contribute for the number of units of pension (if any) equal to the difference between:

(A) the number of units of pension (if any) for which the Contributor has completed contributing and the number of units (if any) for which, but for the application of sub-clause 6.3(a) on the commencement of the period and of this sub-clause 6.3(b) on the termination, contributions would be payable by the Contributor; and

(B) the number of units of pension that, pursuant to sub-clause 11.1(a), is appropriate to the Salary actually being paid to the Contributor;

(ii) all contributions for units of pension which would have been payable, had the Contributor ceased to contribute for the number of units of pension equal to the difference on the commencement of the period, shall be deemed to have been payable by the Contributor; and

(iii) any contributions for units of pension which have been refunded or applied in accordance with a direction by the Contributor as referred to in sub-clause 6.3(c) and which are payable as referred to in sub-clause 6.3(b)(ii) shall be payable in respect of those units.

(c) Where a Contributor ceases to contribute for a unit of pension under this sub-clause 6.3, the Contributor's contributions under this Annexure in respect of the unit shall cease, on and from the first day of the Contribution Period in which the period concerned commences, and any contributions paid in respect of that unit shall, unless the Contributor directs the Trustee to apply them towards contributions payable in respect of other units of pension during the period, be refunded to the Contributor.

(d) No person has any rights under this Annexure in respect of a unit of pension for which contributions have ceased under this sub-clause 6.3 and have not again become payable.

(e) Where a Contributor ceases to contribute for a unit of pension under this sub-clause 6.3 and subsequently the Salary of the Contributor is increased, this Annexure apply in relation to the increase as if the Contributor had not been formerly entitled to the unit.

6.4 Commencement of part-time employment etc.

(a) In this sub-clause 6.4, a reference to a change in the employment status of a Contributor is a reference:

(i) to a Contributor who is not a part-time Employee becoming a part-time Employee; and

(ii) to a Contributor who is employed in a position as a part-time Employee becoming employed in another position as a part-time Employee, if the Salary ratio (as defined in sub-clause 11.5(a)) in relation to the former position is more than that in relation to the other position.

(b) On a change in the employment status of a Contributor, the Contributor shall cease to be a Contributor for the units of pension in respect of which contributions were payable by the Contributor, or for which the Contributor had completed contributing, before that change (other than any reserve units in respect of which contributions are payable under sub-clause 11.7).

(c) No person has any rights under this Annexure in respect of units of pension for which a person has ceased to be a Contributor pursuant to sub-clause 6.4(b).

(d) Where a Contributor whose employment status changes ceases to be a Contributor for units of pension pursuant to sub-clause 6.4(b), the Contributor's contributions under this Annexure in respect of those units of pension shall cease, as on and from the first day of the Contribution Period in which the change occurred.

(e) Any contributions paid in respect of units of pension for which a person has ceased to be a Contributor on a change in employment status shall be allocated towards the purchase of the number of fully paid up units calculated in accordance with the following formula:

$$PUU = TU + IU + UC$$

where:

PUU is the number of units purchased;

TU is the highest whole number obtained from the calculation of the formula:

$$\frac{UHn - Cn}{Rn} \quad \text{(except where Cn exceeds UHn);} \quad Rn$$

UHn is the number of units of pension for which contributions were payable by the Contributor immediately before the change occurred in accordance with the tables of contributions fixed by or under this Annexure, but excluding:

(i) any such units of pension which are excess units of pension referred to in sub-clause 6.1(a) and in respect of which no person has any rights under this Annexure; and

(ii) any such units of pension, being reserve units, for which contributions were being made under sub-clause 11.7;

Cn is the amount of contributions due, for the Contribution Period preceding that in which the change occurred, in respect of that number of units of pension;

Rn is the relevant amount under sub-clause 6.4(f) in relation to the Contributor for an additional unit of pension;

IU is the highest whole number obtained from the calculation of the formula:

$$\frac{TCB}{RB}$$

TCB is the total amount paid in respect of instalments payable by the person on or before the time the change occurred for units of pension for which the Contributor contributed in accordance with Part 9 (but deducting therefrom any part of that amount allocated under this Annexure to the purchase of fully paid up units);

RB is the amount specified in sub-clause 9.1(a) as the cost of a unit of pension in relation to the Contributor;

UC is the number of units (if any) purchased by the person and credited to the person as fully paid up units under this sub-clause 6.4, or otherwise.

(f) For the purposes of sub-clause 6.4(e), the relevant amount in relation to a Contributor whose employment status changes for an additional unit of pension is:

(i) where the Contributor has attained the Prescribed Age on or before the last day of the Contribution Period preceding that in which the change occurred, the amount which, if the Contributor were required under Part 8 to commence to contribute for an additional unit of pension on that day, would be the amount payable in accordance with the tables of contributions fixed under sub-clause 8.3 for that unit for a Contribution Period; or

(ii) where the Contributor has not attained the Prescribed Age on or before that day, the amount equal to the sum of:

(A) the amount payable by the Contributor for any additional unit of pension for which the Contributor had been required to commence contributing on and from the Contributor's last Annual Adjustment Day before the change occurred for a Contribution Period or, as the case may be, the amount that would have been so payable if the Contributor had been so required; and

(B) for each day of the period commencing on the day following that Annual Adjustment Day and ending on the last day of the Contribution Period preceding that in which the change occurred, the amount equal to 1/364th part of the difference between the amount referred to in sub-

clause 6.4(f)(ii)(A) and the amount which that amount would have been if, on that Annual Adjustment Day, the Contributor had been 1 year older than the age actually attained.

(g) Where, in relation to a Contributor whose employment status has changed, the figure obtained pursuant to sub-clause 6.4(e) from the calculation of the formula:

$$\frac{UHn - Cn}{Rn}$$

is or includes a fraction, there shall be paid to the Contributor, as a refund of contributions not allocated towards the purchase of fully paid up units, the amount calculated in accordance with the following formula:

$$Q1 = S \times \frac{F1}{P1}$$

where:

Q1 is the amount to be paid;

S is the amount of the contributions paid by the Contributor in respect of the units the number of which is attributed to the symbol UHn pursuant to sub-clause 6.4(e);

F1 is the fraction which is or is included in the figure obtained;

P1 is the figure obtained.

(h) Where, in relation to a Contributor whose employment status has changed, the figure obtained pursuant to sub-clause 6.4(e) from the calculation of the formula:

$$\frac{TCB}{RB}$$

is or includes a fraction, there shall be paid to the Contributor, as a refund of instalments not allocated towards the purchase of fully paid up units, the amount calculated in accordance with the following formula:

$$Q2 = TCB \times \frac{F2}{P2}$$

where:

Q2 is the amount to be paid;

TCB is the amount attributed to that symbol pursuant to sub-clause 6.4(e);

F2 is the fraction which is or is included in the figure obtained;

P2 is the figure obtained.

(i) Where a person's contributions are allocated to the purchase of paid up units under this sub-clause 6.4 on a change in employment status:

(i) the person shall, on and from that change occurring, be deemed to be a Contributor for the number of units purchased and to have contributed for those units for a period of 2 years and 6 months but shall not be required to make further contributions in respect of those units; and

(ii) the Employer in whose Service the person is employed will not be required to make, before the retirement of the person, any further contribution in respect of those units of pension.

(j) Subject to the Deed, where the number of units of pension that, pursuant to sub-clause 11.1(a), is appropriate for the Salary certified by the Employer of a Contributor to be the Salary which would be paid to the Contributor if employed full-time in the position in which the Contributor is employed on a change in employment status is higher than the number of fully paid up units credited to the Contributor under this sub-clause 6.4, the Contributor shall, as on and from the first day of the Contribution Period in which the change occurs, contribute in respect of the additional number of units of pension in accordance with this Annexure.

(k) On the day on which the employment status of a Contributor changes, if the number of additional units of pension referred to in sub-clause 6.4(j) is in excess of the number for which the annual cost to the Contributor is equal to an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid, the excess units of pension are optional units of pension.

(l) A Contributor may, within 2 months after the day on which the employment status of the Contributor changes, elect to abandon any one or more of the optional units of pension in respect of which, but for the election, the Contributor would be required by this sub-clause 6.4 to commence contributing under this Annexure.

(m) Where a Contributor elects not to contribute for a unit of pension under sub-clause 6.4(l), contributions under this Annexure in respect of the unit shall cease as on and from the first day of the Contribution Period in which the employment status of the Contributor changes and any contributions paid in respect of the unit shall be refunded to the Contributor.

(n) No person has any rights under this Annexure in respect of a unit of pension to which an election under sub-clause 6.4(l) relates.

(o) Where no person has any rights under this Annexure in respect of an excess unit of pension of a Contributor referred to in sub-clause 6.1(a) and the employment status of the Contributor changes, any contributions made by the Contributor in respect of the unit shall be refunded to the Contributor.

(p) Where a person whose contributions are allocated to the purchase of fully paid up units under this sub-clause 6.4 dies, retires under sub-clause 12.1(b) before attaining the age of 60 years, or is retired under sub-clause 12.7 before attaining that age, the Trustee may, except where the contributions are refunded pursuant to sub-clause 13.8, determine that a specified amount, being part of those contributions, be refunded to the person or, where the person is dead, to the person's legal personal representatives, and may act in accordance with its determination.

(q) Where a Contributor whose employment status changes is a Contributor whose Entry Payment Day in the State Superannuation Scheme occurred before 1 July 1985 and, immediately before the change occurred:

(i) the Contributor had any Abandoned Units; and

(ii) the annual cost to the Contributor for the units of pension for which contributions were payable by the Contributor was an amount representing a percentage which was less than 6% of the annual Salary of the Contributor at the rate actually being paid on the Contributor's previous Annual Review Day, the number of those units being less than the number for which the annual cost was equal to an amount representing 6% of that annual Salary,

such of the additional units of pension (if any) referred to in sub-clause 6.4(j) as are in excess of the number for which the annual cost to the Contributor is equal to an amount representing that lesser percentage of the annual Salary at the rate actually being paid to the Contributor on the day the change occurred are optional units of pension for the purposes of sub-clause 6.4(l), notwithstanding anything to the contrary in sub-clause 6.4(k).

7. ABANDONED UNITS

7.1 No contributions or rights in respect of Abandoned Units

(a) Notwithstanding anything in this clause 7, contributions are not payable under this Annexure in respect of an Abandoned Unit.

(b) No person has any rights under this Annexure in respect of an Abandoned Unit, but nothing in this sub-clause 7.1(b) affects the refund of contributions made in respect of any such unit or the operation of clause 14 in relation to any such unit.

7.2 Elections to take up Abandoned Units at Annual Review Day

Where an Employee has an Abandoned Unit at the Employee's Annual Review Day in any half-year, the Employee may, within 2 months after that day, elect to take up that unit, and if the Employee so elects:

(a) the Employee shall commence to contribute for the unit as from the Employee's Annual Adjustment Day in that half-year; and

(b) the unit ceases to be an Abandoned Unit as from that Annual Adjustment Day.

7.3 Elections to take up Abandoned Units at Exit Day

(a) Where an Employee has an Abandoned Unit at the Employee's Exit Day, the Employee may, before the expiration of one month after that day, elect to take up that unit.

(b) Where an Employee entitled to make an election under sub-clause 7.3(a) dies without making such an election before the expiration of the period within which, but for the Employee's death, the Employee could have made the election, the Employee's Spouse may, before the expiration of that period, make the election.

(c) Where an election has been made under this sub-clause 7.3 to take up an Abandoned Unit:

(i) the contribution payable in respect of the unit shall be paid to the Trustee within one month after the Employee's Exit Day or within such further period as the Trustee may, in special circumstances, allow; and

(ii) the unit ceases to be an Abandoned Unit, provided the contribution is paid.

(d) This sub-clause 7.3 does not apply to or in respect of an Abandoned Unit unless:

(i) pension is payable in respect of the unit; or

(ii) the former Contributor elects to take the Benefit of sub-clause 13.15.

7.4 Restrictions as to Abandoned Units

(a) An Abandoned Unit may only be taken up under this Annexure by a person if the aggregate of:

(i) the number of units of pension (if any) for which the person is contributing;

(ii) the number of units of pension (if any) for which the person has completed contributing; and

(iii) the number of the person's Abandoned Units (including the first mentioned Abandoned Unit),

is equal to or less than the number of units that, pursuant to sub-clause 11.1(a), is appropriate for the rate of Salary actually being paid to the person at the person's Annual Review Day or the person's Exit Day, as the case may require.

(b) Pension payable under sub-clause 13.5 or by virtue of the death of a Contributor is not payable in respect of a unit of pension which a person has elected to take up under this clause 7 unless:

(i) contributions in respect of the unit were due, and have been paid, for at least 2 years and 6 months following the date from which the Contributor commenced contributing for the unit; or

(ii) that person's Exit Day is on or after the last day of the Contribution Period preceding that in which the person attains the Maturity Age.

(c) Where a Contributor's contributions in respect of a unit of pension cease on the first day of the Contribution Period in which the Contributor ceases to be an Employee or attains the Maturity Age, the Contributor shall, for the purposes of sub-clause 7.4(b)(i) be deemed to have paid contributions in respect of the unit for so much of that period as precedes the Contributor so ceasing to be an Employee or the Contributor attaining that age, as the case may be.

8. CONTRIBUTIONS BY EMPLOYEES FOR UNITS OF PENSION AT TABLE RATES

8.1 Contributions according to scale graduated by age etc.

Except where otherwise provided by this Annexure:

(a) the amount of Contribution to be paid by a Contributor shall be based upon the number of units of pension for which the Contributor contributes, upon the sex of the Contributor, and, in the case of a woman Contributor, upon whether she contributes for a pension payable at the age of 55 years or 60 years, and shall be in accordance with the tables of Contributions fixed by or under this Annexure; and

(b) the amount of Contributions to be paid by the Contributor in respect of:

(i) a unit for which the Contributor commenced to contribute as from the Contributor's Entry Payment Day shall be based upon the age of the Contributor at that date;

(ii) a unit for which the Contributor commenced or commences to contribute as from the Contributor's Annual Adjustment Day in any half-year shall be based upon the age of the Contributor at the Contributor's Annual Adjustment Day in that half-year; or

(iii) a unit for which the Contributor contributes as from the Contributor's Exit Day shall be based upon the age of the Contributor at the Contributor's Exit Day.

8.2 Units taken up after Prescribed Age

Subject to sub-clause 8.5, an Employee may not commence contributing for a unit of pension under this clause 8 if the Employee attains or has attained the Prescribed Age at the Employee's Annual Adjustment Day.

8.3 Tables of contributions

(a) The tables of Contributions, payable under this clause 8, for men and women according to the ages set out in sub-clause 8.3(c) shall be in force and apply in respect of additional units of pension for which Employees who were Contributors at 30th June 1963 to the State Superannuation Scheme commenced to contribute on or after 13th January 1977 to the State Superannuation Scheme or under this Annexure after the date of Transfer of that Contributor.

(b) The tables of Contributions, payable under this clause 8, for men and women according to the ages set out in sub-clause 8.3(d) shall be in force and apply to Employees who became Contributors to the State Superannuation Scheme on or after 1st July 1963 and shall be paid in respect of all units of pension contributed for by those Employees.

(c) Tables of Contributions for Employees who were Contributors to the State Superannuation Scheme at 30 June 1963.

TABLE A

MEN

Employee Contributions for Four Weeks

(Contribution at 30th June 1963)

Age Next Birthday	**For Each Additional unit**	**Age Next Birthday**	**For Each Additional unit**
	$		**$**
26	0.54	41	1.26
27	0.58	42	1.34

TABLE A

MEN

Employee Contributions for Four Weeks

(Contribution at 30th June 1963)

Age Next Birthday	**For Each Additional unit**	**Age Next Birthday**	**For Each Additional unit**
	$		**$**
28	0.60	43	1.46
29	0.64	44	1.56
30	0.68	45	1.68
31	0.70	46	1.84
32	0.74	47	2.00
33	0.78	48	2.20
34	0.84	49	2.44
35	0.88	50	2.72
36	0.92	51	3.06
37	0.98	52	3.48
38	1.04	53	4.04
39	1.10	54	4.76
40	1.18	55	5.80
		56–60	396.90 ÷ n

NOTE ***n*** denotes the number of complete four-weekly contributions payable before attainment of age 60.

TABLE B

WOMEN

Employee Contributions for Four Weeks

(Contributors at 30th June 1963)

Age Next Birthday	Retirement at age 55 For Each Unit	Retirement at age 60 For Each Unit	Age Next Birthday	Retirement at age 55 For Each Unit	Retirement at age 60 For Each Unit
	$	$		$	$
26	0.72	0.52	41	2.02	1.24
27	0.76	0.54	42	2.22	1.34
28	0.80	0.58	43	2.44	1.44
29	0.86	0.60	44	2.72	1.56
30	0.92	0.64	45	3.04	1.68
31	0.98	0.68	46	3.42	1.84
32	1.04	0.70	47	3.92	2.00
33	1.12	0.76	48	4.54	2.20
34	1.20	0.80	49	5.38	2.44
35	1.28	0.84	50	6.54	2.72
36	1.38	0.90	51	450.90 ÷ n	3.08
37	1.48	0.96	52	450.90 ÷ n	3.50
38	1.58	1.02	53	450.90 ÷ n	4.06
39	1.72	1.08	54	450.90 ÷ n	4.80
40	1.86	1.16	55	450.90 ÷ n	5.84
			56–60	..	395.54 ÷ n

NOTE ***n*** denotes the number of complete four-weekly contributions payable before attainment of Maturity Age.

(d) Tables of Contributions for Employees who become Contributors to the State Superannuation Scheme on or after 30 June 1963 or under this Annexure on or after the date of transfer of that transferred member.

TABLE A

MEN

Employee Contributions for Four Weeks

(Contributors after 30th June 1963)

Age Next Birthday	For First 2 Units	For Each Additional Unit	Age Next Birthday	For First 2 Units	For Each Additional Unit
	$	$		$	$
16	0.86	0.42	36	2.46	1.16
17	0.94	0.44	37	2.62	1.24
18	0.98	0.46	38	2.74	1.30
19	1.04	0.48	39	2.92	1.40
20	1.10	0.52	40	3.12	1.50
21	1.16	0.54	41	3.32	1.60
22	1.22	0.56	42	3.54	1.70
23	1.28	0.60	43	3.80	1.84
24	1.32	0.62	44	4.08	1.98
25	1.40	0.66	45	4.38	2.12
26	1.44	0.68	46	4.76	2.32
27	1.54	0.72	47	5.18	2.52
28	1.62	0.76	48	5.68	2.76
29	1.70	0.80	49	6.28	3.06
30	1.80	0.86	50	6.96	3.40
31	1.90	0.90	51	7.84	3.84
32	2.02	0.94	52	8.94	4.38
33	2.12	1.00	53	10.32	5.06
34	2.24	1.06	54	12.16	5.98
35	2.34	1.10	55	14.74	7.26

TABLE A

MEN

Employee Contributions for Four Weeks

(Contributors after 30th June 1963)

Age Next Birthday	For First 2 Units	For Each Additional Unit	Age Next Birthday	For First 2 Units	For Each Additional Unit
	$	$		$	$
			56–60	999.36 ÷ n	493.28 ÷ n

NOTE n denotes the number of complete four-weekly contributions payable before attainment of age 60.

TABLE B

WOMEN

Employee Contributions for Four Weeks

(Contributors after 30th June 1963)

Age Next Birthday	Retirement at age 55 For Each Unit	Retirement at age 60 For Each Unit	Age Next Birthday	Retirement at age 55 For Each Unit	Retirement at age 60 For Each Unit
	$	$		$	$
16	0.46	0.34	36	1.62	1.06
17	0.48	0.36	37	1.74	1.14
18	0.52	0.38	38	1.88	1.20
19	0.54	0.40	39	2.02	1.28
20	0.58	0.42	40	2.20	1.38
21	0.62	0.46	41	2.40	1.46
22	0.66	0.48	42	2.62	1.58
23	0.70	0.50	43	2.90	1.70
24	0.76	0.54	44	3.22	1.84
25	0.82	0.58	45	3.60	2.00

TABLE B

WOMEN

Employee Contributions for Four Weeks

(Contributors after 30th June 1963)

Age Next Birthday	Retirement at age 55 For Each Unit	Retirement at age 60 For Each Unit	Age Next Birthday	Retirement at age 55 For Each Unit	Retirement at age 60 For Each Unit
	$	$		$	$
26	0.86	0.62	46	4.06	2.18
27	0.90	0.64	47	4.64	2.38
28	0.96	0.68	48	5.38	2.62
29	1.02	0.72	49	6.38	2.90
30	1.10	0.76	50	7.76	3.22
31	1.16	0.80	51	534.40 ÷ n	3.64
32	1.24	0.84	52	534.40 ÷ n	4.16
33	1.32	0.90	53	534.40 ÷ n	4.82
34	1.42	0.94	54	534.40 ÷ n	5.70
35	1.50	1.00	55	534.40 ÷ n	6.92
			56–60		468.80 ÷ n

NOTE n denotes the number of complete four-weekly contributions payable before attainment of Maturity Age.

8.4 Cessation of Contributions

Subject to this Annexure, contributions payable under this Annexure by a Contributor under this clause 8 in respect of any units of pension, other than those for which the Contributor contributes by instalments under sub-clause 9.2, and those referred to in sub-clause 8.5, shall cease to be payable in respect of those units on the first day of the Contribution Period in which the Contributor ceases to be an Employee or attains the Maturity Age, whichever first occurs.

8.5 Units taken up at Exit Day

(a) The contribution of a former Contributor referred to in sub-clause 5.7(a) in respect of an additional unit of pension shall, if the former Contributor's Exit Day is before the Contribution Period in which the former Contributor would attain the Maturity Age, and whether or not the former Contributor has attained the Prescribed Age, be the

contribution payable for one Contribution Period in accordance with the appropriate table of contributions.

(b) Where:

(i) an election by a former Employee or a former Employee's Spouse under sub-clause 7.3 to take up an Abandoned Unit takes effect; and

(ii) the former Employee's Exit Day is before the Contribution Period in which the former Employee would attain the Maturity Age,

the contribution payable in respect of the unit shall, whether or not the former Employee has attained the Prescribed Age, be the contribution for one Contribution Period in accordance with the appropriate table of Contributions.

9. CONTRIBUTIONS BY EMPLOYEES FOR UNITS OF PENSION OTHERWISE THAN AT TABLE RATES

9.1 Cost of units of pension

(a) For the purposes of this clause 9, and notwithstanding anything contained in the Deed, the cost of a unit of pension is, in relation to an Employee:

(i) who was a Contributor to the State Superannuation Scheme at 30th June 1963 and has continued to be a Contributor since that date, and:

(A) who, being a woman Contributor, elected to contribute at the rate prescribed for retirement at the age of 55 years, $450.90;

(B) who, being a woman Contributor, elected to contribute at the rate prescribed for retirement at the age of 60 years, $395.54; or

(C) who is a male Contributor, $396.90; or

(ii) who commenced to contribute to the State Superannuation Scheme after 30th June 1963 and:

(A) who, being a woman Contributor, elected to contribute at the rate prescribed for retirement at the age of 55 years, $534.40;

(B) who, being a woman Contributor, elected to contribute at the rate prescribed for retirement at the age of 60 years, $468.80; or

(C) who is a male Contributor, $499.68 in respect of each of the first 2 units, and $493.28 in respect of each subsequent unit.

(b) Notwithstanding sub-clause 9.1(a), where an Employee who, being a woman, elected to contribute at the rate prescribed for retirement at the age of 55 years has attained the age of 60 years on or before her Entry Payment Day, Annual Adjustment Day or Exit Day, the cost of a unit of pension for which she commences to contribute on or after that day shall, for the purposes of this clause 9, be the cost applicable had she elected to contribute at the rate prescribed for retirement at the age of 60 years.

9.2 Employees who have reached the Prescribed Age

(a) Subject to sub-clauses 8.5 and 9.3, where an Employee who has reached the Prescribed Age on or before the Employee's Entry Payment Day or Annual Adjustment Day, as the case may require, is required or elects to commence contributing for a unit of pension, the Employee shall, subject to this sub-clause 9.2, contribute the cost of the unit by 65 four-weekly instalments, each such instalment being equal to an amount determined by the Trustee, being an amount that is, or is not less by more than a fraction of a cent than, one sixty-fifth of that cost.

(b) Where an Employee referred to in sub-clause 9.2(a) ceases to be employed by the Employer prior to completion of payment of instalments pursuant to sub-clause 9.2(a), the following provisions apply:

(i) where the Employee retires after reaching the Maturity Age, the total amount of Contributions unpaid as at the date of retirement shall be paid within one month after the date upon which the Employee ceases to be so employed, or within such further period as the Trustee may, in special circumstances, allow;

(ii) where the Employee is retired in accordance with sub-clause 12.5, or elects to retire under sub-clause 13.1(b), or is Retrenched before reaching the Maturity Age, the total amount of contributions unpaid as at the last day of the Contribution Period preceding that in which the Employee ceases to be employed shall be paid within one month after the date upon which the Employee ceases to be so employed, or within such further period as the Trustee may, in special circumstances, allow;

(iii) where the Employee dies and is survived by a Spouse, the Spouse, if a pension is payable to the Spouse in accordance with sub-clause 13.6, shall within 3 months after the death of the Employee, or within such further period as the Trustee may, in special circumstances, allow, pay the total amount of contributions unpaid as at the date of the Employee's death.

(c) Where the total amount of contributions required to be paid by sub-clause 9.2(b)(i), 9.2(b)(ii) or 9.2(b)(iii) is not paid within the time prescribed, or within such further period as the Trustee may, in special circumstances, allow, the Employee or the Spouse of the Employee, as the case may be, shall be refunded the amount of the instalments paid pursuant to sub-clause 9.2(a).

(d) Where a refund is payable under sub-clause 9.2(c), no person has any rights under this Annexure in respect of the unit or units of pension to which the refund relates, but nothing in this sub-clause 9.2(d) affects the operation of clause 14 in relation to any such unit.

(e) A reference in sub-clause 9.2(b) to the total amount of Contributions unpaid as at a particular date is:

(i) in relation to an Employee who ceases to be employed by the Employee before attaining the Maturity Age and who commenced contributing for the unit of pension:

(A) before the Contribution Period in which the Employee would attain the Maturity Age, a reference to the total amount of Contributions that would have been payable up to and including that date had the tables

of Contributions fixed by or under this Annexure been applicable to the Employee in respect of the unit; or

(B) after the Contribution Period in which the Employee would attain the Maturity Age, a reference to the cost of the unit; or

(ii) in relation to an Employee who ceases to be employed by the Employer on or after attaining the Maturity Age, a reference to the cost of the unit, less the amount of instalments paid pursuant to sub-clause 9.2(a).

(f) Where, but for this sub-clause 9.2(f), the 65 instalments payable in respect of a unit of pension pursuant to sub-clause 9.2(a) would be less than the cost of the unit, the 65th instalment shall, notwithstanding that sub-clause, be increased by the difference.

9.3 Units taken up at Exit Day

(a) The contribution of a Contributor referred to in sub-clause 5.7(a) in respect of an additional unit of pension shall, if the Contributor's Exit Day is on or after the first day of the Contribution Period in which the Contributor would attain or has attained the Maturity Age, be the cost of the unit.

(b) Where:

(i) an election by a former Employee or a former Employee's Spouse under sub-clause 7.3 to take up an Abandoned Unit takes effect; and

(ii) the former Employee's Exit Day is on or after the first day of the Contribution Period in which the former Employee would attain or has attained the Maturity Age,

the contribution payable in respect of the unit shall be the cost of the unit.

10. CONTRIBUTIONS BY EMPLOYERS

10.1 Contributions to be made by an Employer

(a) An Employer must pay under this Annexure in respect of each Contributor that the Employer employs an amount equal to a specified multiple or percentage of the contributions payable under this Annexure by that Contributor.

(b) The specified multiple or percentage referred to in sub-clause 10.1(a) is a multiple or percentage that the Trustee periodically fixes in respect of the Employer concerned.

(c) In determining the contributions payable by an Employer, the Trustee is to have regard to the amount required to meet the full costs of the liabilities under this Annexure.

(d) The Trustee may require an Employer to pay under this Annexure additional contributions for a specified period if it appears to the Trustee that there is insufficient money in the relevant Employers' reserves for Employers to meet the Employers' liabilities under this Annexure.

10.2 Calculation of contributions and time for payment

(a) Contributions under this clause 10 shall be calculated on the basis of Contribution Periods.

(b) An Employer must pay to the Trustee the contributions payable by the Employer in respect of a Contribution Period at such times as the Trustee may require.

10.3 Employer may be required to make further payments in certain cases

(a) Whenever it appears to the Trustee that there is insufficient money in an Employer Reserve:

(i) to pay the Employer-financed portion of a Benefit that is due to or in respect of a Contributor or former Contributor under this Annexure; or

(ii) to pay any other amounts that are payable from that reserve,

the Trustee may require the Contributor's Employer or former Employer, by notice in writing, to pay under this Annexure an amount equal to the amount of the insufficiency.

(b) If an Employer fails to pay an amount required to be paid under sub-clause 10.3(a) within 14 days after being notified of the requirement, the amount becomes an amount owing under this Annexure and the Trustee may recover that amount accordingly.

10.4 Power of the Trustee to adjust Employer Reserves

Whenever it appears to the Trustee that, because of a change of circumstances, it would be appropriate to adjust the amount that is currently standing to the credit or debit of an Employer Reserve so as to reflect the change of circumstances, the Trustee may adjust that reserve by crediting or debiting that reserve with a specified amount of money and correspondingly debiting or crediting one or more other Employer Reserves.

10.5 Transfer of credits between Employers of transferred Contributors[1]

Whenever:

(a) a Contributor ceases to be employed by an Employer and becomes employed by another Employer; and

(b) the Contributor continues to be a Contributor under this Annexure,

the Trustee must, as soon as practicable after the Contributor begins the later employment:

(c) debit the Employer Reserve of the former Employer with the actuarially calculated transfer value referable to the Contributor; and

(d) credit the Employer Reserve of the new Employer with that value.

[1] This clause 4.3 is referenced in the Treasury Payment Deed. Any future changes to this deed should seek to maintain the clause numbering for this provision.

11. ANCILLARY PROVISIONS

11.1 Contributions to be related to units of pension

(a) Subject to this Annexure, the Contributions of an Employee under this clause 11 shall be made in respect of units of pension as provided by sub-clause 13.1 and the number of those units, on any particular day, shall be calculated in accordance with the following formula:

$$UE = \frac{S + (9 \times CF)}{260}$$

where:

UE is the number of units of pension;

S is the annual rate of Salary;

CF is 1 or $\frac{a}{b}$, whichever is the greater;

a is the index number appearing in the Consumer Price Index (All Groups Index) for Sydney last published before that day by the Australian Statistician under the *Census and Statistics Act 1905* (Cth);

b is:

(A) the number 114.6; or

(B) if, after 3 May 1991, the Australian Statistician changes the reference base for the Consumer Price Index (All Groups Index) for Sydney, a number determined by the Trustee, on actuarial advice, to represent what that index would have been for the June quarter 1982 if the change in the reference base had applied at that date.

(b) Where the number of units of pension calculated in accordance with sub-clause 11.1(a) includes a fraction of a unit, the number of units shall be deemed to be the next highest whole number.

(c) Any Index number published by the Australian Statistician at any time (and whether before or after the commencement of this sub-clause 11.1(c)) in respect of a particular quarter in substitution for an Index number previously published in respect of that quarter is to be disregarded for the purpose of ascertaining the value of the expression "a" in the formula in sub-clause 11.1(a), unless the Trustee otherwise determines.

(d) In this sub-clause 11.1, ***Index number*** and ***quarter*** have the same meanings as in clause 21.

11.2 Alteration of unit entitlement in certain cases

(a) Except as provided by sub-clause 11.2(b), a reference (however expressed) in any other provision of this Annexure to the number of units of pension that, pursuant to sub-clause 11.1(a), is appropriate to the Salary being paid to a Contributor on any particular day shall, if 1 or more deduction factors are required to be applied under this sub-clause

11.2 by the Trustee in relation to the Contributor on that day, be construed as a reference to the number of units calculated in accordance with the following formula:

$$U = NU \times \frac{PFS - DT}{PFS}$$

where:

U is the number of units to be calculated;

NU is the number of units that, but for this sub-clause 11.2, would be appropriate to that Salary;

PFS is the sum of:

(i) the number of years, if any, (including any fractional part of a year calculated on a daily basis) of the period that commenced when the Contributor last became a Contributor and ended on that day (but excluding any part of that period during which the person had been on leave of absence pursuant to sub-clause 15.1); and

(ii) the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which that day precedes:

(A) the date on which the person attains the Maturity Age; or

(B) where any employment which, on that day, the Contributor is entitled to count as Service for the purposes of sub-clause 12.1 is, in total, for less than a period of 10 years, the expiration of the balance of that period of 10 years,

whichever is the later;

DT is the total of all deduction factors required to be applied by the Trustee in relation to the Contributor on that day.

(b) Where the number of units of pension calculated in accordance with the formula specified in sub-clause 11.2(a) is or includes a fraction of a unit:

(i) if the fraction is less than one-half, the fraction shall be disregarded; or,

(ii) if the fraction is not less than one-half, the fraction shall be deemed to be a whole unit.

11.3 Deduction factors in relation to certain periods of leave of absence

(a) Except as provided by sub-clause 11.3(b), on and from the commencement of a period of leave of absence without pay by a Contributor, the Trustee shall apply under sub-clause 11.2, in relation to the Contributor, in addition to such other deduction factors (if any) as the Trustee is required to apply in relation to the Contributor, a deduction factor equal to the length of so much of that period as exceeds 3 months (expressed in terms of years, if any, and including any fractional part of a year calculated on a daily basis).

(b) Sub-clause 11.3(a) does not apply in relation to a period of leave of absence by a Contributor where:

(i) the leave is a prescribed form of leave or is leave with respect to which sub-clause 11.8(b), 11.8(c) or 11.8(f) applies;

(ii) the period commences before 1 July 1985 or is not more than 3 months; or

(iii) before the commencement of that period, the Contributor elects to have sub-clause 11.3(a) not apply in relation to that period.

(c) The reference to a prescribed form of leave in sub-clause 11.3(b)(i) includes (but is not limited to) a reference to maternity leave and is to be taken to have included such a reference from and including 1 July 1985.

(d) Where a period of leave of absence to which sub-clause 11.3(a) applies terminates (whether by reason of death of the Contributor or otherwise), on or before the expiration of 3 months of the period, the Trustee shall, on and from that termination, cease to apply under sub-clause 11.2 in relation to the Contributor the deduction factor required under sub-clause 11.3(a) to be applied on and from the commencement of that period.

(e) The Trustee must apply under sub-clause 11.2, in relation to a Contributor who takes a single period of leave without pay that is sick leave or maternity leave, a deduction factor equal to the length of that part of the period of leave that exceeds 2 years.

(f) The deduction factor applied under sub-clause 11.3(e) is to be expressed in terms of years and include any fractional part of a year calculated on a daily basis.

(g) The deduction factor applied under sub-clause 11.3(e) is to be applied on and from the end of 2 years after the commencement of the single period of leave and is in addition to any other deduction factor that the Trustee is required to apply in relation to the Contributor.

(h) Where a period of leave of absence to which sub-clause 11.3(a) applies terminates (whether by reason of death of the Contributor or otherwise) before the expiration of the whole, but after the expiration of 3 months, of the period or a period of leave of absence is extended after the commencement of the period and the period, as extended, is a period of leave of absence to which sub-clause 11.3(a) applies, the Trustee shall, on and from that termination or extension, apply under sub-clause 11.2 in relation to the Contributor:

(i) instead of the deduction factor (if any) required under sub-clause 11.3(a) to be applied on and from the commencement of that period; and

(ii) in addition to such other deduction factors (if any) as the Trustee is required to apply in relation to the Contributor,

a deduction factor equal to the length of so much of the period of leave actually taken or the length of so much of the period of leave, as extended, as exceeds 3 months (expressed in terms of years, if any, and including any fractional part of a year calculated on a daily basis).

11.4 Deduction factors for periods determined by the Trustee

(a) Despite any other provision of this Annexure, the Trustee may apply under sub-clause 11.2, in relation to a Contributor specified by the Trustee, a deduction factor equal to the length of the period for which the Trustee determines that the deduction factor is to apply.

(b) The deduction factor is to be expressed in terms of years and include any fractional part of a year calculated on a daily basis.

(c) The Trustee may only make such a determination if it is of the opinion that it is necessary to do so for the purposes of a provision of Relevant Law restricting the acceptance of contributions by a superannuation fund.

(d) The deduction factor is to be applied on and from the commencement of the period specified by the Trustee and is in addition to any other deduction factor that the Trustee is required to apply in relation to the Contributor.

11.5 Deduction factors in relation to part-time employment

(a) In this sub-clause 11.5, a reference to the salary ratio in relation to a position in which a person is employed as a part-time Employee is a reference to the ratio of the Salary of the person as a part-time Employee to the Salary certified by the Employer of the person to be the Salary which would be paid to the person if employed full-time in that position.

(b) Where a Contributor who is not a part-time Employee becomes employed in a position as a part-time Employee or a Contributor who is a part-time Employee becomes employed as a part-time Employee in a position in relation to which the salary ratio is different from that of the former position, the Trustee shall, on and from the day on which the Contributor becomes so employed, apply under sub-clause 11.2, in relation to the Contributor, in addition to such other deduction factors (if any) as the Trustee is required to apply in relation to the Contributor, a deduction factor equal to the figure calculated in accordance with the following formula:

$$D = PA \times (1 - SR)$$

where:

D is the deduction factor;

PA is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the day precedes:

(i) the date on which the Contributor attains the Maturity Age; or

(ii) where any employment which, on that day, the Contributor is entitled to count as Service for the purposes of sub-clause 12.1 is, in total, for less than a period of 10 years, the expiration of the balance of that period of 10 years,

whichever is the later;

SR is the salary ratio (expressed as a fraction) in relation to the position.

(c) Where a Contributor who is employed in a position as a part-time Employee ceases to be employed as a part-time Employee or becomes employed in another position in relation to which the salary ratio is different from that of the former position, the Trustee shall, on and from the day on which the Contributor becomes employed in the other position, apply under sub-clause 11.2 in relation to the Contributor:

(i) instead of the deduction factor required under sub-clause 11.5(b) to be applied on and from the day on which the Contributor became employed in a position having the salary ratio of the former position; and

(ii) in addition to such other deduction factors (if any) as the Trustee is required to apply in relation to the Contributor,

a deduction factor equal to the figure which would have been calculated in accordance with sub-clause 11.5(b) if the figure attributed to the symbol "PA" were the number of years, if any, (including any fractional part of a year calculated on a daily basis) of the period during which the Contributor was employed in a position having the salary ratio of the former position.

(d) The Trustee must apply under sub-clause 11.2, in relation to a Contributor who is employed for less than 10 hours a week for a single period of more than 2 years, a deduction factor equal to the length of that part of the period that the Contributor is so employed that exceeds 2 years and ends on the date on which the Contributor attains the Maturity Age.

(e) The deduction factor applied under sub-clause 11.5(d) is to be expressed in terms of years and include any fractional part of a year calculated on a daily basis.

(f) The deduction factor applied under sub-clause 11.5(d) is to be applied on and from the end of 2 years after the commencement of the period of employment and is in addition to any other deduction factor that the Trustee is required to apply in relation to the Contributor.

(g) Sub-clause 11.5(a) to 11.5(c) do not apply in respect of a Contributor during any period in which the Trustee is required to apply a deduction factor under sub-clause 11.5(d).

(h) However, sub-clause 11.5(c) applies to a Contributor who, at the end of the period, commences to be employed for more than 10 hours a week in the same way as it applies to any other Employee whose salary ratio changes.

11.6 Continuation of certain contributions

(a) Where a Contributor completes payment of the 65 instalments under sub-clause 9.2, in respect of a unit of pension, or, pursuant to sub-clause 8.4, contributions cease to be payable in respect of a unit of pension by a Contributor who attains the Maturity Age, contributions shall, until the Contributor's next Annual Adjustment Day or Exit Day (whichever first occurs), continue to be made at the rate at which the Contributor was contributing for that unit.

(b) Any continued contributions made by a Contributor by virtue of sub-clause 11.6(a) shall be credited, in such manner as the Trustee thinks fit, to units of pension in respect of which the Contributor is contributing or may, on the Contributor's next Annual Adjustment Day or Exit Day, be required to contribute by instalments under sub-clause 9.2.

(c) Sub-clause 11.6(a) ceases to apply to a Contributor if the Trustee so approves on application made by the Contributor before his Exit Day.

(d) Without affecting the operation of this sub-clause 11.6, a Contributor to whom this sub-clause 11.6 applies shall be deemed, for the purposes of this Annexure, to have ceased contributing for the unit of pension referred to in sub-clause 11.6(a).

11.7 Reserve units

(a) There shall be a reserve units of pension account (in this sub-clause referred to as the ***reserve account***) which shall form part of this Annexure and into which shall be paid all contributions made by Contributors under this sub-clause 11.7.

(b) A Contributor who is contributing for not less than the number of units of pension corresponding to the salary-group within which the Contributor's Salary falls may, by notice in writing to the Trustee in the form prescribed, elect to contribute for reserve units of pension (hereinafter referred to as reserve units) in accordance with the provisions of this sub-clause 11.7.

(c) An election under sub-clause 11.7(b) may only be made by a Contributor within 2 months after the Contributor's Annual Review Day in any half-year.

(d) The number of reserve units for which a Contributor shall be entitled to contribute shall not exceed 8.

(e) Contributions in respect of a reserve unit:

(i) shall take effect as from the Contributor's Annual Adjustment Day in the half-year in which the election is made; and

(ii) shall be made as if the reserve unit were a Contributory Unit, contributions for which are payable as from the Annual Adjustment Day.

(f) Where a Contributor who has contributed for at least ten years for any reserve units, or contributed for at least one year for any reserve units and has attained the age of 50 years, becomes eligible to or is required to contribute for one or more additional units of pension in pursuance of the provisions of this Annexure, the Contributor may elect by notice in writing to the Trustee in the form prescribed to appropriate to the contribution account the contributions paid by the Contributor to the reserve account in respect of a number of reserve units not exceeding the number of those additional units of pension.

(g) Where a Contributor so elects, no further contributions shall be paid into the reserve account in respect of the reserve units to which the election applies and the contributions payable by the Contributor in respect of so many of the additional units of pension as is equal to the number of those reserve units shall be at the same rate as the contributions paid into the reserve account in respect of those reserve units.

(h) The Trustee must pay to a Contributor who, in accordance with section 15A(6) of the *Superannuation Act 1916* (NSW) elected to discontinue the payment of contributions for reserve units the amount paid in respect of those units, together with any interest payable under sub-clause 11.7(l).

(i) If a Contributor who is contributing for reserve units ceases to be an Employee, the Trustee must pay to the Contributor or, as the case may be, to the Contributor's legal personal representatives the amount of the Contributor's contributions paid in respect of those units, together with any interest payable under sub-clause 11.7(k).

(j) In sub-clause 11.7(i), the reference to legal personal representatives includes a reference to a person referred to in the Trust Deed.

(k) A Contributor is entitled to interest on contributions for reserve units paid for by the Contributor, compounded annually, at the rate fixed by the Trustee in accordance with sub-clause 24.5 and payable from the respective dates of payment.

(l) Payments under sub-clauses 11.7(h) and 11.7(i) are to be made from the appropriate reserve.

(m) For the purposes of sub-clauses 11.7(h) to 11.7(l), a reference to the specified rate is:

(i) if the rate relates to a period before 20 March 1989, 6.5% per annum or, where another rate has been specified for the purposes of subsection (6)(c) of the *Superannuation Act 1916* (NSW) (as in force before 20 March 1989), that other rate; or

(ii) if the rate relates to a period after 20 March 1989 such rate as the Trustee fixes from time to time under sub-clause 24.5 for the purposes of this sub-clause 11.7.

(n) A Contributor who made an election under subsection 15A(6) of the *Superannuation Act 1916* (NSW) in respect of any reserve unit or units shall not again be eligible to elect to contribute for any reserve unit or units.

(o) A Contributor who has made an election under sub-clauses 11.7(f) and 11.7(g) may elect to contribute for reserve units but so that the number of reserve units for which the Contributor becomes a Contributor by virtue of the operation of this sub-clause 11.7(o), together with the reserve units, if any, for which the Contributor was contributing immediately before electing under this sub-clause 11.7(o) and any reserve units which may already have been appropriated by the Contributions under sub-clauses 11.7(f) and 11.7(g) shall not exceed 8.

11.8 Employees on leave of absence

(a) In respect of any Contributor who is on leave of absence, whether without pay or not, that Contributor's contributions shall be paid during such leave of absence as for a period of Service and shall become due on or before the last day of each month or four-weekly Contribution Period.

(b) For the purposes of this Annexure, where a Contributor is on leave without pay from the Service of an Employer and is on secondment to the Service of another Employer, that Contributor's Salary shall, notwithstanding sub-clause 11.8(a), be that paid or payable by that other Employer.

(c) For the purposes of this Annexure, where a Contributor:

(i) is on approved leave from the Service of an Employer;

(ii) is not on secondment to the Service of another Employer; and

(iii) is not a Contributor to and in respect of whom sub-clause 11.8(g) is declared pursuant to sub-clause 11.8(f) to apply,

and the Trustee is of the opinion that the Contributor's Salary would have been varied had the Contributor not been on that leave, the Contributor shall, unless the Trustee otherwise determines, be deemed to have been paid by the Contributor's Employer Salary at the rates to which and at the times at which it would have been varied.

(d) For the purposes of sub-clause 11.8(c), a person is on approved leave if the person is on leave without pay from the Service of the person's Employer:

(i) by reason of:

(A) ill health;

(B) secondment to the Service of a public authority constituted by or under an Act;

(C) secondment to the Service of the Government of the Commonwealth or another State or to the Service of a public authority constituted by or under an Act of the Parliament of the Commonwealth or another State; or

(D) Service with the naval, military or air forces of the Commonwealth; or

(ii) in circumstances approved by the Employer under sub-clause 11.8(e).

(e) For the purposes of sub-clause 11.8(d)(ii) the Employer may, if it thinks fit, by notice in writing to the Trustee, approve of circumstances in which a person is on leave without pay from the Service of his Employer, if that Employer certifies to the Trustee that that person is, during the period of leave, acting in the interests of the Employer or the State.

(f) An Employer may determine, either unconditionally or subject to conditions, that sub-clause 11.8(g) or 11.8(h) applies, or both apply:

(i) to and in respect of a Contributor specified in the instrument who is on leave of absence from the service of his Employer and is on secondment but not to the Service of another Employer; and

(ii) generally during the period of that secondment or during such period as is specified in the instrument, being, in either case, a period commencing before or after the commencement of this sub-clause 11.8(f) or the date of the declaration.

(g) During the period in which this sub-clause 11.8(g) is declared pursuant to sub-clause 11.8(f) to apply to and in respect of a Contributor who is on secondment, the Contributor's Salary shall, for the purposes of this Annexure, be that paid or payable in respect of the Service to which he is seconded.

(h) During the period in which this sub-clause 11.8(h) is declared pursuant to sub-clause 11.8(f) to apply to and in respect of a Contributor who is on secondment, the Employer

specified in the declaration as the Employer for the purposes of this Annexure shall, for the purposes of this Annexure, be deemed to be the Employer from whose Service the Contributor is on leave of absence.

11.9 Deferment of payment of contributions

The Trustee may, in special circumstances, defer the payment of any contribution by a Contributor but, where the Trustee so defers a payment, no Benefit is payable to or in respect of the Contributor until the outstanding contribution and, where appropriate, interest thereon, have been paid or arrangements satisfactory to the Trustee have been made for their payment.

11.10 Manner of payment deduction from wages or salaries

(a) Whenever salaries or wages are paid to Contributors, their Employer must deduct from those salaries or wages the contributions that those Contributors are required to make under this Annexure.

(b) An Employer who has deducted contributions in accordance with sub-clause 11.10(a) must pay those contributions to the Trustee, without deduction, within the period specified by the Trustee.

(c) The Trustee may enter into an arrangement with a Contributor, or may require a Contributor to enter into an arrangement with the Trustee, for the payment of arrears of contributions under this Annexure that have been incurred, or are expected to be incurred, by the Contributor.

(d) Where a Contributor:

(i) fails to comply with a requirement under sub-clause 11.10(c) to enter into an arrangement referred to in that sub-clause; or

(ii) having entered into such an arrangement, fails to comply with its terms,

the Trustee may direct that any period in respect of which any such arrears are outstanding is not a period of Service by the Contributor, and the direction shall have effect according to its tenor.

(e) Arrears in Employers' contributions (including arrears arising as a consequence of Contributors commencing to contribute under this Annexure after the date on which they were required to contribute) shall be payable, and shall be deemed always to have been payable, at such time or times as the Trustee may determine.

11.11 Contributor eligible for membership or a member of the Accumulation and Pension Section

(a) When a Contributor becomes eligible to become a member of the Accumulation and Pension Section, the Contributor must:

(i) elect to continue to contribute under this Annexure; or

(ii) elect to make provision for a Benefit provided by clause 16.

(b) If a Contributor fails to make an election under sub-clause 11.11(a) within 2 months of being required to make that election, the Contributor is, for the purposes of this sub-clause 11.11, to be taken to have elected to continue to contribute under this Annexure.

(c) Nothing in this Annexure prevents a Contributor who elects to continue to contribute under this Annexure from also contributing to the Accumulation and Pension Section or another superannuation fund and such a Contributor is entitled to Benefits in accordance with this Annexure despite being a member of that other fund.

(d) If a Contributor elects to continue to contribute under this Annexure, the Contributor may, at any time thereafter while being eligible to become or being a member of the Accumulation and Pension Section, elect to make provision for a Benefit provided by clause 16.

(e) A Contributor who elects, under this sub-clause 11.11, to make provision for a Benefit provided by clause 16:

(i) may elect to make provision for the Benefit even though he or she has not completed 3 years' continuous Contributory Service;

(ii) is not entitled to a Benefit payable under any other provision of this Annexure;

(iii) is not entitled to elect to take the Benefit provided by sub-clause 16.11;

(iv) may elect at any time before the benefit is paid to have the benefit paid to the credit of the Contributor in the Accumulation and Pension Section if the Contributor is a member or is eligible to become a member of the Accumulation and Pension Section.

(f) If a Contributor makes an election under sub-clause 11.11(e)(iv):

(i) the Contributor is entitled to be paid the Benefit provided by clause 16, but only in accordance with sub-clause 11.11(e)(iv), this sub-clause 11.11(f) and sub-clause 11.11(g);

(ii) the Trustee must, as soon as practicable thereafter, pay to the Accumulation and Pension Section the amount of Benefit to which the Contributor is entitled; and

(iii) the Trustee must credit the amount to the account established or to be established for the person in the Accumulation and Pension Section.

(g) For the purposes of sub-clause 11.11(f)(i), the Benefit to which the Contributor is entitled is an amount equal to the actuarially calculated lump sum value of the Benefit provided by clause 16 on ceasing to be a Contributor.

(h) If a Contributor makes an election under sub-clause 11.11(a)(ii) or 11.11(d) within 12 months after being:

(i) appointed as a Chief Executive Officer or Senior Executive Officer; or

(ii) nominated as an officeholder for the purposes of section 11A of the *Statutory and Other Offices Remuneration Act 1975* (NSW),

(iii) the Salary of the Contributor, for the purpose of determining the amount of the Benefit to which the election relates, is to be taken to be his or her Salary immediately before that appointment or nomination took effect.

11.12 Transferred members – PSESS Election

(a) A person:

(i) who is a member of the Accumulation and Pension Section; and

(ii) who had a benefit transferred under regulation 7(b) of the Transfer Regulation; and

(iii) is employed by an Employer

is entitled to elect at any time to make provision for Benefits provided for by sub-clause 16.

(b) If the person makes an election under this sub-clause 11.12, then sub-clause 11.11(f) applies.

12. PENSIONS AND BENEFITS

12.1 Retirement on pension

(a) A Contributor (being, in the case of a woman, a Contributor at the rate prescribed for retirement at age 60) who has served for at least ten years with any one or more Employers shall be entitled to elect to retire on pension from the Service of the Contributor's Employer upon or after reaching the age of 60 years; and every woman Contributor at the rate prescribed for retirement at age 55 who has so served shall be entitled to so retire upon or after reaching the age of 55 years.

(b) A Contributor (being, in the case of a woman, a Contributor at the rate prescribed for retirement at age 60) shall be entitled to elect to retire from the Service of the Contributor's Employer on pension on or after reaching the age of 55 years if the Contributor has continuously been a Contributor during the next preceding period of ten years.

(c) A person who, before becoming a Contributor, was:

(i) employed on terms requiring the Contributor to give the whole of his or her time to that employment; and

(ii) paid at an hourly, daily, weekly or fortnightly rate, or at piecework rates,

is entitled to have that employment treated as Service as an Employee for the purposes of this sub-clause 12.1.

(d) Whenever:

(i) a period of employment that a Contributor has had with an Employer; and

(ii) a later period of Service that the Contributor has had as an Employee with an Employer are continuous,

the Trustee may, if satisfied that, having regard to the nature of the work performed by the Contributor during that period of employment, it is proper to do so, treat, for the purposes of this sub-clause 12.1, that period of employment as a period of Service as an Employee with that Employer.

(e) A reference in sub-clause 12.1(d) to a period of Service as an Employee with an Employer includes a reference to a period treated under sub-clause 12.1(c) or 12.1(d) as a period of Service as an Employee.

12.2 Commuting of pension

(a) A person who is entitled or becomes entitled to a pension under this Annexure may commute the whole or part of that pension (subject to this sub-clause 12.2 and sub-clauses 26.2 to 26.7).

(b) A person may not commute the whole or any part of a pension under sub-clause 12.2(a) before attaining the age of 55 years.

(c) This sub-clause 12.2 does not authorise the commutation of a pension payable in respect of Children.

(d) Subject to sub-clause 12.3, any person desiring to commute pension pursuant to this sub-clause may elect to do so at any time after attaining the age of 54 years and 6 months.

(e) An election under this sub-clause 12.2 may be made in respect of 2 different amounts and as from 2 different dates and the election shall have effect as to the different amounts as from the respective dates from which the different amounts are commuted.

(f) Where:

(i) a person making an election under this sub-clause 12.2 in respect of one amount dies before the election takes effect, the election shall be deemed to be revoked; and

(ii) a person making an election under this sub-clause 12.2 in respect of different amounts as from different dates dies before the commutation as to one or both of those amounts takes effect, the commutation as to that or those amounts, as the case may be, shall not be effective.

(g) Where an election under this sub-clause 12.2 takes effect and the person who made the election dies before any lump sum payable pursuant to the election has been paid to the person, the Trustee shall pay the lump sum to the person's legal personal representatives.

(h) Upon an election under this sub-clause 12.2 taking effect as to an amount of pension, there shall be paid to the person who made the election or, as the case may require, to the legal personal representatives of the person, a lump sum calculated by multiplying the fortnightly amount of pension commuted by the prescribed commutation factor in relation to the person subject to sub-clause 13.7A(c) and 13.8(c).

(i) In sub-clause 12.4.8:

prescribed commutation factor means:

(i) in relation to a person whose election under this sub-clause 12.2 took effect as to an amount of pension before the person attained the age of 60 years, the figure (rounded to 2 decimal places) calculated in accordance with the following formula:

F = 285 - (A - 55) x 7

where:

F is the prescribed commutation factor;

A is the age of the person in years (including any fractional part of a year calculated on a daily basis) on the date the election by the person to commute took effect as to that amount of pension; and

(ii) in relation to a person whose election under this sub-clause 12.2 took effect as to an amount of pension on or after the person attained the age of 60 years:

(A) 250, where no prescribed period has elapsed in relation to the person; or

(B) where a prescribed period has elapsed in relation to the person, a figure lower than 250 determined by the Trustee having regard to the length of the prescribed period;

prescribed period, in relation to a person whose election under this sub-clause 12.2 took effect as to an amount of pension on or after the person attained the age of 60 years, means:

(iii) in the case of such a person who became entitled to the amount of pension to which the election relates on or before attaining the age of 65 years, the period (if any) between:

(A) the attainment by the person of the age of 60 years or the day on which the person became entitled to that amount of pension, whichever was the later; and

(B) the day on which the election took effect as to that amount of pension; or

(iv) in the case of such a person who became entitled to the amount of pension to which the election relates after attaining the age of 65 years, the period (if any) between:

(A) the attainment by the person of the age of 65 years; and

(B) the day on which the election took effect as to that amount of pension.

(j) Subject to sub-clause 12.3, a person may, with the approval of the Trustee, make more than one election under this sub-clause 12.2, but only one such election shall take effect.

(k) Where a person makes an election under sub-clause 12.8 to take up additional units, nothing in sub-clause 12.2(j) applies to an election made under this sub-clause 12.2 in respect only of any of the pension payable in respect of those additional units, but:

(i) a person may not, without the approval of the Trustee, make more than one such election under this sub-clause 12.2 in respect of that pension; and

(ii) only one such election made by the person under this sub-clause 12.2 in respect of that pension shall take effect.

(l) Sub-clauses 12.2(j) and 12.2(k) apply to and in respect of an election under this sub-clause 12.2 whether or not the election has been amended or revoked.

(m) The approval of the Trustee may only be given for the purposes of sub-clause 12.2(j) and 12.4.11 in special circumstances.

(n) An election made under this sub-clause 12.2 by an Employee before the day on which the Employee attained the age of 55 years shall be deemed to be revoked if the Employee has not retired before the expiration of 12 months after attaining that age.

(o) An election made under this sub-clause 12.2 by an Employee on or after the day on which the Employee attained the age of 55 years shall be deemed to be revoked if the Employee has not retired before the expiration of 12 months after making the election.

(p) These rules apply to and in respect of a person who is entitled to a pension and who commutes the whole of that pension in accordance with this sub-clause 12.2 in the same way as it applies to and in respect of a pensioner under this Annexure.

(q) On the death of a person who has, pursuant to this sub-clause 12.2, commuted the whole or part of any pension payable to the person, the pension payable to the Spouse of the person pursuant to the provisions of this Annexure shall be determined in accordance with the pension that would have been payable to the person at the time of death had the person not so commuted that pension.

(r) Nothing in this Annexure shall be construed as requiring the Trustee to make inquiries as to whether any pension is payable under this Annexure as a consequence of the death of a person who has commuted the whole of a pension in accordance with this sub-clause 12.2.

12.3 Limitations on elections under sub-clause 12.4

(a) Subject to this sub-clause 12.3, a person may not make an election under sub-clause 12.2 relating to a pension under this Annexure after the expiration of 6 months after:

(i) the day on which the person attained the age of 55 years, or

(ii) the day on which the person became entitled to that pension,

whichever is the later day.

(b) Subject to this sub-clause 12.3, if a person makes an election under sub-clause 12.8 to take up additional units, the person may not make an election under sub-clause 12.2 in respect only of the pension payable in respect of those additional units after the expiration of 6 months after:

(i) the day on which the person attained the age of 55 years, or

(ii) the day on which the person made the election under sub-clause 12.8,

whichever is the later day.

(c) Where:

(i) an election under sub-clause 12.2 was not made within the time prescribed in respect thereof by the provisions of sub-clause 12.3(a) and 12.3(b);

(ii) it is proved to the satisfaction of the Trustee that the election was not made within that time because:

(A) the person entitled to make the election did not know of the right to make the election; or

(B) circumstances substantially beyond the control of the person prevented the making of the election; and

(iii) the Trustee is satisfied that, in the circumstances of the case, it is desirable that the election should be accepted,

the Trustee may, subject to such terms and conditions as it may impose, accept the election and deal with it as if that time had been indefinitely extended.

(d) Where:

(i) a pension became payable to a person before the person attained the age of 60 years;

(ii) the person has attained the age of 59 years and 6 months; and

(iii) the person, although entitled to do so, has not previously made an election under sub-clause 12.2 (being an election which has taken effect) to commute the whole or any part of that pension,

the person may make an election under sub-clause 12.2 in relation to that pension before the expiration of the period of 6 months after the day on which the person attains or attained the age of 60 years.

12.4 Interest to be paid on commuted amounts

Whenever a lump sum is payable under sub-clause 12.2, interest at the rate currently fixed under sub-clause 24.5 for the purposes of this sub-clause 12.4 (less any deduction for money due under this Annexure) is payable under this Annexure in respect of the period beginning with the date on which the lump sum becomes payable and ending with the date when it is authorised to be paid.

12.5 Breakdown retirement

(a) Any Contributor may be retired from the Service of his Employer on the ground of invalidity or physical or mental incapacity to perform his duties.

(b) The question whether the Contributor is an invalid, or is physically or mentally incapable of performing his or her duties, shall be determined by the Trustee, having regard to medical advice furnished by any one or more medical practitioners nominated by the Trustee.

12.6 Retrenchment and Discharge

(a) For the purposes of this Annexure, a Contributor shall be taken to be Retrenched when the Contributor's Service with an Employer is terminated and where the Service is expressed by the Employer to be:

(i) compulsorily terminated by the Employer on the ground that:

(A) the Employer no longer requires the Contributor's Services and, on termination of the Contributor's Service, does not propose to fill the Contributor's position;

(B) the work which the Contributor was engaged to perform has been completed; or

(C) the amount of work that the Employer requires to be performed has diminished and, because of that fact, it has become necessary to reduce the number of Employees employed by the Employer; or

(ii) terminated as a result of the acceptance by the Contributor of an offer by the Employer of terms of retrenchment made on a ground specified in sub-clause 12.6(a)(i).

(b) For the purposes of this Annexure, a Contributor shall be taken to be Discharged on the cessation of the Contributor's employment with an Employer expressed by the Employer to be on the ground that the period, or successive periods, for which the Contributor was employed has or have ended.

12.7 Date of retirement, Contributions payable etc.

(a) For the purpose of determining the rights of an Employee under this Annexure, the date of his retirement shall be the date on which in the opinion of the Trustee he ceases to be employed by his Employer.

(b) Except as provided by sub-clause 12.8, a person is not entitled to elect to contribute, or required to contribute, in respect of an additional unit or units of pension by reason of a Salary increase not actually paid before the date of his retirement, determined as provided by sub-clause 12.7(a), or the date of his death, whichever first occurs.

(c) Notwithstanding anything contained in this Annexure, sub-clauses 13.3 and 13.5 excepted, pension shall be payable, in the case of the death of an Employee from the day following the date of death of the Employee, and in the case of the retirement of an Employee the date of whose retirement is determined by the Trustee in accordance with this sub-clauses 12.7 from the day following such date.

12.8 Retrospective Salary increases

(a) Notwithstanding sub-clause 12.7(b), where:

(i) a Contributor retires or dies; or

(ii) where a pensioner dies,

and an amount in respect of an increase in the Contributor's or pensioner's Salary that took effect from a day earlier than the day of the Contributor's or pensioner's retirement or death and payable up to the day of the Contributor's or pensioner's retirement or death has been paid to the Contributor or pensioner, or is payable to the Contributor's or pensioner's estate,

(iii) the Contributor or pensioner, or

(iv) in the case of the Contributor's or pensioner's death, the Contributor's or pensioner's Spouse,

may make an election to take up any or all of the additional units to which such increase would have entitled the Contributor or pensioner had the Contributor or pensioner continued to be a Contributor.

(b) Pension in respect of the additional units in respect of which an election is made under this sub-clause 12.8 shall be payable from the day following the date of retirement or death of the Contributor or pensioner, as the case may be.

(c) The contributions payable consequent on an election under this sub-clause 12.8 in respect of a unit of pension shall be the contributions that would have been payable had the unit been a unit in respect of which the Contributor was required by sub-clause 5.7(a) to contribute under this Annexure.

(d) Nothing in this sub-clause 12.8 authorises a person to elect to take up Abandoned Units.

(e) An election under this sub-clause 12.8 shall:

(i) in the case of a person who retires after 1 January 1971 be made by the Contributor or pensioner within three months after the increase is actually paid to the Contributor or pensioner and, in the event of the person's death before the expiration of the said three months and the person's not having made such election, be made by the person's Spouse within three months after the person's death;

(ii) in the case of a person who retires after 1 January 1971 and dies before the increase is paid, be made by the person's Spouse within three months after the increase is paid;

(iii) in the case of a Contributor who dies before the increase is paid be made, by the person's Spouse within three months after the increase is paid,

but the Trustee may in special circumstances allow an election to be made under this sub-clause 12.8 after the expiration of the periods above prescribed.

12.9 Dismissal

For the purposes of this Annexure, a Contributor shall be taken to be Dismissed when the Employer compulsorily terminates (however expressed) the Contributor's Service otherwise than:

(a) by compulsorily retiring the Contributor on a pension payable under this Annexure; or

(b) by Retrenching or Discharging the Contributor.

12.10 Resignation

(a) For the purposes of this Annexure, a Contributor shall be taken to have Resigned from the Service of an Employer when the Contributor terminates (however expressed) that Service without:

(i) being entitled to retire from that Service on a pension payable under this Annexure; or

(ii) being Retrenched.

(b) Notwithstanding sub-clause 12.10(a), a Contributor shall be taken to have Resigned from the Service of an Employer when the Contributor terminates that Service and elects to take the Benefit of sub-clause 13.18.

(c) Where a Contributor elects to take the Benefit of sub-clause 13.18 then no other Benefit will be payable under this Annexure.

13. GRANT OF PENSIONS AND BENEFITS

13.1 Amount of pension payable on retirement

(a) A Contributor who retires is entitled to be paid a pension of $5.50 per fortnight for each unit for which the Contributor was contributing at the time of retirement.

(b) Sub-clause 13.1(a) does not apply to a Contributor in respect of whom special provision for the payment of a pension or other retirement Benefit is made under another provision of this Annexure.

(c) If the Trustee has made a determination under sub-clause 23.1 in respect of a pension payable under this sub-clause 13.1, the amount of the pension is reduced by the amount specified in the Trustee's determination.

13.2 Pension of woman retiring before 60

On the retirement at or after the age of 55 years of a woman who has contributed for a pension payable on reaching that age, the full pension for which she has so contributed shall be payable.

13.3 Pension on retirement before reaching 60 years of age

(a) This sub-clause 13.3 applies to a Contributor who retires in accordance with sub-clause 12.1(b) and who is not entitled to a pension under sub-clause 13.4.

(b) A Contributor to whom this sub-clause 13.3 applies is entitled on retirement to a pension determined according to the number of units for which the Contributor has, at the time of retirement, contributed for not less than 2 years and 6 months.

(c) Subject to this sub-clause 13.3, the value of each unit of pension referred to in sub-clause 13.3(b) is as follows:

(i) if the age of the Contributor at the Contributor's last birthday before retirement was 55 years, $3.27 per fortnight;

(ii) if the age of the Contributor at the Contributor's last birthday before retirement was 56 years, $3.55 per fortnight;

(iii) if the age of the Contributor at the Contributor's last birthday before retirement was 57 years, $3.91 per fortnight;

(iv) if the age of the Contributor at the Contributor's last birthday before retirement was 58 years, $4.35 per fortnight;

(v) if the age of the Contributor at the Contributor's last birthday before retirement was 59 years, $4.88 per fortnight.

(d) In addition to the value of a unit of pension specified in sub-clause 13.3(c), a Contributor is entitled to receive in respect of the unit an amount per fortnight calculated in accordance with the following formula:

$$\frac{(A - B) \times C}{364}$$

where:

A represents the value that the unit would have had if the Contributor had in fact retired on the Contributor's next birthday after that retirement; and

B represents the value of the unit at the Contributor's last birthday before retirement; and

C represents the number of days during the period beginning with the day after the Contributor's last birthday before retirement and ending with the day before payment of the pension is due to begin.

(e) If a Contributor to whom this sub-clause 13.3 applies has contributed for one or more units of pension for less than 2 years and 6 months, the Contributor is entitled to be paid on retirement a lump sum equal to the amount of contributions that the Contributor has paid in respect of the unit or units.

(f) A pension under this sub-clause 13.3 becomes payable on and from the day following the Contributor's Exit Day, except as provided by sub-clause 13.3(g).

(g) A pension under this sub-clause 13.3 payable to a Contributor who is Retrenched becomes payable on and from the day after the day on which the Contributor actually leaves the Service of the Contributor's Employer, whether at the Contributor's Exit Day any period of untaken leave was due to the Contributor or not.

(h) A Contributor whose pension is determined in accordance with this sub-clause 13.3 ceases to be liable to pay contributions under this Annexure on the first day of the month or four-weekly period, as the case may be, in which the pension becomes payable in accordance with sub-clause 13.3(f) or 13.3(g)..

(i) If the Trustee has made a determination under sub-clause 23.1 in respect of a pension payable under this sub-clause 13.3, the amount of the pension is reduced by the amount specified in the Trustee's determination.

13.4 Pension on retirement before age 60 – component pension

(a) On the retirement of a Contributor under sub-clause 12.1(b), except as provided by sub-clause 13.4(b), the pension to which the Contributor is entitled is a pension under this sub-clause 13.4.

(b) A Contributor is entitled to the pension under sub-clause 13.3 and not the pension under this sub-clause 13.4 if the sum of:

(i) the amount which would be payable to the Contributor on the commutation of the whole of the pension payable to the Contributor under sub-clause 13.3; and

(ii) the amount of any lump sum which would be payable to the Contributor under sub-clause 13.3(e),

is greater than the amount which would be payable to the Contributor on the commutation of the whole of the pension payable to the Contributor under this sub-clause 13.4.

(c) The pension to which a Contributor is entitled under this sub-clause 13.4 is a pension of an amount per fortnight equivalent to the sum of the employee-contributed pension component, and the employer-financed pension component, in relation to the Contributor.

(d) For the purposes of sub-clause 13.4(c), the employee-contributed pension component, in relation to a Contributor, shall be calculated in accordance with the following formula:

$$P1 = 2.20 \times EPU \times (1 - .07 \times TM)$$

where:

P1 is the employee-contributed pension component;

EPU is the sum of the following:

(i) $\frac{UHn}{Rn} - \frac{Cn}{Rn}$ (except where Cn exceeds UHn);

(ii) $\frac{TCB}{RB}$; and

(iii) uc;

UHn is the number of units of pension for which Contributions were payable by the Contributor on the Contributor's Exit Day in accordance with the tables of contributions fixed by or under this Annexure, but excluding:

(i) any such units of pension which are excess units of pension referred to in sub-clause 6.1(a) and in respect of which no person has any rights under this Annexure; and

(ii) any such units of pension, being reserve units, for which Contributions were being made under sub-clause 11.7;

Cn is the amount of Contributions due for the last Contribution Period for which Contributions were payable by the Contributor before the Contributor's Exit Day, in respect of that number of units of pension;

Rn is the amount which, if the Contributor were required under clause 8 to commence to contribute for an additional unit of pension on the Contributor's Exit Day, would be the amount payable in accordance with the tables of Contributions fixed under sub-clause 8.3 for that unit for a Contribution Period;

TCB is the total amount paid in respect of instalments payable by the Contributor on or before the Contributor's Exit Day for units of pension for which the Contributor contributed in accordance with clause 9 (but deducting therefrom any part of that amount allocated under this Annexure to the purchase of fully paid up units);

RB is the amount specified in sub-clause 9.1(a) as the cost of a unit of pension in relation to the Contributor;

UC is the number of units (if any) purchased by the Contributor and credited to the Contributor as fully paid up units;

TM is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the day from which the pension under this sub-clause 13.4 commences to be payable precedes the date on which the Contributor attains the age of 60 years.

(e) For the purposes of sub-clause 13.4(c), the employer-financed pension component, in relation to a Contributor, shall be calculated in accordance with the following formula:

$$P2 = 3.30 \times UE \times \frac{S}{S + TM} \times (1 - .04 \times TM)$$

where:

P2 is the employer-financed pension component;

UE is the number of units of pension that, pursuant to sub-clause 11.1(a), is appropriate to the Salary payable to the Contributor on the Contributor's Exit Day plus, in a case to which sub-clause 6.1 applies, the number of any excess units of pension referred to in sub-clause 6.1(a) and in respect of which the Trustee considers, in accordance with sub-clause 6.1(e), that the retention of entitlement to Benefits under this Annexure is warranted;

S is the number of years (including any fractional part of a year calculated on a daily basis) of continuous Contributory Service by the Contributor with any one or more Employers;

TM is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the day from which the pension under this sub-clause 13.4 commences to be payable precedes the date on which the Contributor attains the age of 60 years.

(f) If the Trustee has made a determination under sub-clause 23.1 in respect of a pension payable under sub-clause 13.4(c), the amount of that pension is reduced by the amount specified in the Trustee's determination.

(g) For the purposes of sub-clause 13.4(e), the period of continuous Contributory Service by a person on the person's Exit Day is the period that commenced when the person last became a Contributor and ended on that day (but excluding any part of that period during which the person is treated by sub-clause 13.4(e) as being on leave of absence without pay).

(h) Except as provided by sub-clause 13.4(i), a pension payable under this sub-clause 13.4 shall commence and be payable as from the day following the Contributor's Exit Day.

(i) A pension payable under this sub-clause 13.4 to a Contributor who is Retrenched shall be payable as from and including the day after the date on which the Contributor actually leaves the Service of the Employer, whether or not at the Contributor's Exit Day any period of untaken leave was due to the Contributor.

(j) Contributions payable by and in respect of a Contributor whose pension is payable under this sub-clause 13.4 shall cease to be paid on the first day of the Contribution Period preceding that in which the pension commences to be payable in accordance with sub-clause 13.4(h) or 13.4(i).

13.5 Breakdown pensions

(a) Except as provided by sub-clauses 13.5(b), 13.5(d) and 13.5(f), if a Contributor is retired on the ground of invalidity or physical or mental incapacity to perform the Contributor's duties, the Contributor shall, subject to sub-clause 7.4(b), be entitled to the full pension for which the Contributor was contributing as at the Contributor's Exit Day.

(b) If a Contributor:

(i) being a person who became a Contributor to the State Superannuation Scheme on or after 13th January 1978; or

(ii) being a person who, immediately before 13th January 1978, was:

(A) a Contributor accepted or treated as a Contributor for limited Benefits under the State Superannuation Scheme as then in force; or

(B) a Contributor accepted or treated as a Contributor in the provisional category under the State Superannuation Scheme as then in force,

is retired on the ground of invalidity or physical or mental incapacity to perform the Contributor's duties and the number of years (disregarding any fraction of a year) comprising the period from the date when the Contributor last became a Contributor and the Contributor's Exit Day, after having subtracted from that period any period of retirement pursuant to sub-clause 12.7 in respect of which the Contributor received a pension under the *Superannuation Act 1916* (NSW), is less than 10, the Contributor shall be entitled to a pension, the amount of which shall be calculated in accordance with the formula:

$$P = x \frac{A}{100} x \frac{(80 + 20B)}{C}$$

where, in relation to the Contributor:

P is the amount of the pension per fortnight;

A is the amount of pension per fortnight that would have been payable to the Contributor under sub-clause 13.5(a) had the Contributor been a person to whom that sub-clause 13.5(a) applies;

B is the number of years (disregarding any fraction of a year) comprising the period from the date when the Contributor last became a Contributor to the Contributor's Exit Day, after having subtracted from that period any period of retirement pursuant to sub-clause 12.5 in respect of which the Contributor received a pension under the State Superannuation Scheme; and

C is:

(A) the number of years (disregarding any fraction of a year) comprising the period from the date when the Contributor last became a Contributor to the last day of the Contribution Period preceding that in which the Contributor would attain the Maturity Age; or

(B) 10,

whichever is the lesser.

(c) If the Trustee has made a determination under sub-clause 23.1 in respect of a pension payable under sub-clause 13.5(b), the amount of the pension is reduced by the amount specified in the Trustee's determination.

(d) If:

(i) a person becomes a Contributor within the period of one year ending on and including the last day of the Contribution Period preceding that in which the Contributor would attain the Maturity Age;

(ii) the Contributor is retired on the ground of invalidity or physical or mental incapacity to perform the Contributor's duties; and

(iii) the Contributor's Exit Day precedes the last day of the Contribution Period referred to in sub-clause 13.5(d)(i),

then:

(iv) sub-clause 13.5(b) does not apply to that person; and

(v) the Contributor shall be entitled to a pension equal to 80% of the amount of pension that would have been payable to the Contributor under sub-clause 13.5(a) had the Contributor been a person to whom sub-clause 13.5(a) applies.

(e) Sub-clause 13.5(b) does not apply to a Contributor whose Exit Day is on or after the last day of the Contribution Period preceding that in which the Contributor attains or would attain the Maturity Age.

(f) If, in respect of a Contributor referred to in sub-clause 13.5(b)(ii) (other than a Contributor referred to in sub-clause 13.5(b)(ii)(B)), the amount of pension to which the Contributor would have been entitled, had the *Superannuation Act 1916* (NSW) not been amended by the *Superannuation (Amendment) Act 1977* (NSW), is greater than the amount to which the Contributor would otherwise be entitled under sub-clause 13.5(b), the Contributor shall, notwithstanding sub-clause 13.5(b), be entitled to a pension of the greater amount.

(g) A Contributor to whom this sub-clause 13.5 applies shall be granted payment of pension only for such period at a time as the Trustee determines and a fresh application shall, unless the Trustee from time to time otherwise determines, be necessary before any further payment is made.

(h) The period determined by the Trustee as referred to in sub-clause 13.5(g) for the payment of pension to a person who:

(i) has not attained the Maturity Age, shall be such period (not exceeding 5 years) as the Trustee thinks fit, having regard to the state of health of the person; and

(ii) has attained the Maturity Age, may be for the remainder of the person's life.

(i) Contributions payable by or in respect of a Contributor to whom this sub-clause 13.5 applies cease to be payable on the first day of the Contribution Period during which the pension becomes payable.

13.6 Pensions to Spouse on death of Contributor

(a) On the death of a male Contributor, pension is, subject to sub-clause 13.27, payable to his Spouse, at the rate of two-thirds of the pension that would have been payable to the Contributor had he, where he was aged not less than 60 years, retired or been retired immediately before his death or, where he died before reaching the age of 60 years, had he been retired immediately before his death.

(b) On the death of a woman Contributor, pension is, subject to sub-clause 13.27, payable to her Spouse, at the rate of two-thirds of the pension that would have been payable to the Contributor had she, where she was aged not less than the Maturity Age, retired or been retired immediately before her death or, where she died before reaching the Maturity Age, had she been retired immediately before her death.

13.7 Pension to Spouse on death of pensioner

(a) On the death of a male pensioner, pension is, subject to sub-clause 13.27 and 13.28, payable to his Spouse, at the rate of two-thirds of the pension payable to the pensioner at the time of his death.

(b) On the death of a woman pensioner, pension is, subject to sub-clause 13.27 and 13.28, payable to her Spouse, at the rate of two-thirds of the pension payable to the pensioner at the time of her death.

(c) Notwithstanding the foregoing provisions of this sub-clause 13.7, but subject to sub-clause 13.28, where a pensioner referred to in sub-clause 13.7(a) or 13.7(b) had contributed for not more than 4 units of pension in the State Superannuation Scheme and had received a pension increase in terms of section 2 of the *Superannuation (Amendment) Act 1970* (NSW), the pension payable to the pensioner's Spouse shall not exceed $20 per fortnight, but nothing in this sub-clause 13.7 affects the operation of clause 21.

(d) A reference in sub-clause 13.7(a) or 13.7(b) to a pensioner does not include a person who is entitled to receive only a pension under this sub-clause 13.7 or sub-clause 13.6.

13.7A Minimum Benefit payable in respect of a pensioner who dies

(a) If a pensioner dies without leaving a Spouse to whom pension is payable under this Annexure, nor a Child in respect of whom pension is payable under this Annexure, there is payable to the personal representatives of the pensioner an amount calculated by deducting from the minimum Benefit payable in respect of the pensioner the total of all Benefits paid to the pensioner under this Annexure.

(b) If a pensioner dies, leaving a surviving Spouse, and the surviving Spouse dies, and there is no Child of the pensioner or Spouse in respect of whom pension is payable under this Annexure, there is payable to the personal representatives of the pensioner an amount calculated by deducting from the minimum Benefit payable in respect of the pensioner the total of:

(i) all Benefits paid to the pensioner under this Annexure;

(ii) all Benefits paid as a consequence of the death of the pensioner to the spouse or any other person under this Annexure.

(c) If a pensioner dies leaving a surviving Spouse to whom pension is payable under this Annexure, and no Child of the pensioner or spouse in respect of whom pension is payable under this Annexure, and the surviving Spouse elects to commute the whole of that pension under sub-clause 12.2, there is payable to the Spouse, on that election taking effect, whichever is the greater of the following amounts:

(i) the amount that would be payable under sub-clause 12.2 (but for this sub-clause 13.7A), or

(ii) the amount calculated by deducting from the minimum Benefit payable in respect of the pensioner the total of:

(A) all Benefits paid to the pensioner under this Annexure; and

(B) all Benefits paid as a consequence of the death of the pensioner to the Spouse or any other person under this Annexure.

(d) If sub-clause 13.7A(a), 13.7A(b) or 13.7A(c) would apply in respect of a pensioner, but for the pensioner leaving a Child or Children in respect of whom pension is payable under this Annexure (or would, but for this sub-clause 13.7A, be so payable), the Trustee may, if it considers it to be in the best interests of the Child or Children, apply this sub-clause 13.7A as if there were no such Child or Children, in which case pension or pensions are not payable under this Annexure in respect of the Child or Children.

(e) If a pensioner has no personal representatives, an amount payable to the pensioner's personal representatives is to be paid to such person or persons as the Trustee may determine.

(f) For the purposes of this sub-clause 13.7A, if a pensioner dies and his or her Spouse died at the same moment or in circumstances rendering it uncertain which of them survived the other, and the Spouse died before a pension became payable to him or her under this Annexure because of the pensioner's death, the pensioner is taken not to have a surviving Spouse.

(g) For the purposes of this sub-clause 13.7A, the minimum Benefit payable in respect of a pensioner is the amount to which the pensioner would have been entitled under sub-clause 13.18 if the pensioner had, on the day determined by the Trustee as being the last day on which he or she was an Employee, resigned from the service of his or her Employer and elected to take the benefit of that sub-clause.

(h) In this sub-clause 13.7A:

Benefits includes instalments of pension.

pensioner means a person to whom a pension is payable under this Annexure because the person was a former Contributor, and includes a person who became entitled to a pension under this Annexure because the person was a former Contributor and who commuted that pension in accordance with this Annexure.

13.8 Death of Employee before retirement

(a) Where an Employee dies before retirement without leaving a Spouse in respect of whom pension is payable under this Annexure, the Employee shall, unless the Employee leaves a Child or Children in respect of whom pension is payable under this Annexure or would, but for this sub-clause 13.8, be so payable, be deemed to have Resigned, immediately before dying, from the Service of the Employee's Employer and to have elected under sub-clause 13.19 to take the benefit of sub-clause 13.18.

(b) The amount payable under sub-clause 13.18 by reason of the death of an Employee in the circumstances referred to in sub-clause 13.8(a) shall be paid by the Trustee to the Employee's legal personal representatives or, where the Employee has no legal personal representatives, to such persons as the Trustee may determine.

(c) Where an Employee referred to in sub-clause 13.8(a) leaves a Child or Children in respect of whom pension is payable under this Annexure or would, but for this sub-clause 13.8(c), be so payable, the Trustee may:

(i) make a payment referred to in sub-clause 13.8(b) as if the Employee had not left such a Child or Children, in which case a pension or pensions shall not be payable under this Annexure in respect of the Child or Children; or

(ii) pay a pension or pensions in respect of the Child or Children as if this sub-clause 13.8 did not exist and pay to the legal personal representatives of the Employee or, if there are no legal personal representatives, to such persons as the Trustee may determine, an amount equal to the total of the contributions paid by the Employee under this Annexure,

whichever the Trustee considers to be in the best interests of the Child or Children.

(d) If an Employee dies before retirement leaving a surviving Spouse in respect of whom pension is payable under this Annexure, and no Child in respect of whom pension is payable under this Annexure, and the surviving Spouse elects to commute the whole of that pension under sub-clause 12.4, there is payable to the Spouse, on that election taking effect, whichever is the greater of the following amounts:

(i) the amount that would be payable under sub-clause 12.2 (but for this sub-clause 13.8); or

(ii) the amount that would have been payable if the Employee had resigned, immediately before dying, from the Service of the Employee's Employer and elected under sub-clause 13.19 to take the benefit of sub-clause 13.18, less the total of any Benefits paid as a consequence of the death of the Employee to the Spouse or any other person under this Annexure (including any instalments of pension).

(e) If sub-clause 13.8(d) would apply in respect of an Employee, but for the Employee leaving a Child or Children in respect of whom pension is payable under this Annexure (or would, but for this sub-clause 13.8, be so payable), the Trustee may, if it considers it to be in the best interests of the child or children, apply sub-clause 13.8(d) as if there were no such Child or Children, in which case pension or pensions are not payable under this Annexure in respect of the Child or Children.

13.9 Extension of sub-clause 13.8 to certain cases where Spouses die contemporaneously

Where:

(a) an Employee died before the Employee's retirement, whether before, on or after the commencement of this sub-clause 13.9;

(b) the Employee's Spouse died at the same moment or after the Employee died or in circumstances rendering it uncertain which of them survived the other; and

(c) the Spouse died before a pension became payable to the Spouse under this Annexure consequent on the Employee's death,

the Employee shall, for the purposes of sub-clause 13.8 or section 32A of the *Superannuation Act 1916* (NSW) as in force at any time, be deemed not to have had a Spouse at the time of the Employee's death.

13.10 Refund in certain cases where Spouse dies leaving Children

(a) Where:

(i) an Employee dies before retirement leaving a Spouse;

(ii) the Spouse dies; and

(iii) there are Children of the Employee or of the Spouse in respect of whom pension becomes payable in accordance with sub-clause 13.12,

there shall be paid to the Employee's legal personal representatives or, where the Employee has no legal personal representatives, to such persons as the Trustee may

determine a sum equal to the contributions paid by the Employee under this Annexure less:

(iv) the total amount of pension paid to the Spouse under sub-clause 13.6 otherwise than in respect of a Child; and

(v) any lump sum paid to the Spouse under sub-clause 12.2 in respect of such a pension.

13.11 Children's pensions at sub-clause 22.2 rates

(a) A pension of the appropriate amount per fortnight under sub-clause 22.2 is payable on the death of a Contributor or pensioner in respect of a Child if the conditions set out in sub-clauses 13.11(b) and 13.11(c) are satisfied.

(b) The Child must be a Child of the Contributor or pensioner or a Child of a surviving Spouse of the Contributor or pensioner who is not eligible to receive a pension under sub-clause 13.12.

(c) If the Child is not a Child of the Contributor or pensioner, the Child:

(i) must have been born or adopted before the death of the Contributor or pensioner; and

(ii) must have been ordinarily part of the Contributor's or pensioner's household at the time of the death of the Contributor or pensioner.

(d) A pension under this sub-clause 13.11 ceases to be payable in respect of a Child if the surviving parent dies.

(e) A pension under this sub-clause 13.11 continues to be payable notwithstanding that the surviving parent marries or remarries.

(f) Nothing in this sub-clause affects the operation of sub-clause 13.28.

(g) In this sub-clause 13.11:

pensioner means a person who received a pension because the person was a former Contributor.

13.12 Children's pensions at sub-clause 22.3 rates

(a) A pension of the appropriate amount per fortnight under sub-clause 22.3 is payable on the death of a Contributor or pensioner in respect of a Child if the conditions set out in sub-clauses 13.12(b) to 13.12(d) are satisfied.

(b) The Child must be a Child of the Contributor or pensioner or a Child of a Spouse of the Contributor or pensioner.

(c) The other parent of the Child or the Spouse of the Contributor or pensioner who was a parent of the Child:

(i) must have died before the Contributor's or pensioner's death;

(ii) must have been divorced from the Contributor or pensioner; or

(iii) must have been in a De Facto Relationship with the Contributor or pensioner that ended before the Contributor's or pensioner's death.

(d) If the Child is not a Child of the Contributor or pensioner:

(i) in a case where the Spouse who is the parent of the Child is divorced from or the former De Facto Spouse of the pensioner or Contributor, the Child must have been born or adopted before the divorce or end of the De Facto Relationship; and

(ii) in any case, the Child must have been ordinarily part of the Contributor's or pensioner's household at the time of the death of the Spouse, divorce or end of the De Facto Relationship.

(e) In this sub-clause 13.12:

pensioner means a person who received a pension because the person was a former Contributor;

Spouse includes a person previously married to the Contributor or pensioner or a former De Facto Spouse.

(f) Where a pension ceases to be payable under sub-clause 13.11 in respect of a Child because the surviving parent dies, a pension of the appropriate amount per fortnight under sub-clause 22.3 is payable in respect of the Child.

(g) Nothing in this sub-clause 13.12 affects the operation of sub-clause 13.28.

13.13 The Trustee may determine to pay Children's pensions in other cases

The Trustee may, if it considers it appropriate, determine that a pension is payable under a provision of this Annexure to a Child even though the Child is not eligible under that provision to receive a pension.

13.14 The Trustee to apportion Benefit between the Contributors' Reserve and the appropriate Employer Reserve

(a) Whenever:

(i) a Benefit under this Annexure becomes payable to a Contributor (other than a Benefit under clause 16);

(ii) a Contributor elects to take the Benefit of clause 16; or

(iii) if a Contributor has died without having received a Benefit under this Annexure the Benefit becomes payable to another person in consequence of that death,

the Trustee must ascertain the portion of the Benefit that is payable from the Contributors' Reserve and the portion that is payable from the appropriate Employer Reserve.

(b) For the purposes of sub-clause 13.14(a):

(i) the portion of the Benefit payable to or in respect of a Contributor from the Contributors' Reserve is an amount equal to the lesser of the amount calculated according to sub-clause 13.14(d) and the relevant amount; and

(ii) the portion of the Benefit payable to or in respect of the Contributor from the appropriate Employer Reserve is equal to the relevant amount, less the amount ascertained under sub-clause 13.14(b)(i).

(c) For the purposes of sub-clause 13.14(b), the relevant amount is:

(i) if a lump sum Benefit (other than a commutation of pension) is to be paid to or in respect of the Contributor, the amount of the Benefit payable to or in respect of the Contributor; or

(ii) if a pension or a commutation of a pension is to be paid to or in respect of the Contributor, the amount calculated by the Trustee as the capitalised value of the Benefits payable to or in respect of the Contributor.

(d) For the purposes of sub-clause 13.14(b), the amount to be calculated is:

(i) the amount that would have been payable if the Contributor had elected to take the Benefit of sub-clause 13.17; and

(ii) interest:

(A) compounded on 30 June in each year in respect of the period beginning with the day on which the Contributor first became liable to make contributions under this Annexure and ending with the day on which the Contributor ceased to be employed by an Employer; and

(B) calculated at the prescribed rate on the amount ascertained by applying the formula set out in sub-clause 13.14(e).

(e) For the purposes of sub-clause 13.15(d)(ii), the formula is as follows:

$$\frac{A + B}{2}$$

where:

A represents the total amount of Contributions (excluding Contributions refundable under sub-clause 11.7(h) or 11.7(i)) that the Contributor had paid under this Annexure from the beginning of the Contributor's Contributory Service to the beginning of the period in respect of which the calculation is to be made, together with interest if any) at the prescribed rate calculated at 30 June immediately preceding that period;

B represents the total amount of those Contributions from the beginning of the Contributor's Contributory Service to the end of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated as at 30 June immediately preceding that period.

(f) For the purposes of this sub-clause 13.14, ***prescribed rate*** means:

(i) in respect of any relevant period ending before 1 July 1972, 3.5% per year; and

(ii) in respect of any relevant period beginning on or after 1 July 1972, the rate as fixed by the Trustee from time to time, having regard to the earnings under this Annexure and such other matters as the Trustee considers relevant.

13.15 Retrenchment Benefits payable to an Employee who is Retrenched after completing 10 years' Service

(a) This sub-clause 13.15 does not apply to an Employee who is Retrenched before having completed 10 years' Service with any one or more Employers.

(b) In the case of the retrenchment of an Employee who was a Contributor to the State Superannuation Scheme at 30 June 1963, the Contributor is, subject to sub-clause 13.19, entitled to either:

(i) a lump sum payment equal to three and one-half times the sum of:

(A) the contributions that the Contributor paid to the State Superannuation Scheme (but without interest) before 13th January 1952; and

(B) ten-elevenths of the contributions that the Contributor has paid to the State Superannuation Scheme (but without interest) on or after 13th January 1952 and under this Annexure (but without interest),

in determination of all rights given by this Annexure (sub-clause 13.15(d) excepted); or

(ii) such pension as is determined by the Trustee to be the equivalent of the Contributor's rights under this Annexure.

(c) In the case of the Retrenchment of an Employee who became a Contributor to the State Superannuation Scheme on or after 1st July 1963, the Contributor is, subject to sub-clause 13.19, entitled to either:

(i) a lump sum payment equal to two and one-half times the contributions that the Contributor has paid to the State Superannuation Scheme and under this Annexure (but without interest), in determination of all rights given by this Annexure (sub-clause 13.15(d) excepted); or

(ii) such pension as is determined by the Trustee to be the equivalent of the Contributor's rights under this Annexure.

(d) An Employee entitled to:

(i) a lump sum payment under sub-clause 13.15(b)(i) is also entitled to a lump sum payment equal to two and one-half times an amount equal to ten-elevenths of the contributions; or

(ii) a lump sum payment under sub-clause 13.15(c)(i) is also entitled to a lump sum payment equal to one and one-half times an amount equal to the contributions,

that would have been payable by him under this Annexure in respect of each of the Reduced Value Units allocated to him, had each such Reduced Value Unit been held by him as a Contributory Unit as from the earliest of the times that he is deemed by sub-clause 14.1(g) to have held the Reduced Value Unit.

(e) If the Trustee has made a determination under sub-clause 23.1 in respect of a Benefit payable under this sub-clause 13.15, the amount of the Benefit is reduced by the amount specified in the Trustee's determination.

(f) Where an Employee who has been Retrenched and is in receipt of a pension thereafter enters the Service of an Employer:

(i) the pension shall not cease to be payable;

(ii) the Employee shall contribute as provided in clauses 4 to 11; and

(iii) the Employee shall not be entitled to count the Employee's Service prior to retrenchment as Service for the purpose of any other pension or Benefit under this Annexure.

(g) Where an Employee who has been Retrenched and has received a lump sum under this sub-clause 13.15 thereafter enters the Service of an Employer, the Employee is not entitled to claim any further Benefit in respect of the Employee's previous Service unless he complies with sub-clause 13.20.

(h) A person who, before becoming a Contributor, was:

(i) employed on terms requiring the Contributor to give the whole of his or her time to that employment; and

(ii) was paid at an hourly, daily, weekly or fortnightly rate, or at piecework rates,

is entitled to have that employment treated as Service as an Employee for the purposes of this sub-clause 13.15.

(i) Whenever:

(i) a period of employment that a Contributor has had with an Employer; and

(ii) a later period of Service that the Contributor has had as an Employee with an Employer,

are continuous the Trustee may, if satisfied that, having regard to the nature of the work performed by the Contributor during that period of employment, it is proper to do so, treat, for the purposes of this sub-clause 13.15, that period of employment as a period of Service as an Employee with that Employer.

(j) A reference in sub-clause 13.15(i) to a period of Service as an Employee with an Employer includes a reference to a period treated under sub-clauses 13.15(h) or 13.15(i) as a period of Service as an Employee.

13.16 Retrenchment Benefits payable to Contributors having not less than 3 years' Contributory Service

(a) This sub-clause 13.16 applies to a Contributor who is Retrenched from the Service of an Employer on or after 13 February 1987 and who, at the time of retrenchment, has completed 3 years' continuous Contributory Service.

(b) For the purpose of sub-clause 13.16(a), a Contributor who is Retrenched shall be taken to have completed 3 years' continuous Contributory Service when:

(i) the Contributor has, for a continuous period of 3 years or more immediately preceding the retrenchment, been employed in the Service of an Employer or Employers; and

(ii) during the continuous period of 3 years immediately preceding the retrenchment, the Contributor has been a Contributor under this Annexure or has been a Contributor under this Annexure and a Contributor to the Public Authorities Superannuation Scheme.

(c) For the purposes of sub-clause 13.16(a), the period of continuous Contributory Service by a Contributor at the Contributor's Exit Day is:

(i) subject to sub-clause 13.16(c)(ii), the period that commenced when the Contributor last became a Contributor to the State Superannuation Scheme and ended on that Exit Day; or

(ii) if immediately before becoming a Contributor to the State Superannuation Scheme the Contributor was a Contributor to the Public Authorities Superannuation Fund, the period that commenced when the Contributor last became a Contributor to the Public Authorities Superannuation Fund and ended on that Exit Day,

but excluding in either case any part of that period during which the Contributor is treated by sub-clause 15.1 as being on leave of absence without pay.

(d) A Contributor to whom this sub-clause 13.16 applies is, subject to sub-clause 13.19, entitled to either:

(i) a lump sum Benefit calculated in accordance with the formula set out in sub-clause 13.16(e); or

(ii) such pension as is determined by the Trustee to be the equivalent of the Contributor's rights under this Annexure.

(e) The formula referred to in sub-clause 13.16(d)(i) is as follows:

$B = C + E$

where:

B represents the Benefit to be determined;

C is equal to:

(i) P1 x (0.96 M-A) x F; or

(ii) the contributions paid by the Contributor,

whichever is the greater; and

E is equal to P2 x (0.98 M-A) x F.

(f) For the purposes of sub-clause 13.16(e):

A represents the Contributor's age in years and any fractional part of a year (that part to be calculated on a daily basis) on the Contributor's Exit Day;

F is equal to:

(i) if M is 60 or more, 285; and

(ii) if M is less than 60, 320 - (M-55) x 7;

M represents the greater of the following:

(i) the Contributor's Maturity Age;

(ii) the Contributor's age in years and any fractional part of a year (that part to be calculated on a daily basis) at the date on which the Contributor last became a member of the State Superannuation Scheme + 10;

P1 is the employee-contributed pension component calculated in accordance with sub-clause 13.16(g)(i); and

P2 is the employer-financed pension component calculated in accordance with sub-clause 13.16(g)(ii).

(g) In sub-clause 13.16(f):

(i) P1 = 2.20 x EPU

where EPU is the sum of:

(A) $\frac{UHn}{Rn} - \frac{Cn}{Rn}$ (except where Cn exceeds UHn)

(B) $\frac{TCB}{RB}$; and

(C) UC; and

(ii) $P2 = 3.30 \times UE \times \frac{S}{S + T}$

where:

UE is the number of units of pension that, pursuant to sub-clause 11.1(a), is appropriate to the Salary payable to the Contributor on the Contributor's Exit Day plus, in a case to which sub-clause 6.1 applies, the number of any excess units of pension referred to in sub-clause 6.1(a) and in respect of which the Trustee considers, in accordance with sub-clause 6.1(e), that the retention of entitlement to Benefits under this Annexure is warranted;

S is the number of years (including any fractional part of a year calculated on a daily basis) of continuous Contributory Service by the Contributor with any one or more Employers;

T is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the Contributor's Exit Day precedes:

(A) the date on which the Contributor attains the Maturity Age; or

(B) where any employment which, on the Contributor's Exit Day, the Contributor is entitled to count as Service for the purposes of sub-clause 12.1 is, in total, for less than a period of 10 years, the expiration of the balance of that period of 10 years,

whichever is the later.

(h) For the purposes of sub-clause 13.16(g)(i):

UHn is the number of units of pension for which Contributions were payable by the Contributor on the Contributor's Exit Day in accordance with the tables of Contributions fixed by or under this Annexure, but excluding:

(i) any such units of pension which are excess units of pension referred to in sub-clause 6.1(a) and in respect of which no person has any rights under this Annexure; and

(ii) any such units of pension, being reserve units, for which Contributions were being made under sub-clause 11.7;

Cn is the amount of Contributions due for the last Contribution Period for which Contributions were payable by the Contributor before the Contributor's Exit Day, in respect of that number of units of pension;

Rn is the relevant amount under sub-clause 13.16(i) in relation to the Contributor for an additional unit of pension on the Contributor's Exit Day;

TCB is the total amount paid in respect of instalments payable by the Contributor on or before the Contributor's Exit Day for units of pension for which the Contributor contributed in accordance with clause 9 (but deducting from that amount any part allocated under this Annexure to the purchase of fully paid up units);

RB is the amount specified in sub-clause 9.1(a) as the cost of a unit of pension in relation to the Contributor; and

UC is the number of units (if any) purchased by the Contributor and credited to the Contributor as fully paid up units.

(i) For the purposes of sub-clause 13.16(h), the relevant amount in relation to a Contributor for an additional unit of pension on the Contributor's Exit Day is:

(i) where the Contributor has attained the Prescribed Age on or before that day, the amount which, if the Contributor were required under clause 8 to commence to contribute for an additional unit of pension on that day, would be the amount payable in accordance with the tables of Contributions fixed under sub-clause 8.3 for that unit for a Contribution Period; or

(ii) where the Contributor has not attained the Prescribed Age on or before that day, the amount equal to the sum of:

(A) the amount payable by the Contributor for any additional unit of pension for which the Contributor had been required to commence contributing on and from the Contributor's last Annual Adjustment Day for a Contribution Period or, as the case may be, the amount that would have been so payable if the Contributor had been so required; and

(B) for each day of the period commencing on the day following that Annual Adjustment Day and ending on the Contributor's Exit Day, the amount equal to 1/364th part of the difference between the amount referred to in sub-clause 13.16(i)(ii)(A) and the amount that that amount would have been if, on the Contributor's last Annual Review Day before the Contributor's Exit Day, the Contributor had been 1 year older than the age actually attained.

(j) For the purposes of sub-clause 13.16(g)(ii) the period of continuous Contributory Service by a Contributor on the Contributor's Exit Day is the period that commenced when the Contributor last became a Contributor and ended on that day, but excluding any part of that period during which the Contributor is treated by sub-clause 15.1 as being on leave of absence without pay.

(k) If the Trustee has made a determination under sub-clause 23.1 in respect of a Benefit payable under this sub-clause 13.16, the amount of the Benefit is reduced by the amount specified in the Trustee's determination.

(l) If a former Employee who:

(i) has been Retrenched; and

(ii) has received a retrenchment Benefit under this sub-clause 13.16,

subsequently enters the Service of the same or another Employer, the former Employee is not entitled to claim any further Benefit in respect of previous Service with an Employer unless the former Employee has complied with sub-clause 13.20.

13.17 Refund of contributions

(a) If a Contributor:

(i) is Retrenched from the Service of an Employer; or

(ii) Resigns or is Dismissed or Discharged from the Service of an Employer,

the Contributor is, subject to sub-clause 13.19, entitled to be paid a lump sum (without interest) equal to the Contributions (other than Contributions refundable under sub-clause 11.7(i)) paid by the Contributor under this Annexure, irrespective of the cause of the retrenchment, resignation, dismissal or discharge.

(b) Whenever a lump sum is paid under sub-clause 13.17(a), there shall, subject to sub-clause 13.17(c), be deducted from that sum any amount received by the Contributor as a pension before the Contributor's retrenchment, resignation, dismissal or discharge.

(c) A deduction under sub-clause 13.17(b) must not reduce the amount paid to a Contributor under this sub-clause 13.17 to an amount below the contributions paid by the Contributor since the Contributor last received any amount as pension.

(d) If a former Employee who:

(i) has been Retrenched, Dismissed or Discharged, or has Resigned; and

(ii) has received a Benefit under this sub-clause 13.17 or sub-clause 13.18,

subsequently enters the Service of the same or another Employer, the former Employee is not entitled to claim any further Benefit in respect of previous Service unless the former Employee has complied with sub-clause 13.20.

13.18 Withdrawal Benefit

(a) In this sub-clause 13.18:

Contributory Service, in relation to a Contributor who is Retrenched, Resigns or is Dismissed or Discharged from the Service of an Employer, is the next preceding period that:

(i) began:

(A) when the Contributor last became a Contributor; or

(B) if, since last becoming a Contributor, the Contributor had been held to be on leave of absence without pay as provided by sub-clause 15.1, when an Employer re-employed the Contributor after that leave of absence; and

(ii) ended when the Contributor's employment with the Employer ceased;

prescribed rate means:

(iii) in respect of any relevant period ending before 1 July 1972, 3.5% per year;

in respect of any relevant period beginning on or after 1 July 1972 – the rate as fixed by the Trustee from time to time, having regard to the earnings of the Fund or a fund that was a Former Fund and such other matters as the Trustee considers relevant; and

(iv) in respect of any relevant period beginning on or after the date of transfer of the Contributor the rates as fixed by the Trustee from time to time having regard to such matters as the Trustee considers relevant.

(b) If a Contributor who has not completed 5 years' Contributory Service is Retrenched, Resigns or is Dismissed or Discharged from the Service of an Employer, the Contributor is, subject to sub-clause 13.19, entitled to receive under this Annexure the amount that would have been payable if the Contributor had elected to take the Benefit of sub-clause 13.17.

(c) If a Contributor who has completed 5 years' but less than 10 years' Contributory Service is Retrenched, Resigns or is Dismissed or Discharged from the Service of an Employer, the Contributor is, subject to sub-clause 13.19, entitled to receive under this Annexure an amount equal to the sum of:

(i) the amount that would have been payable if the Contributor had elected to take the Benefit of sub-clause 13.17; and

(ii) interest:

(A) compounded on 30 June each year in respect of the period beginning with the day on which the Contributor first became liable to make contributions under this Annexure and ending with the day on which the Contributor ceased to be employed by that Employer; and

(B) calculated at the prescribed rate on the amount ascertained by applying the formula set out in sub-clause 13.18(e).

(d) If a Contributor who has 10 years' Contributory Service or more is Retrenched, Resigns or is Dismissed or Discharged from the Service of an Employer, the Contributor is, subject to sub-clause 13.19, entitled to receive under this Annexure an amount equal to the sum of:

(i) the amount that would have been payable if the Contributor had elected to take the Benefit of sub-clause 13.17; and

(ii) interest:

(A) compounded on 30 June each year in respect of the period beginning with the day on which the Contributor first became liable to make contributions under this Annexure and ending with the day on which the Contributor ceased to be employed by that Employer; and

(B) calculated at the prescribed rate on the amount ascertained by applying the formula set out in sub-clause 13.18(e); and

(iii) a further amount calculated in accordance with the following formula:

$$\frac{T \times P}{40}$$

where:

T represents the sum of the amounts referred to in sub-clauses 13.18(d)(i) and 13.18(d)(ii); and

P represents the period of the Contributor's Contributory Service, expressed in years with any fractional part of a year being calculated on a daily basis.

(e) For the purposes of sub-clauses 13.18(c)(ii) and 13.18(d)(ii), the formula is as follows:

$$\frac{A + B}{2}$$

where:

A represents the total amount of Contributions (excluding Contributions refundable under sub-clause 11.7(i)) that the Contributor had paid under this Annexure from the beginning of the Contributor's Contributory Service to the beginning of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated at 30 June immediately preceding that period; and

B represents the total amount of those Contributions from the beginning of the Contributor's Contributory Service to the end of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated at 30 June immediately preceding that period.

(f) Despite sub-clauses 13.18(b), 13.18(c) and 13.18(d), the maximum amount that a Contributor is entitled to receive from the Fund under this sub-clause is:

(i) in the case of a Contributor who has not attained the age of 55 years – the amount calculated by the Trustee, on the basis of actuarial advice, as the capitalised value of the pension that would have been payable to the Contributor had he or she been 55 years of age and elected to retire on pension, or

(ii) in the case of a Contributor who has attained the age of 55 years – the amount calculated by the Trustee as the capitalised value of the pension that would have been payable to the Contributor if the Contributor had elected to retire on pension at his or her current age.

(g) If the Trustee calculates that the maximum amount that a Contributor is entitled to receive from the Fund under sub-clause 13.18(f) is less than the amount the Contributor would receive under sub-clause 13.18 if the terms applying immediately prior to the amendments that took effect on 30 June 1999 are applied to calculate the benefit, then the Contributor is entitled to receive that greater amount.

The 'Prescribed Rate' as it stood immediately prior to that amendment, being as follows:

Prescribed rate

(i) in respect of any relevant period ending before 1 July 1972, 3.5% per year; and

(ii) in respect of any relevant period beginning on or after 1 July 1972 and ending before 1 July 1990, 4.5% per year; and

(iii) in respect of any relevant period beginning on or after 1 July 1990 and ending before the date of transfer of the Contributor, the rate as fixed by the SAS

Trustee Corporation under the *Superannuation Act 1916* (NSW) from time to time, having regard to the earnings or such other matters as the Trustee considers relevant; and

(iv) in respect of any relevant period beginning on or after the date of transfer of the Contributor, the rate as fixed by the Trustee from time to time having regard to such matters as the Trustee considers relevant.

'T' in sub-clause 13.18(d) as it stood immediately prior to that amendment, being as follows:

T represents the amount referred to in sub-clause 13.18(d)(i),together with such amount as would have been the amount of interest calculated for the purpose of sub-clause 13.18(d)(ii), if:

(i) for any relevant period beginning on or after 1 July 1972, the prescribed rate had been 4.5% per year; and

(ii) for any relevant period before that date the prescribed rate had been 3.5% per year; and

(h) If the Trustee has made a determination under sub-clause 23.1 in respect of a Benefit payable under this sub-clause 13.18, the amount of the Benefit is reduced by the amount specified in the Trustee's determination.

13.19 Contributor who is Retrenched, Resigns or is Dismissed or Discharged to be entitled to the greatest available Benefit

(a) A Contributor who is Retrenched from the Service of an Employer and who, at the date when the retrenchment takes effect, is not entitled to elect to retire on a pension under sub-clauses 13.1, 13.2, 13.3 or 13.4 may, at any time before the end of 3 months after that date, elect between taking:

(i) a lump sum Benefit payable under a provision of clauses 12 to 24 to any such Contributor who is Retrenched;

(ii) if such a provision also confers an entitlement to a pension, a pension; or

(iii) subject to sub-clause 13.19(g), the benefit of clause 16.

(b) A Contributor who Resigns or is Dismissed or Discharged from the Service of an Employer may, at any time before the end of 3 months after the date when the Resignation, Dismissal or Discharge takes effect, elect between taking:

(i) a lump sum Benefit payable under a provision of clauses 12 to 24 to a Contributor who has Resigned or is Dismissed or Discharged; or

(ii) subject to sub-clause 13.19(g), the benefit of clause 16.

(c) If a Contributor is Retrenched, Resigns or is Dismissed or Discharged from the Service of an Employer, the Employer must take all practicable steps to obtain from the Contributor an election under sub-clause 13.19(a) or 13.19(b) and, after obtaining such an election, must forward it immediately to the Trustee.

(d) If a Contributor who is entitled to make an election under sub-clause 13.19(a) or 13.19(b) to take a particular kind of Benefit does not make such an election before the end of the prescribed period, the Contributor shall be taken to have elected to take the kind of Benefit that the Trustee decides to be the most appropriate in the circumstances of the case.

(e) If a Contributor elects under this sub-clause 13.19 to take a particular kind of Benefit under sub-clause 13.19(a) and would, but for sub-clause 13.19(f), be entitled to a Benefit of that kind under 2 or more provisions of clauses 12 to 24, the Trustee must calculate which of the Benefits under those provisions would be the greater or greatest.

(f) A Contributor referred to in sub-clause 13.19(e) is entitled to receive only the greater or greatest of the Benefits calculated under that sub-clause.

(g) A Contributor who is Retrenched, Resigns or is Dismissed or Discharged from the Service of an Employer is not entitled to elect under sub-clause 13.19(a) or 13.19(b) to take the Benefit of clause 16 unless the Contributor has completed 3 years' continuous Contributory Service.

(h) For the purposes of sub-clause 13.19(g), a Contributor to whom that sub-clause applies shall be taken to have completed 3 years' Contributory Service when:

(i) a Contributor has, for a continuous period of 3 years or more immediately preceding the retrenchment, been employed in the Service of one or more Employers; and

(ii) during the period of 3 years immediately preceding the retrenchment, the Contributor has been a Contributor under this Annexure or has been a Contributor under this Annexure and a Contributor to the Public Authorities Superannuation Fund.

(i) For the purposes of sub-clause 13.19(g), the period of continuous Contributory Service by a Contributor at the Contributor's Exit Day is:

(i) subject to sub-clause 13.19(i)(ii), the period that commenced when the Contributor last became a Contributor under this Annexure and ended on that Exit Day; or

(ii) if immediately before becoming a Contributor to The State Superannuation Scheme the Contributor was a Contributor to the Public Authorities Superannuation Fund, the period that commenced when the Contributor last became a Contributor to the Public Authorities Superannuation Fund and ended on that Exit Day,

but excluding in either case any part of that period during which the Contributor is treated by sub-clause 15.1 as being on leave of absence without pay.

13.20 Break in Service may be cured on certain conditions

(a) In this sub-clause 13.20, a reference to the prescribed rate is a reference to the rate of interest for the time being fixed by the Trustee under sub-clause 24.5 for the purposes of this sub-clause 13.20.

(b) Where a person who ceases to be employed by an Employer (otherwise than by retirement or Retrenchment on pension under this Annexure) enters the Service of the same or a different Employer within the next succeeding period of three months and, within that same period of three months, would (but for sub-clause 1.4) be required to contribute under this Annexure, the person may, subject to sub-clause 13.20(h), elect to resume payment of Contributions as if the person had not ceased to be employed if the person elects within three months after the person would (but for sub-clause 1.4) be required to contribute under this Annexure to comply, and upon the election taking effect does comply, with this sub-clause 13.20.

(c) A person referred to in sub-clause 13.20(b) complies with this sub-clause 13.20 if:

(i) the person pays under this Annexure any lump sum received by the person, or authorises the retention under this Annexure of any lump sum payable to the person, under sub-clause 13.15, 13.16, 13.17 or sub-clause 13.18 in consequence of the cessation of the person's employment together with, where the person has received any such amount, interest thereon at the prescribed rate from the date the amount was paid to the person to the date of receipt in the office of the Trustee of the amount payable pursuant to this paragraph;

(ii) the person pays under this Annexure the amount referred to in sub-clause 13.20(d); and

(iii) the person resumes payment under this Annexure of the Contributions that would, had the person continued in the employment of the person's previous Employer,

have been payable by the person on and from the beginning of the four-weekly Contribution Period in which the person ceased to be employed.

(d) The amount required to be paid under sub-clause 13.20(c)(ii) by a person who makes an election under this sub-clause 13.20 is an amount equal to the sum of:

(i) all the Contributions that would have been payable:

(A) by the person from the day following the day to which the person's Contributions were paid before cessation of the person's former employment; and

(B) by the person's Employer from the beginning of the four-weekly Contribution Period in which the person ceased to be employed,

had the person continued in the employment of the person's former Employer, at the same Salary as that which the person was receiving immediately before cessation of the Contributions the person was required to make by reason of the person's former employment, until the beginning of the first Contribution Period in which the person's employment resumes; and

(ii) interest at the prescribed rate on the amount of each Contribution referred to in sub-clause 13.20(d) from the termination of the four-weekly Contribution Period in respect of which it is required to be paid to the date of receipt of the Contribution in the office of the Trustee.

(e) The Trustee may, in special circumstances and in a particular case:

(i) waive payment of interest under this sub-clause 13.20 or any part thereof; or

(ii) permit payment over an extended period of any amount required to be paid pursuant to sub-clause 13.20(c)(i) or 13.20(c)(ii).

(f) Where a person who makes an election under this sub-clause 13.20 was, immediately before cessation of the person's employment, contributing for reserve units of pension under sub-clause 11.7, the person may, when making an election under this sub-clause 13.20, make an election under section 15(6) of the *Superannuation Act 1916* (NSW) and, where the person so elects under that section, contributions in respect of the reserve units to which the election under that section relates shall not be taken into account when calculating any amount payable by that person under this sub-clause 13.20.

(g) Clauses 4 to 11 apply to and in respect of a person who makes an election under this sub-clause 13.20 and does not comply with this sub-clause 13.20, and so applies as if the person had not made the election.

(h) Sub-clause 3.1 does not apply to a person who makes an election under this sub-clause 13.19, unless the Trustee directs that that sub-clause shall apply to the person.

(i) A person who ceases to be an Employee and elects under this sub-clause 13.20 to take the benefit of clause 16 may not, upon entering the Service of an Employer within the next succeeding period of 3 months, make an election under this sub-clause 13.20 if, during that period, the person received any Benefit under that clause 16.

(j) Where a person who is deemed under sub-clause 13.20(k) not to have ceased to be an Employee had, upon ceasing to be an Employee, elected under sub-clause 13.19 to take the benefit of clause 16:

(i) the person shall be deemed not to have elected to take the benefit of clause 16; and

(ii) no person has any rights under this Annexure in relation to the employee-contributed pension component, or the employer-financed pension component, calculated in relation to the person.

(k) A person who makes an election under, and complies with, this sub-clause 13.20 shall, for the purposes of this Annexure, but subject to sub-clause 13.20(h), be deemed not to have ceased to be an Employee or a Contributor by reason of the cessation of employment that gave rise to the election.

13.21 Incapacity or absence of pensioner

(a) Subject to Relevant Law if because of a pensioner's incapacity from any cause or because a pensioner cannot be found the Trustee is of opinion that payment of a pension or other Benefit under this Annexure should be made to a person other than the pensioner or other beneficiary, and is satisfied that such payment will be used for the maintenance, care and support of the pensioner or beneficiary, or a person who is wholly or partly dependent on the pensioner or beneficiary, the Trustee may make payment of the pension or part thereof to such other person during the period of absence or incapacity.

(b) Any amount payable pursuant to sub-clause 13.21(a) shall be deducted from any pension or Benefit payable to the pensioner or beneficiary.

(c) Any payment made by the Trustee under the authority of this sub-clause 13.21 shall be as valid as if made by way of pension or Benefit to the pensioner or beneficiary, as the case may be.

13.22 Payments in respect of Children

(a) A pension payable under this Annexure in respect of a Child shall be paid to the Child's mother, if living, or, if she is not living, to the Child's father, if living.

(b) Notwithstanding anything elsewhere contained in this Annexure, any money payable under this Annexure in respect of a Child may, at the discretion of the Trustee, be paid to the Child's guardian or expended by the Trustee for the Benefit of the Child.

(c) Not more than one pension may be paid in respect of the one Child during any one period and where, but for this sub-clause 13.22(c), pensions would be payable, in respect of the Child, of the appropriate amount per fortnight under both sub-clause 22.2 and 22.3, the pension payable shall be that of the appropriate amount per fortnight under sub-clause 22.3.

13.23 Pensions in respect of students

(a) The provisions of this sub-clause 13.23 shall have effect notwithstanding anything contained elsewhere in this Annexure.

(b) In this sub-clause, ***student*** means a person who, though having attained the age of 18 years, is under the age of 25 years and is receiving full time education from a school, college or university approved by the Trustee.

(c) A pension under this sub-clause 13.23:

(i) shall be payable in respect of a student if a pension would be payable in respect of such student were the student under the age of 18 years; and

(ii) shall be payable to such persons as the Trustee determines a pension would have been payable were such student under the age of 18 years or shall be expended by the Trustee towards the support or education of such student.

(d) The amount of pension payable under this sub-clause 13.23 shall be:

(i) in the case of a student in respect of whom a pension would be payable under sub-clause 13.11 were the student under the age of 18 years, the appropriate amount per fortnight under sub-clause 22.3; or

(ii) in any other case, the appropriate amount per fortnight under sub-clause 22.2.

(e) A pension payable under this sub-clause 13.23 shall be paid until the student attains the age of 25 years or ceases to be a student or dies whichever first occurs.

(f) A pension shall not be paid to any person in respect of a student unless the Trustee is satisfied that such pension is being used for or towards, or such person contributes towards, the support or education of such student.

(g) For the purposes of this sub-clause 13.23 the Trustee may at any time require evidence of the age of the student, the education being received by the student, or the support or education of the student for or towards which the pension is being used, or being contributed to by any person to whom a pension under this sub-clause 13.23 is payable.

In default of the provision of such evidence or if in the opinion of the Trustee the evidence provided is not satisfactory, the Trustee may refuse to pay such pension.

13.24 Pensions payable for a life

(a) Except where otherwise specifically provided, a pension shall be payable during the life of the person entitled to it.

(b) Pensions in respect of Children shall be payable until they reach the age of 18 years or die under that age.

13.25 Pensions payable fortnightly

Pensions shall be payable by equal fortnightly instalments.

13.26 Reduction of Spouses' pensions

Except where otherwise specifically provided, in any case where in this Annexure provision is made for the pension of any person to be determined by the Trustee, any pension under this Annexure to the person's Spouse in respect of the Spouse's own life shall be two-thirds of the amount so determined, but not less than one unit.

13.27 Miscellaneous provisions as to Spouses' pensions

(a) In this sub-clause 13.27, ***Spouse's pension*** means a pension under sub-clause 13.6 or 13.7.

(b) Where, but for this sub-clause 13.27(b), a person would be entitled to more than one Spouse's pension, the person shall be entitled to only one of those pensions, being (where they are not equal) the greater or greatest of them.

(c) A reference in:

(i) sub-clause 13.6(a) to the pension that would have been payable to a male Contributor on his retirement;

(ii) sub-clause 13.6(b) to the pension that would have been payable to a woman Contributor on her retirement;

(iii) sub-clause 13.7(a) to the pension payable to a Spouse at the time of his death; or

(iv) sub-clause 13.7(b) to the pension payable to a Spouse at the time of her death,

does not include a reference to a Spouse's pension.

13.28 No pension for Spouse or Spouse's Children in certain circumstances

Pension shall not, upon the death of a pensioner, be payable to a person who is the Spouse of the deceased or in respect of any Children of the Spouse who are not Children of the pensioner unless:

(a) in the case of the Spouse of a pensioner receiving a pension under sub-clause 13.5, the person was the pensioner's Spouse:

(i) before becoming entitled to that pension; or

(ii) before the pensioner attained the Maturity Age and more than 3 years before the death of the pensioner; or

(b) in any other case, the person was the pensioner's Spouse before becoming entitled to a pension under this Annexure,

and unless the person remained the pensioner's Spouse until the date of death.

13.29 Employer subsidy not to be of greater Benefit if Service not continuous

(a) In this sub-clause 13.29 ***withdrawal Benefit*** means:

(i) a Benefit payable in accordance with sub-clause 13.18(c) or 13.18(d); or

(ii) any other Benefit payable to or in respect of a person on cessation of the person's employment otherwise than by reason of the person's death, where the Benefit is wholly or partly payable pursuant to or from a retirement scheme, fund or arrangement to or in respect of which an Employer or a public or local authority constituted by an Act makes, or is liable to make, a payment in respect of a person employed by the Employer or authority.

(b) Where a withdrawal Benefit is paid, or is or will become payable, to a person and he subsequently contributes under this Annexure without complying with sub-clause 13.20, any Benefit (other than a Benefit payable pursuant to sub-clause 13.17 or a Benefit referred to in sub-clause 13.29(a)(i)) payable in respect of that person shall be reduced in a manner determined by the Trustee having regard to the amount of any withdrawal Benefit previously paid to him.

14. REDUCED VALUE UNITS

14.1 Allocation of Reduced Value Units

(a) Where:

(i) a Contributor or a Contributor's Spouse is entitled to a pension under this Annexure consequent on the Contributor's ceasing to be a Contributor; or

(ii) a Contributor elects to take the Benefit of sub-clause 13.15,

and the Contributor has a number of Abandoned Units at the Contributor's Exit Day, the Trustee shall (whether or not the Contributor has died) allocate to the Contributor one (and one only) Reduced Value Unit in substitution for each of the number of Abandoned Units that the Contributor has at the Contributor's Exit Day.

(b) This sub-clause 14.1 does not apply to:

(i) a person who is entitled to a pension under sub-clause 13.4 or to a pension under clause 16; or

(ii) a person who is Retrenched from the Service of an Employer and who is to receive or is receiving a pension under sub-clause 13.16.

(c) The Reduced Value Units allocated to a Contributor under this sub-clause 14.1 shall be deemed to have been held by the Contributor at the Contributor's Exit Day.

(d) Where:

(i) a person referred to in sub-clause 14.1(a) has made an election to take up an Abandoned Unit under sub-clause 7.2 or 7.3;

(ii) the unit has not been held as a Contributory Unit for at least 2 years and 6 months; and

(iii) the Contributor's Exit Day is before the last day of the Contribution Period preceding that in which he would attain the Maturity Age,

the Trustee may treat the unit as not having been taken up as a Contributory Unit, and, if the Trustee does so, the Contributions paid under this Annexure by the Contributor concerned or the Contributor's Spouse in respect of the unit shall be refunded.

(e) For the purposes of this sub-clause 14.1, where an election is made under sub-clause 5.7 to abandon a unit of pension, the unit shall be deemed to be an Abandoned Unit that the Contributor concerned had at the Contributor's Exit Day.

(f) For the purposes of this sub-clause 14.1, where an election is made under sub-clause 12.8 in respect of one or more additional units of pension, the unit or units shall be deemed to have been held by the Contributor concerned at the Contributor's Exit Day.

(g) For the purposes of sub-clauses 13.15(d) and 14.2(c), a Contributor to whom Reduced Value Units are allocated under this sub-clause 14.1 shall, as at the Contributor's Exit Day, be deemed to have held at any time one (and one only) Reduced Value Unit for each of the number of Abandoned Units that the Contributor had at that time, but so that:

(i) the number of Reduced Value Units that the Contributor would, but for this paragraph, be so deemed to have held before that time does not exceed the number that the Contributor is so deemed to have held at that time; and

(ii) the number of Reduced Value Units that the Contributor would, but for this paragraph, be so deemed to have held at that time does not exceed the number that the Contributor is allocated at the Contributor's Exit Day.

(h) Where the number of Reduced Value Units to be allocated to a Contributor is smaller than the number of Abandoned Units that the Contributor has at the Contributor's Exit Day, the Trustee shall, for the purposes of sub-clause 14.1(d), have regard to such of those Abandoned Units as the Contributor has had the longest.

(i) This sub-clause 14.1 does not apply to a person to the extent to which the person or the person's Spouse satisfies the Trustee that the allocation of Reduced Value Units would prejudicially affect the person or the person's Spouse's interests.

14.2 Benefits payable in respect of Reduced Value Units

(a) Subject to this sub-clause 14.2, pensions arc payable in respect of Reduced Value Units as if they were Contributory Units.

(b) Notwithstanding anything in this Annexure or any Act, but subject to this sub-clause 14.2, the sum of $3.30 per fortnight shall, in respect of Reduced Value Units, be the unit of pension.

(c) Where a pension becomes payable under sub-clause 13.3 to a Contributor:

(i) the fortnightly pension, payable to the Contributor in respect of a Reduced Value Unit that is allocated to the Contributor and that the Contributor is deemed by sub-clause 14.1(g) to have held for not less than 2 years and 6 months, shall be the amount that bears to $3.30 the same proportion as the fortnightly pension that would be payable in respect of that unit had it been a Contributory Unit bears to $5.50; and

(ii) pension is not payable to the Contributor in respect of a Reduced Value Unit that is allocated to the Contributor and that the Contributor is deemed by sub-clause 14.1(g) to have held for less than 2 years and 6 months.

(d) Where a pension becomes payable under sub-clause 13.5 in respect of Contributory Units for which a Contributor has contributed, the fortnightly pension payable in respect of each of the Contributor's Reduced Value Units shall be the amount that bears to $3.30 the same proportion as the fortnightly pension payable in respect of each of those Contributory Units bears to $5.50.

(e) The pension payable in respect of Reduced Value Units is subject to automatic adjustment in accordance with clause 21.

(f) If the Trustee has made a determination under sub-clause 23.1 in relation to a pension payable in respect of Reduced Value Units, the amount of the pension is reduced by the amount specified in the Trustee's determination.

14.3 No Employee contributions payable

No Contributions under this Annexure are payable by a Contributor in respect of a Reduced Value Unit.

15. SPECIAL PROVISIONS RE BREAKDOWN PENSIONERS

15.1 Breakdown pensioner held to be on leave

Any pensioner who is in receipt of a breakdown pension, shall for the purposes of this Annexure be held to be on leave of absence without pay, but shall not be required to contribute in respect of the period of such leave. Notwithstanding the fact that the pensioner is held to be on leave of absence, the pensioner's office or position shall be held to be vacant, and may be filled by the appointment thereto of some other person.

15.2 Continuity of Service

The period of such leave without pay in the case of a breakdown pensioner shall not count as Service, but it shall not, except for the purposes of sub-clauses 13.4, 13.16, sub-clause 13.18 and 16.1, in the event of the pensioner's re-employment under any Employer, be held to constitute a break in the continuity of the pensioner's Service.

15.3 Employee retired through infirmity may be called up for medical examination

Any such pensioner shall submit to a medical examination by a medical practitioner nominated by the Trustee as and when required by the Trustee, and if the pensioner does not comply with that requirement, pension shall cease to be payable to the pensioner until the pensioner complies with the requirement.

15.4 Employee restored to health may be recalled to Service

(a) If, in the opinion of the Trustee, the health of any pensioner retired as aforesaid has become so restored as to enable the pensioner to perform duties which, having regard to the duties performed by the pensioner immediately prior to the pensioner's retirement, are in the opinion of the Trustee suitable to be performed by such pensioner, the Trustee may communicate with the Employer from whose Service the pensioner was retired, or any other Employer under this Annexure, and, if suitable employment be found for such pensioner, at a Salary not less than two-thirds of the Salary of a person who is employed in a position which is, in the opinion of the Trustee, a corresponding position to that in which the pensioner was employed immediately before the pensioner's retirement, or at such Salary as may be agreed upon between the pensioner and the pensioner's Employer, may cancel the pension; thereupon the pension shall cease to be payable.

(b) In the event of the subsequent retirement on grounds of invalidity or physical or mental incapacity to perform the person's duties or of the death of a person who has been recalled to the Service in accordance with sub-clauses 15.4(a):

(i) pension shall, where such retirement or death occurred five years or more after the recall of such person, be paid as provided in this Annexure but such pension shall not be less than the amount of pension at which the person was previously retired;

(ii) pension shall not, where such retirement or death occurred less than five years after the recall of such person, be paid in respect of the number of units of pension in excess of the number for which the person was contributing at the time when the person was previously retired but in such case pension shall not be less than the amount of pension at which the person was previously retired and a lump sum, equal to the contribution paid by the person in respect of the number of units of pension in excess of the number in respect of which pension is payable as aforesaid, shall be payable.

(c) Notwithstanding anything in this Annexure:

(i) where a person is retired under sub-clause 12.5 within five years of again becoming a Contributor following a previous retirement under section 22 of the *Superannuation Act 1916* (NSW) or under sub-clause 12.5, then, as on and from the date (being not earlier than the commencement date of subsection 51(3) of the *Superannuation Act 1916* (NSW)) on which pension thereafter

first becomes payable to the person, the rate at which it is payable shall be that at which it would have been payable to the person had the person continued in the person's last retirement (disregarding any retirement of that person to which sub-clause 15.4(b)(ii) applied) instead of again becoming a Contributor and had the provisions referred to in the definition of ***suspended part of a pension*** in sub-clause 21.1 did not apply; and

(ii) where a Contributor dies within five years of having again become a Contributor following a previous retirement under section 22 of the *Superannuation Act 1916* (NSW) or under sub-clause 12.5 of this Annexure, then, as on and from the date being not earlier than the commencement date of subsection 51(3) of the *Superannuation Act 1916* (NSW)) on which pension thereafter first becomes payable to the Contributor's Spouse, the rate at which it is payable shall be that at which it would have been payable to the Contributor's Spouse had the Contributor:

(A) where the Contributor has been retired under sub-clause 12.5 once only continued in that retirement instead of the Contributor's again becoming a Contributor; or

(B) where the Contributor has been so retired more than once continued in the Contributor's last retirement (disregarding any retirement of the Contributor's to which sub-clause 15.4(b)(ii) applied) instead of again becoming a Contributor,

and as if the provisions referred to in the definition of ***suspended part of a pension*** in sub-clause 21.1 did not apply.

16. DEFERRED BENEFITS

16.1 Calculation of deferred pension components

(a) Where a person who is Retrenched or Resigns or is Dismissed or Discharged from the Service of an Employer elects to take the benefit under this Annexure, there shall be calculated, as at the person's Exit Day, the employee-Contributed pension component, and the employer-financed pension component, in relation to the person.

(b) For the purposes of sub-clause 16.1(a), the employee-contributed pension component in relation to a person shall be calculated in accordance with the following formula:

P1 = 2.20 x EPU

where:

P1 is the employee-contributed pension component;

EPU is the sum of the following:

(i) UHn - Cn (except where Cn exceeds UHn);
Rn Rn

(ii) TCB;
RB

(iii) UC;

UHn is the number of units of pension for which Contributions were payable by the person on the person's Exit Day in accordance with the tables of Contributions fixed by or under this Annexure, but excluding:

(A) any such units of pension which are excess units of pension referred to in sub-clause 6.1(a) and in respect of which no person has any rights under this Annexure; and

(B) any such units of pension, being reserve units, for which Contributions were being made under sub-clause 11.7;

Cn is the amount of Contributions due for the last Contribution Period for which Contributions were payable by the person before the person's Exit Day, in respect of that number of units of pension;

Rn is the relevant amount under sub-clause 16.1(d) in relation to the person for an additional unit of pension on the person's Exit Day;

TCB is the total amount paid in respect of instalments payable by the person on or before the person's Exit Day for units of pension for which the person contributed in accordance with clause 9 (but deducting therefrom any part of that amount allocated under this Annexure to the purchase of fully paid up units);

RB is the amount specified in sub-clause 9.1(a) as the cost of a unit of pension in relation to the person;

UC is the number of units (if any) purchased by the person and credited to the person as fully paid up units.

(c) For the purposes of sub-clause 16.1(a), the Employer-financed pension component in relation to a person shall be calculated in accordance with the following formula:

$$P2 = 3.30 \times UE \times \frac{S}{S+T}$$

where:

P2 is the employer-financed pension component;

UE is the number of units of pension that, pursuant to sub-clause 11.1(a), is appropriate to the Salary payable to the person on the person's Exit Day plus, in a case to which sub-clause 6.1 applies, the number of any excess units of pension referred to in sub-clause 6.1(a) and in respect of which the Trustee considers, in accordance with sub-clause 6.1(e), that the retention of entitlement to Benefits under this Annexure is warranted;

S is the number of years (including any fractional part of a year calculated on a daily basis) of continuous Contributory Service by the person with any one or more Employers;

T is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the person's Exit Day precedes:

(i) the date on which the person attains the Maturity Age; or

(ii) where any employment which, on the person's Exit Day, the person is Entitled to count as Service for the purposes of sub-clause 12.1 is, in total, for less than a period of 10 years the expiration of the balance of that period of 10 years,

whichever is the later.

(d) For the purposes of sub-clause 16.1(b), the relevant amount in relation to a person for an additional unit of pension on the person's Exit Day is:

(i) where the person has attained the Prescribed Age on or before that day, the amount which, if the person were required under clause 8 to commence to contribute for an additional unit of pension on that day, would be the amount payable in accordance with the tables of Contributions fixed under sub-clause 8.3 for that unit for a Contribution Period; or

(ii) where the person has not attained the Prescribed Age on or before that day, the amount equal to the sum of:

(A) the amount payable by the person for any additional unit of pension for which the person had been required to commence contributing on and from the person's last Annual Adjustment Day for a Contribution Period or, as the case may be, the amount that would have been so payable if the person had been so required; and

(B) for each day of the period commencing on the day following that Annual Adjustment Day and ending on the person's Exit Day, the amount equal to 1/364th part of the difference between the amount referred to in sub-clause 16.1(d)(ii)(A) and the amount which that amount would have been if, on that Annual Adjustment Day, the person had been 1 year older than the age actually attained.

(e) For the purposes of sub-clause 16.1(c), the period of continuous Contributory Service by a person on the person's Exit Day is the period that commenced when the person last became a Contributor and ended on that day (but excluding any part of that period during which the person is treated by sub-clause 15.1 as being on leave of absence without pay).

(f) If the Trustee has made a determination under sub-clause 23.1 in respect of a pension payable under this Annexure, the amount of the pension is reduced by the amount specified in the Trustee's determination.

16.2 Adjustment of pension components

(a) Expressions used in this sub-clause 16.2 have the same meanings as they have in clause 21.

(b) Where:

(i) the employer-financed pension component in relation to a person is calculated under this clause 16 as at the person's Exit Day;

(ii) pensions are adjusted under clause 21by a percentage for a year commencing after the Exit Day; and

(iii) no Benefit became payable under this clause 16 during that year to, or by virtue of the death of, the person,

the component, as so calculated and as previously adjusted under this sub-clause 16.2, is, as from the adjustment date for that year, adjusted by that percentage.

(c) Where:

(i) the employer-financed pension component in relation to a person is calculated under this clause 16 as at the person's Exit Day;

(ii) pensions are adjusted under clause 21 by a percentage for a year commencing on or before the Exit Day and ending after the Exit Day; and

(iii) no Benefit became payable under this clause 16 during that year to, or by virtue of the death of, the person,

the component, as so calculated, is, as from the adjustment date for that year, adjusted by the percentage calculated in accordance with the following formula:

$$A = \frac{P \times Q}{4}$$

where:

A is the percentage by which the component is to be adjusted;

P is the percentage for the year by which pensions are adjusted;

Q is the number of whole quarters of the year, being the whole quarters after the Exit Day.

(d) Where:

(i) a pension under this clause 16, or a pension that is calculated by reference to a pension that is payable under this clause 16, has become payable to or in respect of a person referred to in sub-clause 16.1; and

(ii) pensions are adjusted under clause 21 by a percentage for a year beginning before and ending after the date on which that pension became so payable,

the pension, as from the adjustment date for that year, is, in addition to any adjustment of the pension under clause 21, adjusted by the amount calculated in accordance with the following formula:

$$A = \frac{C2 \times P \times Q}{4}$$

where:

A represents the amount of the pension as adjusted;

C2 represents:

(i) in the case of a pension payable under sub-clause 16.3 or sub-clause 16.5 to a person, the amount of the employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of this sub-clause 16.2 before the pension became payable; or

(ii) in the case of a pension payable under sub-clause 16.4 to a person, the amount obtained in relation to the person from the calculation, under that sub-clause 16.4, of the formula P2 (1 - 0.04 x TM); or

(iii) in the case of a pension payable under this clause 16 to the Spouse of a person referred to in sub-clause 16.1(a), an amount equal to two-thirds of the amount of the employer-financed pension component calculated in relation to that person and as adjusted by the operation (if any) of this sub-clause 16.2 before the pension became payable; or

(iv) in the case of a pension of a Spouse that is calculated by reference to a pension that was payable to a person under this clause 16, an amount equal to two-thirds of the amount referred to in sub-clauses 16.2(d)(i) or 16.2(d)(ii) as the case may be, in relation to that person;

P represents the percentage for the year by which pensions are adjusted;

Q represents the number derived by adding together the following:

(A) except when paragraph (B) applies – "1" (representing the quarter of the year during which the pension became payable);

(B) if the pension became payable on the first day of a quarter, "0";

(C) the smaller of:

(1) the number of whole quarters in that year that have occurred before the day on which the pension became payable; and

(2) the number of whole quarters that have occurred since the Exit Day of the person to or in respect of whom the pension is payable and before the day on which the pension became payable.

16.3 Pensions at retirement age

(a) A person referred to in sub-clause 16.1(a) who has not received any other Benefit under this clause 16 and who applies to the Trustee to receive a pension under this sub-clause 16.3 is entitled to receive that pension:

(i) on the person's attaining the Maturity Age;

(ii) where any employment which, on the person's ceasing to be a Contributor, the person was entitled to count as Service for the purposes of sub-clause 12.1 was, in total, for less than a period of 10 years, on the expiration of such time after the person ceased to be a Contributor as is equivalent to the balance of that period; or

(iii) on receipt by the Trustee of the application,

whichever is the latest.

(b) The pension which a person is entitled to receive under this sub-clause 16.3 is a pension of an amount per fortnight equivalent to the sum of:

(i) the Employee-contributed pension component calculated in relation to the person; and

(ii) the Employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of sub-clause 16.2.

(c) These rules apply to and in respect of a person who is entitled to a pension under this sub-clause 16.3 in the same way as it applies to and in respect of a Contributor who is entitled to a pension under sub-clause 13.1 and so applies as if the pension payable under this sub-clause 16.3 were a pension payable under that sub-clause 13.1.

(d) The pension provided by this sub-clause 16.3 is not payable under sub-clause 16.3(a) to a person who elected to provide for the Benefit under sub-clause 11.11 when the requirements of sub-clause 11.11(e)(iv) are satisfied.

16.4 Pensions at early retirement age

(a) A person referred to in sub-clause 16.1(a) who has not received any other Benefit under this clause 16 and who applies to the Trustee to receive a pension under this sub-clause 16.4 is entitled to receive that pension:

(i) on the person's attaining the age of 55 years;

(ii) on the expiration of the period of ten years after the person last became a Contributor; or

(iii) on receipt by the Trustee of the application,

whichever is the latest.

(b) The pension provided by this sub-clause 16.4 is not payable under this sub-clause 16.4(b) to a person who elected to provide for the benefit under sub-clause 11.11 unless the requirements of sub-clause 11.11(e)(iv) are satisfied.

(c) The pension which a person is entitled to receive under this sub-clause 16.4 is a pension of an amount per fortnight calculated in accordance with the following formula:

TP = P1 (1 - .07 x TM) + P2 (1 - .04 x TM)

where:

TP is the amount of the pension;

P1 is the Employee-contributed pension component calculated in relation to the person;

P2 is the Employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of sub-clause 16.2;

TM is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the day from which the pension commences to be payable precedes the date on which the person attains the age of 60 years.

(d) These rules apply to and in respect of a person who is entitled to a pension under this sub-clause 16.4 in the same way as it applies to and in respect of a Contributor who is entitled to a pension under sub-clause 13.3 and so applies as if the pension payable under this sub-clause 16.4 were a pension payable under that sub-clause 13.3.

16.5 Disability pension

(a) A person referred to in sub-clause 16.1(a) who has not received any other Benefit under this clause 16 and who applies to the Trustee to receive a pension under this sub-clause 16.5 is entitled to receive that pension:

(i) on receipt by the Trustee of the application; or

(ii) on the Trustee's being satisfied, after taking into account any medical opinion that it considers to be relevant, that the person is physically or mentally incapable of performing the duties of any employment that, in the opinion of the Trustee, it would be reasonable for the person to undertake,

whichever is the later.

(b) The pension which a person is entitled to receive under this sub-clause 16.5 is a pension of an amount per fortnight equivalent to the sum of:

(i) the employee-contributed pension component calculated in relation to the person; and

(ii) the employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of sub-clause 16.2.

(c) A person to whom this sub-clause 16.5 applies shall be granted payment of pension only for such period at a time as the Trustee determines and a fresh application shall, unless the Trustee from time to time otherwise determines, be necessary before any further payment is made.

(d) The period determined by the Trustee as referred to in sub-clause 16.5(c) for the payment of pension to a person:

(i) if the person has not attained the Maturity Age, shall be such period (not exceeding 5 years) as the Trustee thinks fit, having regard to the state of health of the person; and

(ii) if the person has attained the Maturity Age may be for the remainder of the person's life.

(e) A person receiving a pension under this sub-clause 16.5 shall submit to a medical examination as and when required by the Trustee and, if the person defaults in complying with any such requirement, pension shall cease to be payable to the person during the default.

(f) A pension payable under this sub-clause 16.5 shall cease to be payable to a person on the Trustee's ceasing to be satisfied as referred to in sub-clause 16.5(a)(ii) in relation to the person.

(g) Where a pension under this sub-clause 16.5 ceases to be payable to a person, the person shall, for the purposes of this clause 16, be deemed not to have received a Benefit under this clause 16.

(h) Except as provided by this sub-clause 16.5, this Annexure apply to and in respect of a person who is entitled to a pension under this sub-clause 16.5 in the same way as it applies to and in respect of a person entitled to a pension under sub-clause 13.5 and so applies as if the pension payable under this sub-clause 16.5 were a pension payable under that sub-clause.

16.6 Interim pension

(a) The Trustee may grant an interim pension to a person who has attained the age of 55 years and who, on application, would be entitled to a pension under sub-clause 16.4, pending the determination of an application under sub-clause 16.5.

(b) The pension which the Trustee may grant is a pension equal to the early retirement pension to which the person would be entitled on application under sub-clause 16.4.

(c) These rules apply to and in respect of a person granted a pension under this sub-clause 16.6 in the same way as it applies to a person entitled to a pension under sub-clause 13.3 and so applies as if a pension payable under this sub-clause 16.6 were a pension payable under that sub-clause 13.3.

(d) If an interim pension is granted, the amount of any pension payable to a person under sub-clause 16.5 is to be reduced by the amount of any interim pension paid.

(e) Despite sub-clause 16.5(a), the grant of an interim pension under this sub-clause 16.6 does not make a person ineligible for a pension under sub-clause 16.5 or affect any other right of a person granted a pension under that sub-clause 16.5.

(f) However, a person who commutes an interim pension before the determination of an application under sub-clause 16.5 is not entitled to a pension under sub-clause 16.5.

16.7 Pensions for Spouses

(a) Where a person referred to in sub-clause 16.1(a) who has not received a Benefit under this clause 16 dies, the Spouse of the person is entitled to receive a pension under this sub-clause 16.7 on receipt by the Trustee of an application by the Spouse for that pension.

(b) The pension which a Spouse of a person is entitled to receive under this sub-clause 16.7 is a pension at the rate of two-thirds of the pension that would have been payable to the person had the person been entitled to pension under sub-clause 16.5 immediately before dying.

(c) These rules apply to and in respect of a Spouse who is entitled to receive a pension under this sub-clause 16.7 in the same way as it applies to and in respect of a Spouse of a Contributor, being a Spouse to whom pension is payable under this Annexure, and so applies as if the pension payable under this sub-clause 16.7 were a pension payable under sub-clause 13.6 by virtue of the death of a Contributor.

16.8 Children's pensions at sub-clause 22.2 rates

(a) A pension of the appropriate amount per fortnight under sub-clause 22.2 is payable in respect of a Child on the death of a person referred to in sub-clause 16.1(a) (***the former Employee***) who has not received a Benefit under this clause 16 if the conditions set out in sub-clauses 16.8(b) and 16.8(c) are satisfied.

(b) The Child must be a Child of the former Employee or a Child of a surviving Spouse of the former Employee who is not eligible to receive a pension under sub-clause 16.9.

(c) If the Child is not a Child of the former Employee, the Child:

(i) must have been born or adopted before the death of the former Employee; and

(ii) must have been ordinarily part of the former Employee's household at the time of the death of the former Employee.

(d) A pension under this sub-clause 16.8 ceases to be payable in respect of a Child if the surviving parent dies, but continues to be payable even though the surviving parent marries or remarries.

(e) These rules apply to and in respect of a Child in respect of whom a pension is payable under this sub-clause 16.8 in the same way as it applies to and in respect of a Child in respect of whom a pension is payable under clause 13, and so applies as if the pension payable under this sub-clause 16.8 were a pension payable under clause 13 by virtue of the death of a Contributor.

16.9 Children's pensions

(a) A pension of the appropriate amount per fortnight under sub-clause 22.3 is payable in respect of a Child on the death of a person referred to in sub-clause 16.1(a) (***the former Employee***) who has not received a Benefit under this sub-clause 16.9 if the conditions set out in sub-clauses 16.9(b) to 16.9(d) are satisfied.

(b) The Child must be a Child of the former Employee or a Child of a Spouse of the former Employee.

(c) The other parent of the Child or the Spouse of the former Employee who was a parent of the Child:

(i) must have died before the former Employee's death; or

(ii) must have been divorced from the former Employee; or

(iii) must have been in a De Facto Relationship with the former Employee that ended before the former Employee's death.

(d) If the Child is not a Child of the former Employee:

(i) in a case where the Spouse who is the parent of the Child is divorced from or the former De Facto Spouse of the former Employee, the Child must have been born or adopted before the divorce or end of the De Facto Relationship; and

(ii) in any case, the Child must have been ordinarily part of the former Employee's household at the time of the death of the Spouse, divorce or end of the De Facto Relationship.

(e) Where a pension ceases to be payable under sub-clause 16.8 in respect of a Child because the surviving parent dies, a pension of the appropriate amount per fortnight under sub-clause 22.3 is payable in respect of the Child.

(f) These rules apply to and in respect of a Child in respect of whom a pension is payable under this sub-clause 16.9 in the same way as it applies to and in respect of a Child in respect of whom a pension is payable under clause 13, and so applies as if the pension payable under this sub-clause 16.9 were a pension payable under clause 13 by virtue of the death of a Contributor.

(g) In this sub-clause 16.9:

Spouse includes a person previously married to the former Employee or a former De Facto Spouse.

16.10 Students' pensions

(a) In this sub-clause 16.10, ***student*** has the same meaning as it has in sub-clause 13.23.

(b) Where a person referred to in sub-clause 16.1(a) who has not received a Benefit under this clause 16 dies, a pension under this sub-clause 16.10:

(i) is payable in respect of a student if a pension would be payable in respect of the student were the person a Contributor and the student under the age of 18 years, on receipt by the Trustee of an application for that pension; and

(ii) is payable to such persons as the Trustee determines a pension would have been payable were the student under the age of 18 years or shall be expended by the Trustee towards the support or education of the student.

(c) The amount of pension payable under this sub-clause 16.10 shall be:

(i) in the case of a student in respect of whom the pension referred to in sub-clause 16.10(b)(i) is a pension payable under sub-clause 13.12, the appropriate amount per fortnight under sub-clause 22.3; or

(ii) in any other case, the appropriate amount per fortnight under sub-clause 22.2.

(d) For the purposes of sub-clauses 13.23(a), 13.23(e), 13.23(f) and 13.23(g), a pension payable under this sub-clause 16.10 shall be deemed to be a pension payable under sub-clause 13.23.

(e) These rules apply to and in respect of a student in respect of whom a pension is payable under this sub-clause 16.10 in the same way as it applies to and in respect of a student in respect of whom a pension is payable under sub-clause 13.23, and so applies as if the pension payable under this sub-clause 16.10 were a pension payable under that sub-clause 13.23by virtue of the death of a Contributor.

16.11 Cash termination Benefit

(a) A person referred to in sub-clause 16.1(a) who has not received any other Benefit under this clause 16 may, at any time, apply to the Trustee for a cash termination Benefit under this sub-clause 16.11.

(b) On receipt by the Trustee of an application made by a person in accordance with sub-clause 16.11(a), there shall be payable to the person:

(i) if the person was Retrenched from the Service of an Employer the lump sum payment to which the person would have been entitled under sub-clause 13.19 in consequence of the Retrenchment if the person had elected under that sub-clause 13.19 to take a lump sum Benefit; or

(ii) if the person Resigned or was Dismissed or Discharged from the Service of an Employer the lump sum payment to which the person would have been entitled under sub-clause 13.18 in consequence of the Resignation, Dismissal or Discharge.

(c) The Trustee is to adjust the amount of a Benefit payable under this sub-clause 16.11, having regard to any adjustment of a Contributor's account under sub-clause 2.5.

(d) An application made in accordance with sub-clause 16.11(a) shall be deemed to be revoked if the person dies before payment of the cash termination Benefit applied for, leaving a Spouse to whom, but for the payment of that Benefit, a pension would, on application, be payable under this Annexure.

(e) Where a person referred to in sub-clause 16.1(a) dies without having received a Benefit under this clause 16 and without leaving a Spouse (or leaving a Spouse who dies without having received a Benefit under this clause 16), the person shall, unless the person leaves a Child or Children in respect of whom pension is payable under this Annexure or would, but for this sub-clause 16.11, be so payable, if application is made to the Trustee for a Benefit under this sub-clause 16.11, be deemed to have applied for a cash termination Benefit under sub-clause 16.11(a) immediately before the death, and the money payable under sub-clause 16.11(b) shall be paid by the Trustee to the person's legal personal representatives or, where the person has no legal personal representatives, to such persons as the Trustee may determine.

(f) Where a person referred to in sub-clause 16.1(a) dies without having received a Benefit under this clause 16 leaving a Child or Children in respect of whom pension is, on application, payable under this Annexure or would, but for this sub-clause 16.11, be so payable, the Trustee may, on receipt by it of an application for a Benefit under this sub-clause 16.11, or sub-clause 16.8 or 16.9:

(i) pay the cash termination Benefit under this sub-clause 16.11 as if the person had not died leaving the Child or Children, in which case a pension or pensions shall not be payable under this Annexure in respect of the Child or Children; or

(ii) pay a pension or pensions in respect of the Child or Children as if this sub-clause 16.11 did not apply,

whichever the Trustee considers to be in the best interests of the Child or Children.

16.12 Effect of Contributor becoming a Contributor to another scheme while employed by the same Employer

A Contributor (other than a Contributor who is eligible to become or who is a member under the Accumulation and Pension Section) who becomes a Contributor to another superannuation fund while employed by the same Employer:

(a) is required to make provision for a Benefit provided by this clause 16 (sub-clause 16.11 excepted) despite anything to the contrary in this clause 16;

(b) shall be regarded as having elected to make provision for that Benefit on becoming a Contributor to that other superannuation fund; and

(c) is not entitled to elect to take the Benefit provided by sub-clause 16.11 while employed by that same Employer.

17. DEFERRAL OF BENEFIT FOR CONTRIBUTORS IN CERTAIN CIRCUMSTANCES

17.1 Eligible Contributors

(a) This sub-clause applies to a Contributor:

(i) who, as a result of a single reduction of Salary, has undergone a reduction of 20% or more in Attributed Salary; and

(ii) whose Employer certifies the matter referred to in sub-clause 17.1(a)(i).

(b) The fact that a person undergoes more than one Salary reduction of 20% or more does not mean that the person ceases to be a person to whom this Annexure applies.

17.2 Exit Day

In this Annexure, ***Exit Day***, in relation to an Employee to whom this clause 17 applies, means the day immediately preceding the day of the reduction in Salary in relation to which the Employee makes an election under sub-clause 17.3.

17.3 Election to a Benefit

(a) A person to whom this clause 17 applies may elect:

(i) if the person would have been entitled to be paid a Benefit under sub-clause 12.1(a) or 12.1(b) had he or she ceased employment on his or her Exit Day to defer that Benefit (in this clause 17 termed a ***deferred Benefit***) in accordance with this clause 17; or

(ii) in any other case to defer a Benefit provided for by clause 16 which Benefit is to be dealt with in accordance with that clause 16.

(b) When a person has made a valid election under sub-clause 17.3(a)(ii), a Benefit is not payable to, or in respect of, that person:

(i) under any other provision of this Annexure; and

(ii) unless that person has ceased employment or has died.

(c) An Employee may make only one election under this sub-clause 17.3 but the election may relate to any single reduction in Salary of 20% or more (not just the first reduction that occurs).

17.4 Date of deferral of Benefit

A Benefit referred to in this clause 17 is deferred from the Exit Day.

17.5 Calculation of value of deferred Benefit

The initial value of a deferred Benefit is to be calculated:

(a) if the person is aged 55 years and over, in accordance with clause 13 as if the person had retired and may be adjusted or reduced in the same way as any other Benefit payable to a person on retirement; or

(b) if the person is aged less than 55 years, in accordance with clause 16.

17.6 Election to commute deferred Benefit

(a) A person who has made a valid election under sub-clause 17.3(a)(i) may elect to commute the whole or part of his or her pension Benefit in accordance with sub-clauses 12.2 and 12.3, except that:

(i) sub-clauses 12.2(e) and 12.2(f) and 12.3(d) do not apply with respect to such an election; and

(ii) the election must be made by the person within 3 months after his or her Exit Day.

(b) A person may not amend or withdraw an election to commute, in whole or in part, a deferred Benefit made under this clause 17.

17.7 Adjustment of deferred Benefit

(a) If a person is aged 55 years or over at the time of making an election pursuant to sub-clause 17.3, the deferred Benefit is to be adjusted:

(i) as to the pension component of the Benefit, in accordance with clause 21; and

(ii) as to the commuted component of the Benefit, in accordance with sub-clause 2.5.

(b) If a person is aged less than 55 years at the time of making an election pursuant to sub-clause 17.3, the deferred Benefit is to be adjusted;

(i) as to the pension component of the Benefit, in accordance with clause 16; and

(ii) as to the commuted component of the Benefit, in accordance with sub-clause 2.5.

17.8 When deferred Benefit is payable

A deferred Benefit is to be paid on the happening of any of the following:

(a) the person in respect of whom a Benefit is payable applying for payment of the Benefit following Resignation, Retirement or any other cessation of employment;

(b) the death of the person in respect of whom a Benefit is payable.

17.9 Payment of deferred Benefit

(a) A deferred Benefit is to be paid in accordance with this sub-clause 17.9.

(b) In a case other than death of the person to whom this clause 17 applies, payment is to be made to the person of the deferred pension, if any, and the deferred commuted component, if any, adjusted in accordance with this clause 17.

(c) If the person to whom this clause 17 applies dies and is survived by a Spouse, payment is to be made to the Spouse of:

(i) a fortnightly pension at the rate of two-thirds of the pension, as adjusted, which would have been payable to the person, on the day immediately preceding the day of the person's death, if no election to commute any part of the person's Benefit had been made; and

(ii) where applicable, the deferred commuted component, as adjusted, which would have been payable to the person had the person retired on the day immediately preceding the day of the person's death; and

(iii) amounts in accordance with this Annexure in respect of any eligible Children.

(d) If the person to whom this clause 17 applies dies and is not survived by a Spouse, payment is to be made:

(i) to the estate of the deceased of:

(A) where applicable, the deferred commuted amount, as adjusted; or

(B) an amount calculated in accordance with sub-clause 13.18 which would have been payable to the person on the day immediately preceding the day of the person's death,

whichever is the greater; and

(ii) of amounts in accordance with this Annexure in respect of any eligible Children.

17.10 The Trustee to apportion Benefit

When a Benefit is deferred in accordance with this clause 17, sub-clause 13.14 applies.

17.11 Break in Service

When a Benefit is deferred in accordance with this clause 17, sub-clause 13.20 does not apply.

18. AGE TERMINATION BENEFITS

18.1 Benefit on attaining compulsory payment age

(a) An Employee may elect at any time on or after attaining 65 years to be paid any pension to which the Employee is entitled at the time but:

(i) may elect under sub-clause 12.2 to commute to a lump sum all or part of the pension; and

(ii) subject to sub-clause 18.2(b), if such an election is made, may also elect to preserve the whole of the lump sum under this Annexure, even though the Employee is not retired.

(b) The Trustee is to adjust the amount of a Benefit payable under this sub-clause 18.1, having regard to any adjustment of a Contributor's account under sub-clause 2.5.

(c) A person entitled or who has elected to be paid to a Benefit under this sub-clause 18.1 is not entitled to any other Benefit under this Annexure.

18.2 Compulsory payment of deferred or other Benefit

(a) This sub-clause 18.2 applies to a person who is entitled to, but has not been paid, a Benefit under clause 16, clause 17 or this clause 18.

(b) The Trustee is, as soon as practicable, to pay the Benefit to which a person to whom this sub-clause 18.2 applies is entitled if:

(i) the person is at least 65 years of age and has requested the Trustee to pay the Benefit; or

(ii) the Trustee is satisfied that the person has retired from the work force and has at least reached the preservation age.

19. PRESERVATION OF BENEFITS

19.1 Compulsory preservation of benefits on or after 1 July 1999

(a) The Trustee must, when a pension or lump sum becomes payable under this Annexure (including a benefit provided under clause 16 or 17) preserve all or so much of the pension or lump sum as is required to be preserved so as to be consistent with Relevant Law.

(b) For the purpose of preserving a Benefit under this sub-clause, the Trustee must convert to a lump sum so much of a pension as is required to be preserved. The remainder of the pension is to be dealt with as otherwise required or permitted by or under this Annexure.

(c) The amount of the Benefit to be preserved in respect of a Contributor or former Contributor for the purpose of this sub-clause 19.1 is as determined by the Trustee, after obtaining actuarial advice.

(d) The amount of a benefit that must be preserved for the purposes of sub-clause 19.1(a) is to be preserved in the Fund and is to be adjusted, having regard to any adjustment of the appropriate reserve under sub-clause 2.5 or is to be preserved under sub-clause 19.3.

19.2 Payment of compulsorily preserved Benefit

(a) The whole or part of a benefit preserved under sub-clause 19.1 is payable by the Trustee in the circumstances in which a Benefit is payable under Relevant Law.

(b) The whole or part of a benefit preserved under sub-clause 19.1 must be paid by the Trustee, if it is required to be paid under Relevant Law.

(c) The benefit is payable:

(i) unless the former Contributor has died—to the former Contributor, or

(ii) if the former Contributor has died, in accordance with sub-clause 2.3 of the Defined Benefit Section Rules.

19.3 Preserved Benefits

(a) Any amounts preserved by the Trustee under sub-clause 19.1 may be preserved in such funds, accounts or reserves as the Trustee determines, administered by the Trustee.

(b) Any such preserved amounts payable by the Trustee under sub-clause 19.2 are to be paid from the appropriate fund, account or reserve referred to in this sub-clause.

20. RIGHTS UNDER VARIOUS ACTS

20.1 Insurance policies may be continued or discontinued at option of Contributor

It shall not be necessary for any Contributor under this Annexure to insure the Contributor's life, or to continue in force any policy of insurance on the Contributor's life already taken out at the date of transfer of the transferred member.

20.2 Surrender of policies

(a) Any Employee whose life is insured at the date of transfer of the transferred member, may surrender the Employee's policy of insurance or may transfer such policy (if unencumbered) to the Trustee or to a person approved by the Trustee and request the Trustee to continue the payment of the premiums under the said policy. The Trustee shall thereupon cause such premiums to be duly paid, and on the maturity of the policy shall hand over to the Employee or to the Employee's legal personal representatives to be administered as part of the Employee's estate any sums received on the policy, less the amount of the premiums, with compound interest thereon at the prescribed rate from the respective dates of payment.

However, the Trustee or the person approved by the Trustee pursuant to this sub-clause 20.2 may at any time prior to the maturity of any policy transferred to the Trustee or such person, upon repayment of all moneys paid by the Trustee for

premiums thereunder with compound interest thereon at the prescribed rate from the respective dates of payment, release such policy to the Employee.

(b) In this sub-clause 20.2, a reference to the ***prescribed rate*** is a reference to the rate of interest for the time being fixed by the Trustee under sub-clause 24.5 for the purposes of this sub-clause 20.2.

(c) The right of an Employee under sub-clause 20.2(a):

(i) to pay the Trustee the surrender value of an insurance policy; or

(ii) to transfer an insurance policy to the Trustee,

ceased on 21 April 1983.

20.3 Surrender of policies generally

(a) Any Employee or pensioner whose life, or the life of whose Spouse, is insured under a policy of assurance which has been in force for not less than five years and which is at the time of transfer an endowment policy unencumbered and upon which all premiums due have been paid may request the Trustee to accept a transfer of such policy in accordance with the provisions of this sub-clause 20.3.

(b) The Trustee may, in such cases as it deems proper and subject to such conditions as it may determine, accept a transfer of any such policy.

(c) Upon such acceptance by the Trustee:

(i) the Employee or pensioner or Spouse of the Employee or pensioner, as the case may be shall assign the Benefit of such policy to the Trustee;

(ii) the Trustee shall cause all premiums under such policy to be duly paid under this Annexure.

(d) Where, before the maturity of any such policy, the person who assigned the policy to the Trustee requests the Trustee in writing in the form prescribed to release the same to the person and pays to the Trustee the amount of the premiums paid by it with compound interest thereon at the prescribed rate from the respective dates of payment, the Trustee shall release such policy to such person.

(e) On the maturity of such policy (such policy not having been released pursuant to the provisions of sub-clause 20.3(d)) the Trustee shall hand over to the person entitled thereto all moneys received under such policy less the amount of the premiums paid by it with compound interest thereon at the prescribed rate from the respective dates of payment.

(f) In this sub-clause 20.3, a reference to the prescribed rate is a reference to the rate of interest for the time being fixed by the Trustee under sub-clause 24.5 for the purposes of this sub-clause 20.3.

(g) The right of an Employee or pensioner under sub-clause 20.3(a) to request the Trustee to accept a transfer of a policy of assurance ceased on 21 April 1983.

21. AUTOMATIC ADJUSTMENT OF PENSIONS

21.1 Definitions

(a) In this clause 21, except in so far as the context or subject-matter otherwise indicates or requires:

adjustment date, in relation to a year, means the first day of the pension pay period that ends on the first pension pay day in the October that next follows that year;

adjustment percentage, in relation to a year, means (subject to sub-clause 21.2(b)) the percentage for that year, calculated in accordance with sub-clause 21.2;

Index number, in relation to a June quarter, means the number for that June quarter appearing in the Consumer Price Index (All Groups Index) for Sydney published by the Australian Statistician under the *Census and Statistics Act 1905–1966* (Cth) or that Act as amended from time to time or any Act of that Parliament passed in substitution therefor;

June quarter, in relation to a year, means the period commencing on and including 1st April in that year and ending on and including 30th June in that year;

pension

(i) subject to sub-clause 21.1(a)(ii) means:

(A) pension payable under this Annexure; and

(B) pension wholly paid or recouped from the Consolidated Revenue Fund or the funds of an Employer; and

(ii) does not include:

(A) pension that has been commuted under sub-clause 12.2; or

(B) pension payable in respect of a Child or a student;

quarter, in relation to a year, means:

(i) the period commencing on and including 1st July in that year and ending on and including 30th September in that year;

(ii) the period commencing on and including 1st October in that year and ending on and including 31st December in that year;

(iii) the period commencing on and including 1st January in that year and ending on and including 31st March in that year; or

(iv) the period commencing on and including 1st April in that year and ending on and including 30th June in that year;

suspended part of a pension, in relation to an adjustment date, means, where any part of an increase in pension was not payable at that adjustment date by reason only of the operation of section 33A of the *Superannuation Act 1916* (NSW), the unpaid part of

that increase or, where any part of a pension was not payable at that adjustment date by reason only of the operation of section 31B of the *Superannuation Act 1916* (NSW) the unpaid part of that pension;

suspended pension, in relation to an adjustment date, means:

(i) a pension that was not payable under sub-clause 13.5 or 13.6 at that adjustment date by reason only of the marriage of a person; or

(ii) a pension that was not payable at that adjustment date by reason only of the operation of sub-clause 15.3;

year means a period commencing on and including 1st July and ending on and including the next following 30th June.

(b) Where a pension is to be adjusted under this clause 21 by reference to the adjustment percentage for a year, a reference (however expressed) in this clause 21 to adjusting the pension is a reference to:

(i) where the adjustment percentage is calculated in accordance with the formula set out in sub-clause 21.2(a)(i) increasing the pension; or

(ii) where the adjustment percentage is calculated in accordance with the formula set out in sub-clause 21.2(a)(ii) reducing the pension.

21.2 Calculation of adjustment percentage

(a) For the purposes of the definition of ***adjustment percentage*** in sub-clause 21.1, the percentage for a year shall be calculated:

(i) if the Index number for the June quarter in that year is greater than the Index number for the immediately preceding June quarter in accordance with the following formula:

$$P = \frac{100\ (C - L)}{L}$$

(ii) if the Index number for the June quarter in that year is less than the Index number for the immediately preceding June quarter in accordance with the following formula:

$$P = \frac{100\ (L - C)}{L}$$

where:

P is the percentage to be obtained;

C is the Index number for the June quarter in that year; and

L is the Index number for the immediately preceding June quarter.

(b) Where:

(i) the percentage calculated for a year in accordance with this sub-clause 21.2 is less than 1.0%; or

(ii) the Index number for the June quarter in that year is the same as the Index number for the immediately preceding June quarter,

there shall be deemed to be no adjustment percentage for that year.

(c) Where there is deemed to be no adjustment percentage for a year, then, for the purposes of calculating the percentage for the next year:

(i) the Index number for the June quarter in the firstmentioned year shall be deemed not to have been published; and

(ii) the Index number for that quarter shall be deemed to be the same as the Index number for the June quarter in the last year for which there was an adjustment percentage.

(d) If at any time, the Australian Statistician has published in respect of a particular June quarter an Index number in substitution for an Index number previously published in respect of that quarter, the publication of the later Index number shall be disregarded unless the Trustee otherwise determines for the purposes of this clause 21.

(e) Notwithstanding sub-clause 21.2(d), if the Australian Statistician changes the reference base for the Consumer Price Index (All Groups Index) for Sydney, then, for the purposes of the application of this clause 21 after the change takes place, regard shall be had only to Index numbers published in terms of the new reference base.

21.3 Adjustment of pensions: general cases

(a) Subject to this clause 21, where there is an adjustment percentage for a year (in this sub-clause 21.3 referred to as ***the particular year***), the pension payable on the adjustment date for that year to a person to whom this sub-clause 21.3 applies is hereby adjusted, on and from that adjustment date, by that percentage.

(b) This sub-clause 21.3 applies to:

(i) a person who last became a pensioner on or before 1st July in the particular year;

(ii) a person who is the Spouse of a pensioner, where that pensioner last became a pensioner on or before 1st July in the particular year and died before the adjustment date for that year; and

(iii) a person who is the Spouse of a Contributor, being a Contributor who died, on or after 1st July in the particular year but before the adjustment date for that year, within five years of having again become a Contributor following a retirement under sub-clause 12.5 on or before 1st July in that year.

(c) A reference in sub-clause 21.3(a) to a pension payable to a person includes a reference to the pension that would have been payable to the person as if the provisions referred to in the definition of ***suspended part of a pension*** in sub-clause 21.1 did not apply.

21.4 Adjustment of pensions: partial adjustment

(a) Subject to this clause 21, where there is an adjustment percentage for a year (in this sub-clause 21.4 referred to as ***the particular year***), the pension payable on the adjustment date for that year to a person to whom this sub-clause 21.4 applies is hereby adjusted, on and from that adjustment date, by the percentage calculated in accordance with the formula set out in sub-clause 21.4(c).

(b) This sub-clause 21.4 applies to:

(i) a person who last became a pensioner after 1st July in the particular year but on or before 1st April in that year, other than a person referred to in paragraph (iii);

(ii) a person who is the Spouse of a pensioner, where that pensioner last became a pensioner after 1st July in the particular year but on or before 1st April in that year and died before the adjustment date for that year; and

(iii) a person who is the Spouse of a Contributor, being a Contributor who died, after 1st July in the particular year but before the adjustment date for that year, within five years of having again become a Contributor following a retirement under sub-clause 12.5 after 1st July in that year but on or before 1st April in that year,

but does not apply to a person to whom sub-clause 21.3 applies.

(c) The formula referred to in sub-clause 21.4(a) is:

$$A = \frac{P \times O}{4}$$

where:

A is the percentage by which the pension is to be adjusted;

P is the adjustment percentage for the particular year; and

Q is the number of whole quarters of the particular year, being the whole quarters after, and (if applicable) the whole quarter on the first day of which:

(i) in the case of a person referred to in sub-clause 21.4(b)(i) the person last became a pensioner;

(ii) in the case of a person referred to in sub-clause 21.4(b)(ii) the person's late pensioner Spouse last became a pensioner; or

(iii) in the case of a person referred to in sub-clause 21.4(b)(iii):

(A) where the person's late Spouse had been retired under sub-clause 12.5 once only, the person's late Spouse was so retired; or

(B) where the person's late Spouse had been so retired more than once, the person's late Spouse was last so retired,

disregarding any retirement of the person's late Spouse to which sub-clause 15.4(b)(ii) applied.

21.5 Application of sub-clauses 21.3 and 21.4 to breakdown pensions and suspended pensions

(a) In determining when a pensioner last became a pensioner for the purposes of sub-clause 21.3 or 21.4, regard shall not be had to any retirement to which sub-clause 15.4(b)(ii) applied.

(b) Sub-clause 21.3 or 21.4, as the case may require, applies to and in respect of a suspended pension in the same way as it applies to and in respect of a pension referred to therein, and so applies as if:

(i) the marriage by reason of which the pension is a suspended pension had not taken place; or

(ii) sub-clause 15.3 did not exist,

as the case may require, but nothing in this sub-clause 21.5(b) operates so as to authorise or require the payment at any time of that suspended pension or any part thereof.

21.6 Minimum amount to which pensions may be reduced

Notwithstanding anything in this clause 21:

(a) a pension (other than a pension payable to a person by virtue of the person being a Spouse of a pensioner) shall not be reduced below the fortnightly amount that would, if this clause 21 had not been enacted, have been payable; and

(b) a pension payable to a person by virtue of the person being a Spouse of a pensioner shall not be reduced below the fortnightly amount that would have been payable to the person by reference to the pension that would, if this clause 21 had not been enacted, have been payable to the pensioner.

21.7 Calculation of percentages

Where a percentage that is to be calculated under this clause 21 is or includes a fraction of one-tenth of 1%:

(a) if that fraction is less than one-half of one-tenth, that fraction shall be disregarded; and

(b) if that fraction is not less than one-half of one-tenth, that fraction shall be treated as one-tenth.

22. AUTOMATIC ADJUSTMENT OF CHILDREN'S PENSIONS

22.1 Definitions

In this clause 22, except in so far as the context or subject-matter otherwise indicates or requires, ***adjustment date***, ***adjustment percentage*** and ***year*** have the meanings respectively ascribed to those expressions by sub-clause 21.1.

22.2 Children's pensions

(a) For the purposes of sub-clause 13.11 and sub-clause 13.23(d)(ii), the appropriate amount of pension in respect of a Child or student is, subject to this sub-clause 22.2, $4 per week.

(b) Subject to this clause 22, the appropriate amount of pension under this sub-clause 22.2 is, as from the commencement of Schedule 8(2) to the *Superannuation (Amendment) Act 1985* (NSW), increased to $41.20 per fortnight.

(c) Subject to this clause 22, where pensions are increased or decreased under clause 21 by a percentage for any year, the appropriate amount of pension, as previously adjusted, under this sub-clause 22.2 is, as from the adjustment date for that year, increased or decreased, as the case may be, by that percentage.

(d) If the Trustee has made a determination under sub-clause 23.1 in respect of a pension under this sub-clause 22.2, the amount of the pension is reduced by the amount specified in the Trustee's determination.

22.3 Orphans' pensions

(a) For the purposes of sub-clause 13.12 and sub-clause 13.23(d)(i), the appropriate amount of pension in respect of a child or student is, subject to this sub-clause 22.3, $10 per week.

(b) Subject to this clause 22, the appropriate amount of pension under this sub-clause 22.3 is, as from the commencement of Schedule 8(2) to the *Superannuation (Amendment) Act 1985* (NSW), increased to $97.85 per fortnight.

(c) Subject to this clause 22, where pensions are increased or decreased under clause 21 by a percentage for any year, the appropriate amount of pension, as previously adjusted, under this sub-clause 22.3 is, as from the adjustment date for that year, increased or decreased, as the case may be, by that percentage.

(d) If the Trustee has made a determination under sub-clause 23.1 in respect of a pension under this sub-clause 22.3, the amount of the pension is reduced by the amount specified in the Trustee's determination.

22.4 Minimum amounts to which pensions may be reduced

Notwithstanding anything in this clause 22, the appropriate amount of pension under:

(a) sub-clause 22.2 shall not be reduced below $4 per week; or

(b) sub-clause 22.3 shall not be reduced below $10 per week.

22.5 Operation of Part

An increase or decrease of the appropriate amount under sub-clause 22.2 or 22.3 operates in relation to pensions being paid as at the date of the increase or decrease, as well as to pensions that become payable thereafter.

23. CIRCUMSTANCES IN WHICH BENEFITS MAY BE REDUCED

23.1 Power of the Trustee to reduce pensions and other Benefits to offset certain Tax liabilities

(a) Whenever:

(i) a right to a Benefit under this Annexure accrues to or in respect of a Contributor or former Contributor; and

(ii) the Trustee has paid or is liable to pay Tax in respect of Employers' contributions under this Annexure; and

(iii) a portion of that Tax is referable to the Employer-financed portion of that Benefit,

the Trustee must, subject to sub-clause 23.1(b):

(iv) calculate the amount necessary to offset the Trustee's liability to pay Tax so far as it is referable to the Employer-financed portion of that Benefit; and

(v) accordingly make a determination reducing the Benefit by the amount so assessed.

(b) Sub-clause 23.1(a) does not authorise the reduction of a Benefit under this Annexure, unless:

(i) the Benefit is of a kind to which sub-clause 23.3 applies; and

(ii) the method of calculating the reduction is set out in sub-clause 23.3; and

(iii) the reduction is calculated according to that method.

23.2 Power of the Trustee to adjust Benefits to comply with certain Commonwealth standards relating to occupational superannuation

(a) If:

(i) a Contributor or former Contributor becomes entitled to receive a pension under this Annexure, other than a pension under sub-clause 13.5; and

(ii) payment of the pension to the Contributor or former Contributor would, but for this sub-clause 23.2(a), not comply with Relevant Law,

the Contributor or former Contributor may, by notice in writing given to the Trustee before the pension starts to be paid, elect to receive the pension:

(iii) in a form that complies with Relevant Law; or

(iv) in a form that is in accordance with this Annexure (apart from this sub-clause 23.2).

(b) Even after such a pension has started to be paid in a form that does not comply with Relevant Law, the Contributor or former Contributor concerned is, by notice in writing given to the Trustee at any time before the Trustee is required to take the action referred

to in sub-clause 23.3(a), entitled to make an election or a further election to receive payment of the pension in a form that complies with Relevant Law.

(c) An election made and notified to the Trustee in accordance with this sub-clause 23.2 is sufficient authority for the Trustee to pay a pension in accordance with the election of the Contributor or former Contributor concerned.

(d) An election under this sub-clause 23.2 to receive a pension in a form that complies with Relevant Law is irrevocable.

(e) A Contributor or former Contributor who does not notify the Trustee of the election of the Contributor or former Contributor under this sub-clause 23.2 before the pension concerned starts to be paid is, subject to sub-clause 23.2(c), to be regarded as having elected to receive payment of that pension in the form provided by this Annexure (apart from this sub-clause).

(f) If a Contributor or former Contributor makes an election under this sub-clause 23.2 to receive a pension in a form that complies with Relevant Law, the Trustee must ensure that the pension is varied only to the extent necessary to comply with Relevant Law.

(g) An election under this sub-clause 23.2 to receive a pension in a form that complies with Relevant Law is binding not only on the Contributor or former Contributor who made the election but also on any person claiming a Benefit under this Annexure through that Contributor or former Contributor.

(h) If an election is made under this sub-clause 23.2 to receive a pension in a form that complies with Relevant Law, the pension is payable in that form despite any other provision of this Annexure to the contrary.

(i) In this sub-clause 23.2 a reference to a Benefit or pension is a reference to the Benefit or pension after reducing it in accordance with sub-clause 23.1 where appropriate.

23.3 Reduction of Benefit

(a) This sub-clause 23.3 applies to the Benefits provided under the following provisions:

(i) sub-clause 13.1 (Amount of pension payable on retirement);

(ii) sub-clause 13.3 (Pension on retirement before reaching 60 years of age);

(iii) sub-clause 13.4 (Pension on retirement before age 60 - component pension);

(iv) sub-clause 13.5 (Breakdown pensions);

(v) sub-clause 13.6 (Pensions to Spouse on death of Contributor);

(vi) sub-clause 13.15 (Retrenchment Benefits payable to an Employee who is Retrenched after completing 10 years' Service);

(vii) sub-clause 13.16 (Retrenchment Benefits payable to Contributors having not less than 3 years' contributing Service);

(viii) sub-clause 13.18 (Withdrawal Benefit);

(ix) sub-clause 14.2 (Benefits payable in respect of Reduced Value Units);

(x) clause 16 (Deferred Benefits).

(b) For the purposes of sub-clause 23.1, the reduction in a Benefit to which this sub-clause 23.3 applies (other than a Benefit under sub-clause 13.18 or sub-clause 14.2) is the amount calculated in accordance with the following formula:

$$R = \frac{M \times A \times Q}{B}$$

(c) For the purposes of sub-clause 23.1, the reduction in a Benefit under sub-clause 13.18 (other than a Benefit arising as a result of the death of a person) is the amount calculated in accordance with the following formula:

$$R = A \times Q$$

(d) For the purposes of sub-clause 23.1, the reduction in a Benefit under sub-clause 14.2 is the amount calculated in accordance with the following formula:

$$R = T \times Q$$

(e) In this sub-clause 23.3:

R represents the amount of the reduction;

M is calculated in accordance with sub-clause 23.3(f) and represents the amount of the pension or lump sum being reduced;

A represents the portion of the Benefit payable from the appropriate Employer's reserve in accordance with sub-clause 13.14(b)(ii);

B represents the relevant amount in respect of the Benefit determined in accordance with sub-clause 13.14(c);

Q represents the sum of such number of terms as is determined in accordance with the formula prescribed by sub-clause 23.3(g) to reflect the number of times the rate of Tax has changed;

T represents the total amount of Benefit derived under sub-clause 14.2.

(f) In sub-clause 23.3(e), the symbol "M" represents:

(i) in the case of a Benefit arising under sub-clause 13.1, 13.3, 13.4 or 13.5 the Benefit that would be payable under that sub-clause, but for sub-clause 23.1 and this sub-clause 23.3; or

(ii) in the case of a Benefit arising under sub-clause 13.6 in respect of a Contributor who dies before reaching the age of 60 in the case of a man, or the Maturity Age in the case of a woman, two-thirds of the pension that, but for sub-clause 23.1 and this sub-clause 23.3, would have been payable to the Contributor under sub-clause 13.5 if the Contributor had been retired immediately before death; or

(iii) in the case of a Benefit arising under sub-clause 13.6 in respect of a Contributor who dies on or after reaching the age of 60 in the case of a man, or the Maturity Age in the case of a woman, two-thirds of the pension that, but for sub-clause 23.1 and this sub-clause 23.3, would have been payable under sub-clause 13.1 if the Contributor had retired, or had been retired, immediately before death; or

(iv) in the case of a Benefit arising under sub-clause 13.15 or 13.16, the lump sum Benefit that would be payable under that sub-clause but for sub-clause 23.1 and this sub-clause 23.3; or

(v) in the case of a Benefit arising under clause 16 the total component pension preserved in accordance with sub-clause 16.1.

(g) For the purposes of the symbol "Q" in sub-clause 23.3(e), the formula prescribed by this sub-clause is:

$$\frac{C}{D \times L}$$

where:

C represents the number of days of continuous Contributory Service that the person in respect of whom the pension is payable has had with one or more Employers in each period during which the rate of Tax payable on Employer contributions is L;

D represents:

(i) in the case of Benefits arising under sub-clause 13.5 or 13.6 the number of days of continuous Contributory Service that the person in respect of whom the pension is payable has had with one or more Employers during the period beginning with the date when the person last became a Contributor and ending with the later of the Exit Day and the date on which the person would have been eligible to retire under sub-clause 12.9(a) if the person's employment had continued to that date; or

(ii) in all other cases the number of days of continuous Contributory Service that the person in respect of whom the pension is payable has had with one or more Employers during the period beginning with the date on which the person last became a Contributor and ending with the person's Exit Day;

L represents the rate of Tax payable on Employer Contributions or such lesser rate as may be determined by the Trustee having regard to the most recent actuarial valuation under this Annexure.

(h) For the purposes of the symbols "C" and "D" in sub-clause 23.3(g), the period of a person's continuous Contributory Service does not include any period during which the person is treated by sub-clause 15.1, as being on leave without pay.

(i) For the purposes of sub-clauses 13.7 and 16.7, the Benefit that emerges upon the death of the member is not to be reduced as it would already have been reduced in accordance with sub-clause 23.1 when the member retired or when the Benefit was preserved.

24. COMPLIANCE WITH SUPERANNUATION GUARANTEE LEGISLATION

24.1 Minimum Benefits

The Trustee must, after obtaining actuarial advice, determine what the minimum Employer-financed Benefit would have to be to ensure that there is no Superannuation Guarantee Shortfall.

24.2 Increase in Benefits

So much of a pension component of a Benefit or lump sum as is Employer-financed is, despite any other provision of this Annexure [**or any Act**], not to be less than the minimum Benefit determined under sub-clause 24.1. The Benefit that would otherwise be payable under this Annexure is increased to the extent necessary for the purpose of complying with this sub-clause 24.2.

24.3 Increase in Benefit to be paid from non-Contributory scheme

The amount of any increase in Benefit is to be debited by the Trustee from the Employer Reserve of the Employer concerned established under Annexure 2 in the Pool B Sub-Division Rules.

24.4 Definition

In this clause 24, ***employer-financed Benefit*** means the sum of so much of a pension component of a Benefit or lump sum as is Employer-financed under this Annexure, any basic Benefit under the *State Authorities Non-Contributory Superannuation Act 1987* (NSW) and any Employer-financed Benefit of a kind provided under Annexure 2 in the Pool B Sub-Division Rules.

24.5 The Trustee empowered to fix interest rates for the purposes of this Annexure

(a) Whenever the Trustee considers it necessary to do so, the Trustee may, by resolution, fix a rate of interest for the purposes of sub-clause 11.7, 12.4, 13.20, 20.2 or 23.3.

(b) A rate fixed under sub-clause 24.5(a) for the purposes of sub-clause 13.20, 21.3 or 21.4 has effect on and from:

(i) the date on which the resolution of the Trustee fixing the rate is made; or

(ii) if a later date is specified in the resolution, that later date.

(c) A rate fixed under sub-clause 24.5(a) for the purposes of sub-clause 11.7 or 12.4 has effect on and from:

(i) such date as is specified in the resolution of the Trustee fixing the rate (whether that date is before or after the date of the resolution); or

(ii) if no such date is specified in the resolution, the date on which the resolution is made.

(d) Subject to this sub-clause 24.5, the Trustee has power, and shall be regarded as always having had power, when paying a Benefit under this Annexure, to pay interest at such rates, for such periods and in such circumstances as in its absolute discretion it thinks appropriate.

(e) The Trustee may fix different rates for the provisions mentioned in sub-clause 24.5(a).

25. TRANSITIONAL AND OTHER PROVISIONS ARISING FROM THE SUPERANNUATION (AMENDMENT) ACT 1988 (NSW)

(a) Certain persons to continue to be liable to make payments that were due under the *Superannuation Act 1916* (NSW) before the commencement of the *Superannuation (Amendment) Act 1988* (NSW):

(i) a provision of the *Superannuation (Amendment) Act 1988* (NSW) repealed or amended a provision of the *Superannuation Act 1916* (NSW); and

(ii) immediately before the commencement of the repealing or amending provision a person was liable to make a payment under the repealed or amended provision which has not been satisfied,

the liability continues under this Annexure despite the repeal or amendment.

25.2 Equation of payments

Any agreement entered into under section 90 of the *Superannuation Act 1916* (NSW) and in force immediately before 1 July 1988 continues in force as if that section had not been repealed by the *Superannuation (Amendment) Act 1988* (NSW).

26. SAVINGS AND TRANSITIONAL

26.1 Contributions while on leave without pay or working minimum hours

Sub-clause 6.3, 11.3 and 11.5 apply to a period of leave without pay or part-time work commenced before 1 January 1994 and not completed immediately before that date.

26.2 Definitions

In this clause 26:

"amending deed" means the Deed of Amendment No. 4 Schedule A.

"eligible pensioner" means a person who is in receipt of a pension under this Annexure and who, on the repeal of rule 12.2 by the amending deed:

(a) has not attained the age of 60 years and 6 months; and

(b) has not made an election to commute any part of that pension under rule 12.2 of the amending deed or whose election to commute under that rule has not taken effect.

26.3 Amendments do not confer new commutation rights on persons who are not eligible pensioners

(a) Sub-clause 12.2, as substituted by the amending deed, does not apply to or in respect of any pension to which a person became entitled under this Annexure before 1 July 1985 if the person who is in receipt of that pension is not an eligible pensioner and, accordingly, sub-clause 12.2 does not confer on such a person an entitlement to commute the whole or part of that pension.

(b) The repeal of rule 12.2 by the amending deed does not affect any election made by a person (not being an eligible pensioner) under rule 12.2 of the amending deed before that repeal, and this Annexure continues to apply in respect of such an election as if it had not been amended by the amending deed.

(c) This sub-clause is subject to sub-clause 26.4.

26.4 Commutation of mandatory residual pension under sub-clause 12.4

(a) If a person who became entitled to a pension under this Annexure before 1 July 1985 elected to commute the whole of his or her pension (other than the mandatory residual pension) in accordance with this Annexure, before the repeal of rule 12.2 of the amending deed by the amending deed:

(i) sub-clause 12.2, as amended by the amending deed, extends to that mandatory residual pension; and

(ii) the person may make one election under sub-clause 12.2 in respect of that mandatory residual pension within the period of 6 months after the commencement of this sub-clause (despite sub-clause 12.3).

(b) The Trustee may, subject to such terms and conditions as it may impose, accept an election that is made after that period of 6 months and deal with it as if that time had been indefinitely extended if:

(i) it is proved to the satisfaction of the Trustee that an election was not made because:

(A) the person entitled to make the election did not know of the person's right to make the election; or

(B) circumstances substantially beyond the person's control prevented the person's making an election; and

(ii) The Trustee is satisfied that in the circumstances of the case it is desirable that the election should be accepted.

(c) This sub-clause does not authorise the commutation of a pension payable in respect of children.

(d) In this sub-clause 26.4:

"mandatory residual pension" means any amount of pension per fortnight that a person was not entitled to commute under rule 12.2.1, 12.2.2, or 12.2.3 of the amending deed as in force immediately before the repeal of those rules by the amending deed.

26.5 Saving of commutation entitlements of eligible pensioners

(a) Sub-clause 12.2(a), as substituted by the amending deed, applies to or in respect of a pension to which a person became entitled under this Annexure before 1 July 1985 if the person who is in receipt of that pension is an eligible pensioner.

(b) Accordingly, an eligible pensioner may commute the whole or part of that pension in accordance with sub-clauses 12.2 and 12.3.

(c) If an eligible pensioner attained the sub-clause 12.2 commutation age before the commencement of this sub-clause:

(i) the eligible pensioner is taken, for the purposes of sub-clauses 12.3(a) and 12.3(b), to have attained the sub-clause 12.2 commutation age on the commencement of this sub-clause; and

(ii) the reference in sub-clause 12.3(c) to the time prescribed is taken to be a reference to the time prescribed by that sub-clause as modified by this sub-clause.

(d) If an eligible pensioner made an election to commute any part of his or her pension under rule 12.2 of the amending deed before the repeal of that rule by the amending deed (being an election that has not taken effect):

(i) that election is to be treated as an election under sub-clause 12.2; and

(ii) the eligible pensioner may, without the approval of the Trustee being necessary, make a further election under sub-clause 12.2 in accordance with sub-clause 12.3 (as modified by sub-clause 12.3(c), if applicable).

(e) In this sub-clause, the "sub-clause 12.2 commutation age" means:

(i) in the case of a person who is in receipt of a pension payable under sub-clause 13.5, the maturity age; or

(ii) in any other case, 55 years.

26.6 References to amounts commuted under repealed provisions

(a) The reference in sub-clause 12.2(r) to the spouse of a person who dies, having commuted the whole or part of any pension payable to the person pursuant to sub-clause 12.2, extends to the spouse of a person who dies on or after the commencement of this sub-clause, having commuted the whole or any part of any pension payable to the person pursuant to rule 12.2 of the amending deed (before the repeal of the rule by the amending deed or in accordance with an election referred to in sub-clause 26.3(b)).

(b) A reference in sub-clause 13.10 or clause 21 to any lump sum paid, or any pension that has been commuted, under sub-clause 12.2 extends to any lump sum paid, or pension that has been commuted, under rule 12.2 of the amending deed (before the repeal of that rule by the amending deed or in accordance with an election referred to in sub-clause 26.3(b)).

26.7 Changes to method of calculation

(a) The amendment made to sub-clause 13.16 by the amending Act does not apply to the calculation of a benefit payable to a contributor who became entitled to the benefit before the commencement of that amendment. Sub-clause 13.16, as in force immediately before the commencement of that amendment, continues to apply in respect of such a calculation.

(b) The amendments made to sub-clause 13.18 by the amending Act do not apply to the calculation of any amount payable to a contributor who became entitled to the amount before the commencement of the amendments. Sub-clause 13.18, as in force immediately before the commencement of those amendments, continues to apply in respect of such a calculation.

27. TRANSITIONAL PROVISIONS

27.1 Definitions:

In this clause 27:

commencement day means the day the rule is amended as stated in clause 2 of the Deed of Amendment.

27.2 Amendments to sub-clause 12.5 – no application to persons of or over the age of 60 years

The amendments made to sub-clause 12.3 as a result of the Amending Deed do not apply in respect of any person who is entitled to a pension payable under sub-clause 13.5 and who attains the age of 60 years on or before the commencement day.

27.3 Amendments to sub-clause 12.5 – application to certain persons between 55 and 60 years of age

(a) This sub-clause 27.3 applies in respect of a person who has a maturity age of 60 years, and who, on the commencement day:

(i) is entitled to a pension payable under sub-clause 13.5, and

(ii) has attained the age of 55 years but has not yet attained the age of 60 years.

(b) Sub-clause 12.3, as amended as a result of the amendments made to this Annexure that took effect on the commencement day applies in respect of such a person as if the person had attained the age of 55 years on the commencement day. Accordingly:

(i) the person may make an election under sub-clause 12.2 or under sub-clause 12.8 (if applicable to the person), at any time within the period of 6 months after the Appointed Day, and

(ii) the reference in sub-clause 12.3(c) to the time prescribed by sub-clause 12.3(a) and 12.3(b) is a reference to the time prescribed by those sub-clauses, as amended by amendments that took effect on the commencement day.

27.4 Application of sub-clause 13.7A and amendments to sub-clause 13.8

(a) Sub-clause 13.7A, as inserted as a result of the amendments made to this Annexure that took effect on the commencement day, does not apply to or in respect of a pensioner who died before the commencement of sub-clause 13.7A.

(b) Sub-clauses 13.8(d) and 13.8(e), as inserted as a result of the amendments made to this Annexure as a consequence of the amendments that took effect on the commencement day do not apply to or in respect of an employee who died before the commencement of sub-clauses 13.8(d) and 13.8(e),

27.5 Application of sub-clause 13.5

Sub-clause 13.5, as amended by Deed of Amendment 7, applies to any person entitled to a pension on 1 July 1999 but who was, immediately before that date, not entitled to payment of that pension.

28. PROVISIONS APPLICABLE IN RESPECT OF FOREIGN CONTRIBUTORS

28.1 Definitions

(a) In this clause 28:

conversion ratio, in relation to a foreign currency, means:

(i) in the case of sterling the ratio of 1 pound sterling to 2 Australian dollars; or

(ii) in the case of Japanese currency the ratio of 400 Japanese yen to 1 Australian dollar;

foreign Contributor means a Contributor who:

(i) was recruited in a country other than Australia and is employed in such a country; and

(ii) is paid a Salary at a rate expressed in a currency other than Australian currency;

foreign currency in relation to a foreign Contributor means the currency in which his rate of Salary is expressed.

(b) A reference in this clause 28:

(i) to a foreign Contributor shall be construed as including a reference to a former foreign Contributor; and

(ii) to an Employer of a foreign Contributor shall be construed as including a reference to the person who was the Employer of the former foreign Contributor.

28.2 Certain calculations to be made by means of a conversion ratio

Where:

(a) an amount expressed in a foreign currency is required for the purposes of this Annexure to be expressed in Australian currency that amount expressed in Australian currency; or

(b) an amount expressed in Australian currency is required for the purposes of this Annexure to be expressed in a foreign currency that amount expressed in the foreign currency,

shall be calculated by means of the conversion ratio in relation to that foreign currency.

28.3 Certain amounts to be expressed in foreign currency

(a) This sub-clause 28.3 shall not apply in respect of a foreign Contributor unless a conversion ratio applies in relation to the currency of the country in which the foreign Contributor is employed.

(b) For the purpose of determining the number of units of pension that, pursuant to sub-clause 11.1(a), is appropriate for the Salary actually being paid to a foreign Contributor, the amount of the Salary shall be expressed in Australian currency in accordance with sub-clause 28.2.

(c) Any amount payable under this Annexure by or to a foreign Contributor shall be expressed in foreign currency in accordance with sub-clause 28.2.

28.4 Employer to pay under or receive any difference between actual amount paid under this clause and amount otherwise payable

(a) Where:

(i) an amount that, but for sub-clause 28.3(c), would be payable under this Annexure by a foreign Contributor is greater than the amount that is paid by that person; or

(ii) an amount that, but for sub-clause 28.3(c), would be payable under this Annexure to a foreign Contributor is less than the amount that is paid to that person,

the Employer of the foreign Contributor shall pay under this Annexure an amount equal to the difference between the amount that, but for sub-clause 28.3(c), would be payable and the amount that is paid.

(b) Where:

(i) an amount that, but for sub-clause 28.3(c), would be payable under this Annexure by a foreign Contributor is less than the amount that is paid by that person; or

(ii) an amount that, but for sub-clause 28.3(c), would be payable under this Annexure to a foreign Contributor is greater than the amount that is paid to that person,

the Trustee shall pay under this Annexure to the Employer of the foreign Contributor an amount equal to the difference between the amount that, but for sub-clause 28.3(c), would be payable and the amount that is paid.

28.5 Payments to be made as if conversion ratio always applied

Where a conversion ratio applies to the currency of a country in which, immediately before the conversion ratio first applied to that currency, there was employed a foreign Contributor to whom sub-clause 28.3 did not apply:

(a) the Trustee may pay to the foreign Contributor such amount or make such allowance in respect of future contributions payable by the Contributor;

(b) the Employer shall pay under this Annexure such amount; and

(c) the foreign Contributor shall pay under this Annexure such amount,

as in the opinion of the Trustee would place the Pool B Sub-Division, the foreign Contributor and the Employer of the foreign Contributor in the financial position in which they would have been if the conversion ratio had always applied.