

# **Local Authorities Superannuation Fund**

## **Consolidated Trust Deed**

(As at 1 December 2022 incorporating the original trust deed dated 26 June 1998 and amendments by amending deeds dated 14 December 2000, 23 April 2001, 2 May 2002, 30 November 2002, 27 June 2003, 23 June 2006, 25 August 2006, 27 October 2006, 29 June 2007, and 29 May 2009, 7 April 2011, 28 September 2012, 22 February 2013, 1 July 2014, 30 March 2016 and 1 December 2022)

### **Vision Super Pty Ltd**

ABN 50 082 924 561

Note: This is a working consolidation of the Local Authorities Superannuation Fund trust deed showing the provisions adopted in the amending deed dated 7 April 2011 and the changes made by the amending deeds dated 28 September 2012, 22 February 2013, 1 July 2014, 30 March 2016 and 1 December 2022.

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## DIVISION A GENERAL PROVISIONS

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### Part A.1 Definitions and Interpretation

#### A.1.1 Definitions.

In this Deed, unless the contrary intention appears or the context requires otherwise:

“**1988 Act**” means the *Local Authorities Superannuation Act 1988* (Vic).

“**1988 Fund**” means the Local Authorities Superannuation Fund under the 1988 Act.

“**Actuary**” means for any particular purpose under this Deed the person nominated by the Trustee from time to time, either generally or for that particular purpose, being -

- (a) a Fellow or Accredited Member of the Institute of Actuaries of Australia (or of any body which succeeds that Institute) or any other person recognised by that body or its successor as being qualified to provide actuarial advice and reports in relation to a superannuation fund (a “qualified actuary”);
- (b) a partnership of which one of the Members is a qualified actuary; or
- (c) a body corporate which employs or engages a qualified actuary for the purpose of providing actuarial advice.

“**Approved Benefit Arrangement**” means a fund or benefit arrangement other than the Fund (including without limitation a superannuation fund, an approved deposit fund, a deferred annuity and an eligible rollover fund), being a fund or benefit arrangement to which money or property may be paid or transferred from the Fund, or from which money or property may be received into the Fund, without causing the Fund to cease to be a complying superannuation fund for purposes of the Tax Act.

“**Auditor**” means the person appointed for the time being as Auditor of the Fund pursuant to clause A.6.1.

“**Beneficiary**” means a Member or other person who is for the time being beneficially entitled to receive a benefit from the Fund in accordance with this Deed.

“**Chief Executive Officer**” means the person appointed from time to time by the Trustee as Chief Executive Officer to the Fund under part A.7 and includes any acting Chief Executive Officer appointed under that part.

“**Child**” has the same meaning as in the Supervision Act.

“**Deed**” means this Trust Deed, including the recitals, the divisions and anything deemed to be included for the time being under clause A.2.3, as amended, added to, revoked or replaced from time to time in accordance with this Deed.

“**Defined Benefit Member**” means a Member of the Fund who is or may become entitled to a benefit under division C, D, E or F.

“**Dependant**” means in relation to a person (“relevant person”) any one or more of -

- (a) the Spouse of the relevant person;
- (b) any Child of the relevant person; and
- (c) any other natural person who, in the opinion of the Trustee, is at the relevant date (or, in the case of a deceased person, was at the time of death of the deceased) wholly or partially dependent on the relevant person or who at that date had a legal right to look to him or her for financial support or who otherwise satisfies the definition of “dependant” under the Supervision Act.

“**Division B Member**” means a person who is a Member only of division B of the Fund.

“**Eligible Employee**” means -

- (a) an Employee who an Employer notifies the Trustee is for the time being eligible for membership of the Fund; or
- (b) an Employee who falls within a class of Employees which the Trustee has determined is for the time being eligible for membership of the Fund.

“**Employed Member**” means a person who is for the time being both an Employee and a Member.

“**Employee**” has, in relation to an Employer, the same meaning as in the Supervision Act.

“**Employer**” means -

- (a) an entity which is deemed to be a participating employer in the Fund pursuant to section 68B(4) of the *Public Sector Superannuation (Administration) Act 1993* as added by section 48 of the Omnibus Act; or
- (b) an entity which has entered into an agreement with the Trustee under part A.12, including without limitation an entity which replaces or succeeds an Employer as provided in part A.13 but not including an entity which has ceased to participate in the Fund as an Employer as provided in part A.13;  
and
- (c) for purposes of division C includes an “Authority” as set forth in Schedule 4 to division C; and
- (d) for purposes of division D includes the “Council” under that division; and
- (e) for purposes of division E includes the “Board” under that division; and
- (f) in relation to an Employee, means the Employer or Employers by which the Employee is for the time being an Employee, or, in relation to a former Employee, means the Employer or Employers by which the former Employee was last an Employee.

“**Entitled Person**” means a living natural person other than -

- (a) subject to section 302A of the Bankruptcy Act -
  - (1) a person who is bankrupt or insolvent or whose affairs are subject to official management; or
  - (2) a person in respect of whom (other than with the approval of the Trustee or as otherwise provided for under this Deed) anything has occurred or any circumstance exists which would deprive the person of absolute legal and beneficial ownership of the whole or any part of a benefit under this Deed;
 or
- (b) a person who has failed to comply with clause A.22.5(a) to the satisfaction of the Trustee.

**“Equitable Share”** means in relation to a Member or a Beneficiary as at any particular date the amount determined by the Trustee, after obtaining the advice of the Actuary, to be that person’s equitable share of the division of the Fund of which he or she is a member, as if that division was terminated and all assets were entirely apportioned between the Members and Beneficiaries as at that date.

**“Fund”** means the **Local Authorities Superannuation Fund** continued and maintained under this Deed and comprising the moneys and property held by and for the Trustee upon the trusts of this Deed.

**“Fund Expenses”** means the costs and expenses of and incidental to the establishment, operation, management, administration and investment of the Fund.

**“Fund Interest”** means in relation to a Member or Beneficiary as at any particular date the lesser of -

- (a) the value, as determined by the Actuary, of the benefits presently and prospectively payable from the Fund to and in respect of that person to the extent that those benefits have accrued under this Deed in respect of the period up to that date; and
- (b) that person’s Equitable Share.

**“Gainful Employment”** means employment for earnings, including business income, bonuses, commissions, fees, gratuities, salary and wages.

**“Group Life Insurance”** means term or temporary insurance, whether on a group or individual basis.

**“Insurer”** means a person from whom insurance is sought or with whom insurance is effected by the Trustee pursuant to this Deed.

**“Investment Manager”** means a body corporate appointed for the time being as an Investment Manager in accordance with clause A.10.3.

**“Member”** means a person admitted to membership of the Fund in accordance with this Deed and, subject to the relevant division, a person ceases to be a Member in the event of that person’s death or when all benefits to which that person could become entitled under this Deed have been paid from the Fund or have otherwise ceased or been terminated in accordance with this Deed, whichever first occurs.

**“Member’s Account Balance”** has, in relation to a Division B Member, the same meaning as in division B.

**“MySuper Product”** means a class of beneficial interest in the Fund, which the Trustee is authorised under the Supervision Act to offer as a MySuper product.

**“MySuper Product Member”** means a Member who has a beneficial interest in a MySuper Product within the Fund.

**“Omnibus Act”** means the *Miscellaneous Acts (Omnibus No. 1) Act 1998* (Vic).

**“Power”** means a power, right, discretion or authority of any nature and howsoever arising (including without limitation a power which a person has a duty to exercise and a power of approval) and, wherever a Power is exercisable by a person, the relevant provision of this Deed must be read as if the words “at any time and from time to time” were added to that provision.

**“Pre-Retirement Pension”** means an Account Based Pension paid as transition to retirement income stream (as defined in clause 1.3.1.2 of section 3 of division I).t

**“Qualified Adviser”** means -

- (a) an accountant, barrister, solicitor, actuary, medical practitioner or other professional person;
- (b) an Insurer; and
- (c) any other person considered by the Trustee in good faith to be capable of giving advice in relation to any matter or question, whether by virtue of formal qualifications or experience in business or otherwise.

**“Relevant Law”** means -

- (a) the Supervision Act;
- (b) the Tax Act;
- (c) any other present or future law of the Commonwealth of Australia or any State or Territory of Australia which applies to the Fund, this Deed, the Trustee or an Employer with the force of law; and
- (d) any other present or future law of the Commonwealth of Australia or any State or Territory of Australia which does not fall within paragraph (a), (b) or (c) of this definition but which the Trustee may determine from time to time to be a Relevant Law for the purposes of the whole or any particular provisions of this Deed,

and “requirement” and “applicable requirement”, when used in relation to a Relevant Law, means a requirement of, or a standard laid down under, the Relevant Law which must be complied with or satisfied in order to secure or better secure a concession in respect of Tax, or to avoid a relevant penalty, detriment or disadvantage, in connection with the Fund.

**“SG Benefit”** means in relation to a Member -

- (a) the minimum amount which must be provided in respect of a Member in order to ensure that there is not an individual superannuation guarantee shortfall in respect of the Member in terms of the *Superannuation Guarantee (Administration) Act 1992*, having regard to such matters as may be taken into account for this purpose under that Act; or
- (b) subject to part A.2, such greater amount as may be determined or approved (or calculated in a manner determined or approved) by the Employer and notified to the Trustee from time to time either generally or in any particular case.

**“Splittable Contribution”** has the same meaning as in the *Superannuation Industry (Supervision) Regulations 1994*.

**“Spouse”** has the same meaning as in the Supervision Act.

**“Supervision Act”** means the *Superannuation Industry (Supervision) Act 1993*.

**“Tax”** means a governmental impost (including without limitation a tax, duty or levy) which is or might become payable in connection with the Fund, income of the Fund, payment or transfer of money or property to or from the Fund, this Deed or anything done or which may be done under this Deed, including any surcharge, duty or levy payable in respect of a Member that must be paid or collected by the Trustee or the Fund.

**“Tax Act”** means the *Income Tax Assessment Act 1936* or the *Income Tax Assessment Act 1997*, as applicable.

**“Transferring VSF Member”** means a member or beneficiary of the Vision Super Fund who was transferred to the Fund on 1 July 2014.

**“Trustee”** means the Trustee for the time being of the Fund whether original or substituted.

**“Unfunded Liability Amount”** means in relation to an Employer the outstanding amount (if any) of the unfunded liability determined to be attributable to that Employer and calculated in accordance with the methodology set forth in Circular 12/97 issued by the Local Authorities Superannuation Board under the 1988 Act.

**“Unit”** means a part or share of an investment portfolio of the Fund created by the Trustee.

**“Unit Class”** means a class of Units referable to a particular investment portfolio.

**“Unit Price”** means the applicable price of a Unit as determined by the Trustee.

**“Vision Super Fund”** means the Vision Superannuation Fund.

### **A.1.2 Interpretation.**

In this Deed, unless the contrary intention appears or the context requires otherwise:

- (a) **conflicts within Deed:** if there is a conflict between this division A and any provision of this Deed not within this division A, this division A prevails unless expressly indicated otherwise;
- (b) **headings, underlinings and indexes:** headings, underlinings and indexes are for convenience only and do not affect the interpretation of this Deed;
- (c) **singular, plural and genders:** words importing the singular include the plural and vice versa and words importing a gender include any gender;
- (d) **statutory enactments:** a reference to a law or a provision of a law (a “specified law”) includes -
  - (1) the specified law as amended or re-enacted;
  - (2) any other law to the extent it replaces the specified law, whether or not passed or approved by the same legislative body or other authority and whether or not incorporating or adopting a law previously in force; and
  - (3) any other law (and any enforceable determination or ruling) made or laid down in accordance with the specified law,
 where “law” means a statute, regulation, proclamation, ordinance, statutory rule or by-law;
- (e) **amended provisions:** a reference to a division, part, clause or other provision of this Deed is a reference to that division, part, clause or provision as amended, added to, revoked or replaced from time to time;
- (f) **insurance:** a reference to insurance includes assurance and vice versa and any type of annuity;
- (g) **person:** a word or an expression importing a natural person includes a body corporate and any other person recognised at law, a partnership and any other group or association of persons but the words “natural person” have their normal meaning;
- (h) **disputes:** without affecting the jurisdiction of any competent court or tribunal, if a dispute or doubt arises as to the interpretation of this Deed or the rights or obligations of a person under this Deed, the decision of the Trustee is binding on all interested persons;
- (i) **defined terms:** while for convenience a particular word or group of words defined in this Deed may commence with capital or lower case letters, failure to use capital or lower case letters in that word or group of words elsewhere in this Deed does not of itself mean that that word or group of words has a meaning different from the meaning given in the relevant definition;

- (j) **form of resolutions:** a written resolution made for the purposes of any provision of this Deed may take the form of one or more documents in like form or to like effect, each signed by one or more persons and, in the case of an oral resolution, a statutory declaration by a person (not necessarily being a party to that resolution) as to that person's presence at the time of the passage of that resolution and the contents of that resolution is acceptable as proof of the passage and contents of that resolution;
- (k) **approvals:** a reference to a power of approval includes a power to withhold or revoke approval and any appointment to an office or position under this Deed, and any conduct under this Deed, which requires the continued approval of the Trustee or (subject to part A.2) an Employer must cease on revocation of that approval;
- (l) **agreements:** where this Deed provides that the Trustee and the Employer may agree to the Trustee taking a particular action, then (subject to part A.2) the Trustee only has Power to take that action after such an agreement is reached and while it remains in force;
- (m) **Trustee Acts:** to the extent legally possible and unless the Trustee otherwise determines, this Deed is not subject to the *Trustee Act 1958* (Vic) or any of its equivalents in any of the States or Territories of Australia; and
- (n) **intention of Deed:** the intention of this Deed (in accordance with section 48 of the Omnibus Act) is that all persons, things and circumstances existing or continuing under the 1988 Act immediately before 1 July 1998 (including benefit accruals and benefit entitlements) shall continue to have the same status, operation and effect under this Deed as they would have had if the 1988 Act had not been repealed.

## Part A.2

### Compliance with Relevant Law

#### A.2.1 Overriding effect of this part.

Notwithstanding anything expressed or implied to the contrary in this Deed (including any other provision of this Deed which purports to prevail over this part A.2) -

- (a) if there is a conflict between this part A.2 and any other provision of this Deed, this part A.2 prevails to the extent of the conflict; and
- (b) all other provisions of this Deed are equally subject to this part A.2, notwithstanding that some provisions may expressly refer to this part (or any clause in this part) while others do not.

#### A.2.2 Mandatory compliance with Relevant Law.

The Trustee has all of the Powers necessary to comply with a Relevant Law and the Trustee must -

- (a) do, or cause to be done, any matter or thing necessary in order to satisfy any applicable requirement of a Relevant Law; and
- (b) refrain from doing, and take all reasonable steps to prevent an Employer, a Member or a Beneficiary doing, any matter or thing which would cause a breach of or non-compliance with any applicable requirement of a Relevant Law,

but the Trustee is not liable for a failure to do so if and to the extent that, under the Relevant Law, the Trustee is relieved from a liability to which the Trustee would otherwise be subject or that might otherwise be imposed on the Trustee under the Relevant Law because of that failure.



**A.2.3 Deemed inclusion of certain Relevant Law.**

Any provision or requirement of a Relevant Law that is expressly required by a Relevant Law to be included in this Deed in order to comply with or satisfy a Relevant Law is deemed to be included as from the date when it must be included for that purpose (or any earlier date agreed between the Trustee and the Employer) but such a provision ceases to be so included when that express requirement ceases to apply.

**A.2.4 Reading down and severance.**

- (a) **Read down to avoid invalidity.** If a provision of this Deed is void or voidable or unenforceable or illegal, but would not be void or voidable or unenforceable or illegal if it were read down and it is capable of being read down, it shall be read down accordingly.
- (b) **Severance.** If, notwithstanding clause A.2.4(a), a provision of this Deed is void or voidable or unenforceable or illegal and the provision would not be void or voidable or unenforceable or illegal if a word or words or the whole provision (as the case may be) were omitted, that word or those words or the whole provision (as the case may be) is or are hereby severed and the remainder of this Deed shall have full force and effect.

**A.2.5 Certain directions not permitted.**

No person is permitted to engage in conduct which, but for this clause A.2.5, would render the Trustee subject, in the exercise of any of the Trustee's Powers under this Deed, to direction by that person in terms of and to an extent not permitted under the Relevant Law (where "engage in conduct" includes refusing or failing to do an act or exercise a Power), and any provision of this Deed which contemplates a person engaging in such conduct must be construed as only permitting that person to engage in such conduct with the approval of the Trustee.

**A.2.6 Trustee must consent to certain discretions.**

To the extent that the exercise of, or the ability to exercise, a Power under this Deed by a person other than the Trustee without the consent of the Trustee would, but for this clause A.2.6, render a provision of this Deed void or invalid under the Relevant Law, then that other person may only exercise that Power with the consent of the Trustee.

**A.2.7 Resolution of relevant doubts, disputes and conflicts.**

If a doubt or dispute arises as to the meaning or effect of an applicable requirement of a Relevant Law, or there is a conflict between applicable requirements of Relevant Laws, the Trustee may resolve that doubt, dispute or conflict in the manner the Trustee considers appropriate.

## **Part A.3**

### **Trustee of Fund**

**A.3.1 Trustee must be a constitutional corporation.**

The sole Trustee of the Fund for the time being must be a corporation that is a constitutional corporation (in terms of the Supervision Act). The appointment, removal and proceedings of directors of a Trustee shall occur in accordance with the articles of association of the Trustee.

**A.3.2 Initial Trustee.**

Local Authorities Super Pty Ltd, ACN 082 924 561, is the initial Trustee of the Fund with effect on and from 1 July 1998.

**A.3.3 Period of office.**

Subject to clause A.3.4, a Trustee holds office until the earliest to occur of -

- (a) the Trustee resigning as Trustee by at least 90 days prior written notice given to the Employers (or any shorter period agreed by the Trustee and the Employers);
- (b) the Trustee resigning as Trustee by written notice given to the Employers because it is no longer permitted to act as Trustee under the Relevant Law; and
- (c) the Trustee being removed from office under the Relevant Law;

and, subject to this part A.3, the Employers shall appoint another Trustee.

**A.3.4 Suspension from office.**

During any period when a Trustee is suspended from office under the Relevant Law, the Trustee for the time being shall be the acting trustee appointed under the Relevant Law in respect of the suspension period.

**A.3.5 Compliance with Relevant Law.**

The Trustee must:

- (a) take all actions necessary to ensure that the Trustee is constituted and governed in compliance with any applicable requirement of a Relevant Law regarding the trusteeship of superannuation funds, including without limitation appropriate action in respect of the memorandum and articles of association or other constituent or governing document of the Trustee and the appointment and composition of the directors or other governing body of the Trustee; and
- (b) make an election for the Fund to become a “regulated fund” under the Supervision Act with effect from 1 July 1998.

**A.3.6 Minutes.**

The Trustee must keep or cause to be kept proper minutes in relation to matters arising at any meeting of its board or of any committee of directors concerning the office of Trustee. The minutes, if signed by the chairman of that meeting or by the chairman of the following meeting, are prima facie evidence of the matters stated in the minutes.

## **Part A.4**

### **Powers of Trustee**

**A.4.1 Absolute discretions.**

Except to the extent otherwise expressly provided in this Deed, the Trustee has in the exercise or non-exercise or partial exercise of each Power exercisable by the Trustee an absolute and uncontrolled discretion and is not bound to give any person a reason for or explanation of the exercise, non-exercise or partial exercise of that Power. The Powers conferred on the Trustee by this Deed are additional to and not in substitution for the Powers exercisable by the Trustee at law.

**A.4.2 Powers of Trustee.**

Except to the extent expressly provided otherwise elsewhere in this Deed, the Trustee has complete management and control of all proceedings, matters and things in connection with the

Fund and may do all acts and things which the Trustee may consider necessary, desirable or expedient for the proper administration, maintenance and preservation of the Fund and in the exercise of the Powers and the performance of the duties of the Trustee, including without limitation the following specific powers, namely -

- (a) **servants, agents and representatives:** without limiting clause A.10.3(a), to appoint servants, agents, representatives and other third parties upon conditions determined by the Trustee, including without limitation conditions as to Powers, duties and remuneration from the Fund, and to revoke or vary an appointment;
- (b) **legal proceedings:** to institute, conduct, defend, compound, settle or abandon legal proceedings by or against the Fund or otherwise concerning the Fund or this Deed and also to compound and allow time for payment or satisfaction of a debt due to the Fund and of a claim or demand by or against the Fund;
- (c) **receipts, releases and discharges:** to make and give receipts, releases and other discharges for moneys payable to the Fund and for the claims and demands of the Fund;
- (d) **authorised signatures:** to determine who is entitled to sign documents in connection with the Fund;
- (e) **bank accounts:** to open bank accounts and to make regulations for the operation of bank accounts, including without limitation the signing and endorsing of cheques;
- (f) **acting on advice:** to act on the advice or opinion of a Qualified Adviser (whether or not that advice or opinion is obtained by the Trustee) in relation to any matter or question without being liable in connection with anything done or omitted to be done by the Trustee or a delegate or representative of the Trustee in good faith based on that advice or opinion;
- (g) **undertakings and indemnities:** to give an undertaking or indemnity in respect of an obligation assumed or undertaken by the Trustee in accordance with this Deed or by a delegate of the Trustee in accordance with the terms and conditions of its appointment;
- (h) **arbitration, conciliation and mediation:** to refer any dispute involving the Trustee or the Fund, or any claim or demand by or against the Trustee or the Fund, to arbitration, conciliation or mediation and observe and perform any award, determination or recommendation of the arbitrator, conciliator or mediator;
- (i) **administrative flexibility:** to make rules and adopt procedures in relation to the calculation and rounding-off of contributions, benefits and interest, to the determination of periods of time, to the rolling over, transferring or allotting of Splittable Contributions for the benefit of the Spouse of a Member and to any other matters which the Trustee may consider appropriate for the convenient administration of the Fund; and
- (j) **marketing:** to market, promote and advertise the Fund as the Trustee sees fit.

#### **A.4.3 Remuneration of Trustee.**

The Trustee and any director of the Trustee will be entitled to commission or remuneration from the Fund in respect of the office of Trustee or director as determined under the Trustee's articles of association and the Trustee may pay from the Fund reasonable expenses of a director of the Trustee in connection with that office.

#### **A.4.4 Delegation by Trustee.**

Except to the extent expressly provided otherwise elsewhere in this Deed (including without limitation clause A.10.3(a)), the Trustee as it sees fit may -

- (a) delegate a Power exercisable by the Trustee and a duty of the Trustee to any person in any manner and upon any terms and conditions; and
- (b) vary or revoke a delegation and exercise a Power or perform a duty in conjunction with or to the temporary or permanent exclusion of a delegate.

#### **A.4.5 Fees.**

- (a) **Fee may be charged.** The Trustee may, subject to clause A.4.5(c), charge:
  - (1) a Member;
  - (2) a Beneficiary; or
  - (3) any other person as permitted by the Relevant Law,
 a fee, of an amount determined by the Trustee either generally or in any particular case, in relation to matters undertaken by the Trustee concerning a valid family law arrangement.
- (b) **Recovery of fee.** In relation to a fee charged in accordance with clause A.4.5(a), the Trustee may recover the fee from the relevant person in any manner as determined by the Trustee.
- (c) **MySuper Product fees.** In relation to fees charged in accordance with clause A.4.5(a) in respect of a MySuper Product, the Trustee:
  - (1) may only charge fees of a kind prescribed in the Supervision Act; and
  - (2) must otherwise comply with the Relevant Law, including without limitation, the charging rules contained in the Supervision Act.

### **Part A.5 Payment from the Fund**

Subject to clause A.9.1 and any specific provision of any of the subsequent divisions of this Deed, Fund Expenses will be paid from the Fund and, subject to the Trustee's consent, an Employer will be reimbursed from the Fund in respect of Fund Expenses paid by that Employer.

### **Part A.6 Accounting Requirements**

#### **A.6.1 Auditor of Fund.**

The Trustee must appoint an Auditor of the Fund. The Trustee may remove the Auditor and appoint another person as Auditor. Each appointment of Auditor will be on terms determined by the Trustee.

#### **A.6.2 Accounts and audit.**

The Trustee must maintain any records and accounts specified in this Deed and may maintain any other records and accounts which the Trustee may consider to be necessary or desirable. The records and accounts of the Fund must be audited by the Auditor annually and at any other intervals determined by the Trustee. The Auditor must certify to the Trustee the result of each audit in writing.

## **Part A.7**

### **Chief Executive Officer of Fund**

The Trustee may appoint any person as Chief Executive Officer to the Fund, or acting Chief Executive Officer, on terms determined by the Trustee. The Trustee may remove the Chief Executive Officer or an acting Chief Executive Officer from office and may appoint another person to that office. The Chief Executive Officer will perform the duties and have the Powers specified in this Deed together with any other duties and Powers determined by the Trustee.

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## **Part A.8**

### **Information regarding Fund**

#### **A.8.1 Confidentiality.**

Except to the extent reasonably necessary in the operation, management and administration of the Fund and in properly giving effect to this Deed, the Trustee, the Chief Executive Officer, each Investment Manager and each servant, delegate or representative of the Trustee must treat as confidential all information regarding the Fund, Members, Beneficiaries, Employees and Employers which becomes known to that person in connection with the operation, management and administration of the Fund.

#### **A.8.2 Information from Employers.**

An Employer must, as and when requested by the Trustee, give to the Trustee all information in the Employer's possession or under the Employer's control which may be reasonably necessary for the operation, management and administration of the Fund.

#### **A.8.3 Information for Employers.**

Except for any matter which is the subject of a binding obligation of confidence imposed on the Trustee, the Trustee must cause to be provided to an Employer, as and when requested by the Employer, any information which that Employer may reasonably require in order to determine and discharge an obligation or liability of the Employer in connection with the Fund or to exercise a Power or perform a duty of the Employer.

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## **Part A.9**

### **Indemnities and Protections**

#### **A.9.1 Indemnification of Trustee and officers.**

The Trustee, each director of the Trustee, each former director of the Trustee and each former director of the Local Authorities Superannuation Board under the 1988 Act is exempted from liability, and is to be indemnified out of the Fund, in respect of any liability (including without limitation any cost, loss, damage or claim) caused or incurred in any manner (including without limitation negligence) in connection with the office of Trustee or director, as the case may be, to the maximum extent (but only to the maximum extent) permissible under the Relevant Law and, without limiting the preceding words, the Trustee may -

- (a) effect or acquire insurance in respect of any potential liability of the Trustee or a director, former director, officer or employee of the Trustee or a former director of the Local Authorities Superannuation Board under the 1988 Act; and
- (b) pay from the Fund premiums and other outgoings in respect of such insurance.

### **A.9.2 Trustee's liability limited to Fund assets.**

Except to the extent that the Trustee cannot be exempted from personal liability under the Relevant Law, the Trustee is not required to make any payment (in respect of a benefit or otherwise) except out of the Fund or be liable to any greater extent than the moneys and property comprising the Fund.

### **A.9.3 Action notwithstanding interest.**

A person may be the Chief Executive Officer or an officer, servant or delegate of the Trustee, and may exercise a Power exercisable by virtue of that office or position, notwithstanding that that person is an Employee, a Member or a Beneficiary.

## **Part A.10 Investment of Fund**

### **A.10.1 Authorised investments.**

Subject to part A.2 and this part A.10, the Trustee (in the name or under the control of the Trustee) may apply the whole or any part of the Fund not immediately required for another purpose under this Deed in any manner or form which the Trustee may consider to be an investment and suitable for the Fund, including without limitation any manner or form in which the Trustee could invest if acting personally and not in a fiduciary capacity but as the sole and absolute legal and beneficial owner of the Fund.

### **A.10.2 Particular Powers.**

Without limiting clause A.10.1, the Trustee may -

- (a) **various permitted transactions:** investigate, negotiate for, promote, create, acquire, underwrite, sub-underwrite, dispose of, transfer, exchange, collect, realise, alter, convert, improve, exploit, insure, extend, reconstruct, develop, manage and otherwise deal with and turn to account any property anywhere in the world, any direct or indirect interest in property and any right, contract, option or the like in respect of property in any manner, with or without security or liability, and subject to any conditions acceptable to the Trustee;
- (b) **exercise all incidental powers:** exercise all Powers appertaining or incidental to any manner or form of property and discharge from the Fund all costs of and incidental to the Powers of the Trustee under this part A.10, including without limitation costs of the investigation of and negotiation for property which does not become part of the Fund;
- (c) **futures and hedging:** issue, acquire or participate in and perform any obligations under or in respect of any synthetic investment or transaction (including without limitation a futures contract, hedge contract, swap contract or option contract) whether or not related to any other property forming part of the Fund;
- (d) **borrow:** borrow or raise money;

- (e) **mix funds:** acquire any property either alone or in conjunction with any other person (including without limitation the Trustee acting as trustee or manager of another trust) and mix money or property forming part of the Fund with any other money or property (including without limitation money or property held or administered by the Trustee as trustee or manager of another trust) but so long as at all times separate and distinct records are maintained in order to enable ready identification of the moneys and property attributable to the Fund; and
- (f) **nominees:** cause or allow any property to be acquired and held in the name of the Trustee or of another person acceptable to the Trustee, whether or not that other person acts for the Trustee alone or for the Trustee and another person,

and any reference to property in this clause A.10.2 is a reference to real and personal property of any nature and whether or not producing income.

### **A.10.3 Investment Managers.**

- (a) **Appointment.** The Trustee may appoint one or more Investment Managers.
- (b) **Powers of Trustee.** The Trustee may -
  - (1) determine and redetermine the terms and conditions under which an Investment Manager acts, including without limitation the Powers and duties of an Investment Manager and its remuneration from the Fund;
  - (2) allocate and re-allocate moneys and assets of the Fund to and between Investment Managers; and
  - (3) revoke the appointment of an Investment Manager,
 and, subject to the terms of its appointment (as varied from time to time), in relation to the moneys and assets under its control an Investment Manager has the same Powers as the Trustee has under clause A.10.1 and clause A.10.2.

## **Part A.11 Insurance Arrangements**

### **A.11.1 Insurance: general powers.**

The Trustee may (and must to the extent, if any, specified in this Deed) enter into, arrange or acquire in the name of or under the control of the Trustee insurance or other protection in respect of any property of the Fund, any benefit or other amount which might become payable from the Fund and any other risk or liability of the Fund (including without limitation by way of an insurance policy or a re-insurance or risk-sharing arrangement with any person or fund) subject to any option, right, benefit, condition or provision acceptable to the Trustee, and subject, in relation to insurance in respect of benefits provided under a MySuper Product, to the Relevant Law. The Trustee may pay out of the Fund all premiums and other outgoings in respect of insurance or other protection and may vary, surrender, terminate, assign or otherwise deal with a relevant policy or other arrangement as the Trustee may think fit.

### **A.11.2 Self insurance.**

To the extent that the Trustee does not effect insurance under clause A.11.1, the Trustee must self insure the insurable component of any benefit that is, or may become, payable from the Fund. The self insurance will be on terms and conditions as if the Trustee had sought to insure that risk with a commercial insurer and, to the extent permitted in the relevant division of this

Deed, any benefit that becomes payable will be adjusted by the Trustee to the extent necessary to reflect those terms and conditions.

## **Part A.12 Employers**

### **A.12.1 Agreements with Employer.**

The Trustee may enter into an agreement with any person for that person to become an Employer. Subject to any conditions imposed under the relevant agreement or this Deed, Employees of an Employer who become eligible as provided in that agreement or this Deed are eligible to participate in the Fund.

### **A.12.2 Form and status of agreements.**

Any agreement made under clause A.12.1 may be in any form and subject to any conditions acceptable to the Trustee and the Employer and may be amended or replaced by a subsequent agreement between the parties or in the manner provided in this Deed as if the agreement was a part of this Deed. If there is a conflict between this division A and an agreement, this division A prevails. Except where the agreement expressly provides otherwise, if there is a conflict between an agreement and any provision of this Deed other than this division A, the agreement prevails.

## **Part A.13 Employer Ceasing Business**

Subject to the specific provisions of any part A.12 agreement, if -

- (a) where an Employer is or includes a body corporate, a binding resolution is passed or order is made, or any other enforceable action is taken, for the purpose of winding up that body or a scheme of arrangement providing for the dissolution of that body is approved by a court;
- (b) where an Employer is or includes a partnership, that partnership is dissolved;
- (c) where an Employer is or includes a natural person or natural persons, that person or any of those persons becomes bankrupt; or
- (d) an Employer ceases to carry on business for any reason,

the Trustee may enter into an agreement with a person (a “successor”) which in the opinion of the Trustee, wholly or partially succeeds or replaces the Employer for the successor to take the place of the Employer under this Deed. An agreement may be in any form acceptable to the Trustee and is binding on all interested persons.

## **Part A.14 Employer Not Replaced**

Subject to the specific provisions of any part A.12 agreement and clause A.21.1, if an event provided for in part A.13 occurs in relation to an Employer (other than an Employer in respect of which there is, at the relevant time, an Unfunded Liability Amount) but no agreement is entered



into as provided in that clause within 90 days (or any other period determined or allowed by the Trustee) after the date the relevant event occurred, the Trustee is deemed to have received on the last day of that period a notice from the Employer in accordance with clause A.21.1 or clause A.21.2 (as applicable) that the Employer has decided to terminate all of its payments to and in respect of the Fund with effect on that last day.

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### **Part A.15A**

#### **Division I Assets**

- (a) Notwithstanding any other provision in this Deed:
    - (1) the moneys and other assets attributable to or in respect of division I Members and Beneficiaries shall be used only to pay the benefits or satisfy the liabilities in respect of division I Members and Beneficiaries;
    - (2) the moneys and other assets attributable to or in respect of any other Members or Beneficiaries shall not be used to pay the benefits or satisfy the liabilities in respect of division I Members or Beneficiaries.
  - (b) No clause in this Deed (including clause A.15A(a)) shall be taken as creating a separate superannuation fund for any purpose (including for the purposes of the Relevant Law).
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### **Part A.15B**

#### **Residual Assets**

- (a) If at any time there are no Members or Beneficiaries in the Fund and, in the opinion of the Trustee, all benefits which could become payable from the Fund have been paid, then the Fund must be dissolved and:
  - (1) any moneys and other assets attributable to or in respect of former division I Members and Beneficiaries then remaining in the Fund (after payment of Fund Expenses) must be realised, and the proceeds must be distributed in respect of that division as determined by the Trustee;
  - (2) any moneys and other assets attributable to or in respect of any other former Members and Beneficiaries then remaining in the Fund (after payment of Fund Expenses) must be realised, and the proceeds must be distributed among the Employers who contributed to the Fund in respect of those Members and Beneficiaries as determined by the Trustee after obtaining the advice of the Actuary.
- (b) If at any time there are Members or Beneficiaries remaining in the Fund but there are no Members or Beneficiaries in any particular division of this Deed and, in the opinion of the Trustee, all benefits which could become payable with respect to that division have been paid, then that division must be closed and:
  - (1) if the division to be closed is division I, any money or assets remaining in the accounts of the Fund with respect to that division (after payment of the relevant division expenses) must be realised, and the proceeds must be distributed in respect of that division as determined by the Trustee;
  - (2) if the division to be closed is a division other than division I, any money or assets remaining in the accounts of the Fund with respect to that division (after payment

of the relevant division expenses) must be realised, and the proceeds must be distributed among the relevant Employers who contributed to that division, as determined by the Trustee after obtaining the advice of the Actuary.

## **Part A.16**

### **Admission of Members**

#### **A.16.1 Normal application procedures.**

Subject to clause A.16.2 and any express provisions of the relevant division, application to become a Member must be made to the Trustee by an Eligible Employee or other person who is not an Eligible Employee in a form determined or approved by the Trustee. An applicant whose application is accepted by the Trustee becomes a Member on the date of acceptance by the Trustee or any earlier or later date agreed between the Trustee and the Employer or the Trustee and the other person (as applicable) either generally or in any particular case.

#### **A.16.2 Deemed admission.**

Subject to any conditions imposed by the Employer or the Trustee and without limiting any following provision of this part A.16, the Employer, after consulting the Trustee, may determine that an Eligible Employee who has not applied for membership is deemed to become a Member on a date determined by the Employer and notified to the Trustee but -

- (a) a person so deemed to be a Member is not required to contribute to the Fund without that person's express consent; and
- (b) without limiting part A.2, a person shall not be retrospectively deemed to be a Member under this clause A.16.2 where to do so would cause the Trustee to be in breach of a requirement of a Relevant Law concerning timely communications with a new Member.

#### **A.16.3 Effect of conditions and consents.**

Any -

- (a) condition properly imposed under this Deed in respect of a Member or Beneficiary;
- (b) consent, approval or agreement given or made by a Member or Beneficiary; and
- (c) act of the Trustee or an Employer pursuant to or as a consequence of that condition, consent, approval or agreement,

is binding on the Member or Beneficiary concerned and any other person who is an heir, executor or assign of the Member or Beneficiary or is or would otherwise have been entitled to claim a benefit in respect of the Member or Beneficiary or upon the occurrence of an event or circumstance affecting the Member or Beneficiary, and this Deed takes effect accordingly.

#### **A.16.4 Deed binding.**

Each Member is bound by this Deed.

#### **A.16.5 Categorisation of Members.**

- (a) The divisions of this Deed other than division A relate to and provide for groups of Members. Subject to clause A.16.5(b) and the express provisions of a division concerning the categorisation or re-categorisation of a Member, a Member will be initially categorised in one or more of the divisions as set forth below:

- (1) a Member who was a member of the LASPLAN part of the 1988 Fund immediately prior to 1 July 1998 will be initially categorised as a member of division B effective 1 July 1998;
  - (2) a Member who immediately prior to 1 July 1998 was a member of the 1988 Fund and whose 1988 Fund benefits would have been determined under Part 7 of the 1988 Act or was a “pensioner” under the 1988 Act will be initially categorised as a member of division C effective 1 July 1998;
  - (3) a Member who is a former member of the City of Melbourne Superannuation Fund, became a member of the 1988 Fund pursuant to section 53F of the 1988 Act (excluding those members to whom section 53FA of the 1988 Act applied prior to 1 July 1998) and was a member of the 1988 Fund immediately prior to 1 July 1998 will be initially categorised as a member of division D effective 1 July 1998;
  - (4) a Member who is a former member of the Melbourne Water Corporation Employees’ Superannuation Fund, became a member of the 1988 Fund pursuant to section 53G (excluding those members to whom section 53GA of the 1988 Act applied prior to 1 July 1998) of the 1988 Act and was a member of the 1988 Fund immediately prior to 1 July 1998 will be initially categorised as a member of division E effective 1 July 1998;
  - (5) a Member who became a member of the 1988 Fund pursuant to section 120 of the *Port Services Act 1995* (Vic) and was a member of the 1988 Fund immediately prior to 1 July 1998 will be initially categorised as a member of division F effective 1 July 1998; and
  - (6) a Transferring VSF Member will be categorised initially as a member of division I (in whichever Section thereof as determined by the Trustee).
- (b) Notwithstanding clause A.16.5(a) and subject to the Relevant Law, the Trustee may, for administrative purposes or for any other purpose it determines, change a Member or a group of Members from one category of membership to another.
  - (c) The Trustee will record which Members are MySuper Product Members.
  - (d) Where a Member is a MySuper Product Member but also has other beneficial interests in the Fund, the Trustee will record those interests in a way that enables the MySuper Product to be identified as an interest separate from the Member's other interests in the Fund.

## Part A.16A

### MySuper Product

#### A.16A.1 Characteristics of MySuper Products.

The Trustee may issue an interest that is a MySuper Product, and the MySuper Product must have the following characteristics:

- (a) A single diversified investment strategy is to be adopted in relation to the assets of the Fund, to the extent that the assets are attributed to the MySuper Product;
- (b) All MySuper Product Members shall be entitled to access the same options, benefits and facilities;
- (c) Amounts shall be attributed to MySuper Product Members in relation to their interest in the 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 MySuper Product Members, except that if a lifecycle investment strategy is adopted as the single diversified investment strategy for the MySuper Product, then gains or losses from different asset classes of the Fund may be streamed to different subclasses of the MySuper Product Members:

- (1) on the basis, and only on the basis, of the age of the MySuper Product Members; or
  - (2) on the basis of the age of the MySuper Product Members and other factors prescribed by the Relevant Law; or
  - (3) on the basis of the age of the MySuper Product Members and other factors in circumstances prescribed by the Relevant Law;
- (d) The same process is to be adopted in attributing amounts to MySuper Product Members in relation to their interest in the MySuper Product, except to the extent that a different process is necessary to allow for fee subsidisation by an Employer or Participating Employer;
- (e) Where the Trustee allows fee subsidisation by Employers or Participating Employers, that subsidisation must not favour one MySuper Product Member who is an Employee of a subsidising Employer or Participating Employer over another MySuper Product Member who is also an Employee of that subsidising Employer or Participating Employer;
- (f) No limit may be imposed on the source or kinds of contributions made by or on behalf of the MySuper Product Members (including any roll-overs or transfers in respect of the MySuper product Members) unless it is a limitation of a prescribed kind or is permitted or required by a Relevant Law;
- (g) The beneficial interest of a MySuper Product Member cannot be replaced with an interest in another MySuper Product within the Fund unless:
- (1) the MySuper Product Member consents in writing to that replacement no more than 30 days before it occurs; or
  - (2) the MySuper Product Member has died and the interest is replaced with a beneficial interest of another class in the Fund of a kind, and in the circumstances, prescribed by the Relevant Law;
- (h) The beneficial interest of a MySuper Product Member (the old interest) cannot be replaced with a beneficial interest (the new interest) in another superannuation fund or other superannuation entity unless:
- (1) the replacement is permitted, or is required, under a law of the Commonwealth; or
  - (2) the MySuper Product Member consents in writing to the replacement with the new interest no more than 30 days before it occurs;
- (i) To the extent that assets of the Fund are attributed to beneficial interests in the MySuper Product, a pension is not payable out of those assets by the Trustee of the Fund to a MySuper Product Member upon such member satisfying a condition of release in respect of preserved benefits and restricted non-preserved benefits as prescribed by the Relevant Law, unless the payment relates to a benefit payable under a policy of Insurance where such member has ceased work due to ill-health (whether physical or mental).

#### **A.16A.2 Other beneficial interests**

Subject to the Relevant Law, the Trustee may permit a MySuper Product Member to have other beneficial interests in the Fund that are not a MySuper Product.

## **Part A.17 Information**

### **A.17.1 Other information.**

In addition to providing all information required in order to satisfy any applicable requirement of the Relevant Law, as required under part A.2, the Trustee may provide to Members, Beneficiaries and any other person as required by the Relevant Law any other information which the Trustee considers to be necessary or appropriate.

### **A.17.2 Copies of Deed.**

A copy of this Deed is to be kept at the principal office of the Trustee and at any other place specified by the Trustee. Without limiting a Member's rights in respect of this Deed under the Relevant Law, a Member may inspect a copy of this Deed during normal business hours upon reasonable notice and the Trustee may make a charge for the provision of a copy of this Deed to any person.

### **A.17.3 Provision of information by Members.**

- (a) Each person who is applying to the Trustee to become a Member ("**Applicant**") and each Member must provide all information and evidence, sign all documents, undergo all medical examinations and tests, and generally satisfy all standards and requirements as and when the Trustee reasonably considers necessary or desirable.
- (b) Without limiting clause A.17.3(a), if -
  - (1) an Applicant or Member fails to comply with clause A.17.3(a) or to satisfy a test, standard or requirement laid down under that clause to the satisfaction of the Trustee; or
  - (2) a statement made or evidence provided by or in respect of an Applicant or a Member is found to contain a mis-statement, error, mistake, inaccuracy or suppression,the Trustee, after obtaining the advice of the Actuary, may -
  - (3) in the case of an Applicant, admit that person as a Member subject to conditions determined or approved by the Trustee or refuse to admit that person as a Member; or
  - (4) in the case of a Member, impose conditions.

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## **Part A.18 Taxation**

Subject to clause C.4.14 and clause E.4.1, the Trustee may take any actions which the Trustee considers appropriate in taking account of any Tax, including without limitation -

- (a) reducing or otherwise adjusting the amount of any benefit payable from the Fund; and
- (b) establishing reserves and making provisions in the accounts of the Fund and payments from the Fund to relevant governmental authorities.

## **Part A.19**

### **Member Contributions**

#### **A.19.1 Amount to be contributed.**

Subject to this division A, the amount of a Member's contributions to the Fund at any particular time must be determined in accordance with the relevant division of this Deed.

#### **A.19.2 Manner and timing of payment.**

Member contributions must be paid to the Fund in the manner and at the times determined or approved by the Trustee.

#### **A.19.3 Reduction, suspension or waiver.**

- (a) **Decision by Employer.** Subject to any conditions determined by the Employer and approved by the Trustee and the Member concerned (including without limitation conditions upon which contributions otherwise payable by the Member and interest must be made up by and in respect of the Member and conditions as to how benefits to be provided in respect of the Member must be adjusted to take account of a reduction, suspension or waiver), an Employer may for any period determined by the Employer reduce, suspend or waive contributions otherwise payable by an Employed Member.
  - (b) **Deemed payment.** Without limiting clause A.19.3(a) an Employer may determine that contributions which would have been paid by an Employed Member but for the exercise of a discretion as provided in clause A.19.3(a) will be deemed to have been paid by the Member for the purpose of calculating the amount of, or determining the eligibility for, payment of any benefit payable pursuant to this Deed the amount of or eligibility for which depends on the amount of the contributions paid by the Member or the period during which the Member has contributed.
  - (c) **Notification to Trustee.** The Employer must notify the Trustee of any determination under clause A.19.3(a) or clause A.19.3(b) as soon as practicable.
- 

## **Part A.20**

### **Employer Contributions**

#### **A.20.1 Amount to be contributed.**

Subject to this part A.20 and part A.21, each Employer must contribute to the Fund at any particular time the amount or rate of contributions determined by the Trustee after obtaining the advice of the Actuary, including the Unfunded Liability Amount. As soon as practicable, the Trustee must notify the Employer of each determination in respect of that Employer under this clause A.20.1.

#### **A.20.2 Manner and timing of payment.**

- (a) The contributions payable by an Employer must be paid to the Fund in the manner and at the times reasonably determined or approved by the Trustee. If the Trustee consents, contributions payable by one Employer may be paid by another Employer.

- (b) If within 14 days after an amount becomes payable an Employer does not pay the whole of the amount to the Trustee, the Employer must pay interest at a rate determined by the Trustee from time to time.

## **Part A.20A**

### **Contributions - General Provisions**

#### **A.20A.1 Contributions splitting.**

Subject to any rules and procedures that the Trustee may determine, and notwithstanding any other provision of this Deed, the Trustee may debit or credit the relevant account of a Member as a result of a contributions splitting application made by or in respect of the Member in accordance with the Supervision Act.

#### **A.20A.2 Return of contributions.**

If the Trustee receives contributions made by or in respect of a Member in a manner which is inconsistent with the Relevant Law, and the Trustee returns those contributions, the Trustee may:

- (a) return an amount lesser than the contributions received by the Trustee; or
- (b) return an amount greater than the contributions received by the Trustee,

in accordance with the Relevant Law.

#### **A.20A.3 Contributions which must be paid into a MySuper product.**

If the Trustee receives a contribution made by or in respect of a Member, the Trustee must pay that contribution into a MySuper product in the circumstances required by the Relevant Law.

## **Part A.21**

### **Termination of Employer Contributions**

#### **A.21.1 Defined Benefit Employers.**

- (a) Subject to part A.2, part A.12 and clause A.21.1(b), an Employer which contributes or is liable to contribute in respect of a Defined Benefit Member may, after giving 60 days prior written notice to the Trustee and obtaining Trustee approval, either generally or in respect of any person or persons named or described in that notice (or then or thereafter falling within a group or class of persons described in that notice) -
  - (1) terminate all or any of its payments in respect of the Fund; or
  - (2) reduce or suspend all or any of its payments in respect of the Fund to the extent specified in that notice, either indefinitely or for the period specified.
- (b) Notwithstanding part A.14, an Employer in respect of which there is, at the relevant time, an Unfunded Liability Amount may not in any case terminate, reduce or suspend all or any of its payments in respect of the Fund.

#### **A.21.2 Accumulation Employers.**

Subject to part A.2 and part A.12, an Employer who contributes to the Fund only in respect of Members who are not Defined Benefit Members may after giving 60 days prior written notice to

the Trustee and either generally or in respect of any person or persons named or described in that notice (or then or thereafter falling within a group or class of persons described in that notice) -

- (a) terminate all or any of its payments in respect of the Fund; or
- (b) reduce or suspend all or any of its payments in respect of the Fund to the extent specified in that notice and either indefinitely or for the period specified,

but a notice does not change the Employer's liability in respect of payments due from the Employer before the notice takes effect.

### **A.21.3 Non-payment or inadequacy of Employer payments.**

If an Employer has given or is deemed to have given a notice pursuant to clause A.21.1 or clause A.21.2 then:

- (a) unless otherwise agreed between the Trustee and the Employer, no contributions will be accepted from a Member, and no Employee will be admitted as a Member, during or in respect of any period when an Employer's payments are or would be terminated in respect of that person pursuant to that notice; and
- (b) the Trustee, after obtaining the advice of the Actuary and subject to clause A.21.5, may adjust any benefit which is or may become payable to or in respect of any person whom the Trustee may consider is affected by that termination to the extent and in the manner the Trustee considers appropriate and equitable.

### **A.21.4 Revocation of notice or remedy of failure or inadequacy.**

Subject to any conditions imposed by the Trustee, part 1.2 and clause A.21.5, an Employer may:

- (a) revoke or vary a notice given or deemed to have been given by that Employer pursuant to clause A.21.1 or clause A.21.2; or
- (b) remedy a failure or inadequacy which has occurred or arisen in terms of clause A.21.3,

and, in that event, the Trustee (after obtaining the advice of the Actuary) may adjust the rights and obligations of the persons who, in the opinion of the Trustee, are affected by the revocation, variation or remedy to the extent and in the manner determined by the Trustee.

### **A.21.5 Adjustment procedures and limits.**

An adjusted benefit provided in respect of a person under this part A.21 may be provided in any manner or form, by way of any arrangements and subject to any conditions determined by the Trustee either generally or in any particular case, and 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 part A.21. Unless otherwise agreed between the Trustee and the Employer, an adjustment made pursuant to clause A.21.3(b) or clause A.21.4 must not increase the amount of any benefit which, in the opinion of the Trustee after obtaining the advice of the Actuary, has accrued in respect of a person immediately prior to the effective date of that adjustment in respect of the period up to that date or improve the basis upon which benefits accrue during or in respect of any period after that date.



## Part A.22

### General Conditions of Payment of Benefits

#### A.22.1 Normal amount and circumstances of payment.

Subject to this division A, the amount and circumstances of payment of benefits in respect of a Member at any particular time must be determined in accordance with the relevant division of this Deed.

#### A.22.2 Payment of benefits.

- (a) **Manner and place of payment.** A benefit payable from the Fund is payable at the place and in the manner (including without limitation payment in specie or in kind, payment by electronic means or by way of instalments) determined by the Trustee and, without limiting clause A.22.5, a person to whom a benefit is payable (whether in that person's own right or for and on behalf of another person) must upon request by the Trustee provide all information and do all acts and things which the Trustee may consider necessary or desirable in effecting payment. The receipt of a Member or Beneficiary for an amount payable to that person is a complete discharge to the Trustee in respect of that amount and the Trustee is not bound to see to the application of that amount.
- (b) **Interest on benefits.** The Trustee will determine the relevant rate of interest for the purposes of the whole or any particular provision of this Deed for all or part of the period between the date the benefit becomes payable out of the Fund until the date it is paid.

#### A.22.3 Standard of proofs.

Whenever it is necessary under this Deed for the Trustee, an Employer or other person to decide questions of fact, that person may act upon any proofs or presumptions which that person may consider satisfactory, whether or not they are strictly legal proofs or legal presumptions.

#### A.22.4 No personal claim.

No person is entitled to require a payment from the Fund except in accordance with this Deed.

#### A.22.5 Proof of qualification for benefits.

- (a) **Claims and information.** Without limiting part A.2 or clause A.22.3, a person's entitlement to a benefit from the Fund is contingent upon -
  - (1) the Trustee being notified of that person's claim or intention to make a claim in respect of that benefit in writing or another manner or form reasonably satisfactory to the Trustee; and
  - (2) the availability to the Trustee or a delegate or nominee of the Trustee of all information, evidence and proofs required by the Trustee, delegate or nominee in order to be fully satisfied as to that person's existence, identity and whereabouts, and that person's entitlement or continued entitlement to receive that benefit.
- (b) **Failure to comply.** Without limiting clause A.22.5(a) or clause A.22.3 -
  - (1) the Trustee may suspend consideration of a person's claim to or payment of a benefit until all required information, evidence and proofs become available to the satisfaction of the Trustee; and

- (2) whether or not any action has been taken to identify, locate, contact or advise a claimant or potential claimant, if no person has notified the Trustee of a claim or intention to make a claim in respect of a particular benefit within 6 months after -
- (i) in the case of a benefit arising on the death of a Member, the date of death of the Member;
  - (ii) in the case of a benefit arising on the disablement of a Member, the date the Member ceased to be an Employee; or
  - (iii) in any case, any date or other date determined or allowed by the Trustee either generally or in any particular case,
- that benefit will be transferred to division I until a claim is made, further instructions given or the required proof is received.

#### **A.22.6 Beneficiary under disability.**

- (a) **Powers of Trustee.** If it appears to the Trustee that a Beneficiary is under a legal disability or is unable for any reason to satisfactorily deal with an amount otherwise payable to the Beneficiary from the Fund, the Trustee may pay or apply the whole or part of any amount payable to the Beneficiary for or towards the maintenance, education, advancement or otherwise for the benefit of the Beneficiary in any form and manner and subject to any conditions determined by the Trustee, including without limitation by way of payment to a person who, in the opinion of the Trustee -
- (1) is a trustee for the Beneficiary, including without limitation a trustee of a separate trust established by the Trustee upon the trusts and with the Powers determined by the Trustee;
  - (2) is a representative, Spouse, Child, parent or guardian of the Beneficiary; or
  - (3) has custody or care (or the financial expense of custody or care) of the Beneficiary.
- (b) **Discharge of Trustee.** The receipt of a person to whom an amount is paid by the Trustee under clause A.22.6(a) is a complete discharge to the Trustee, and the Trustee is not bound to see to the application of that amount. The Trustee is not under a duty to have recourse to this clause A.22.6(b) or to consider whether the Trustee should have recourse to this clause, even if the Trustee has actual notice of a relevant matter.

#### **A.22.7 Provision of benefits at particular ages.**

- (a) **Compulsory provision at particular age.** If, in the opinion of the Trustee, a benefit must be paid or commence to be paid from the Fund to or in respect of a Member upon the Member attaining a particular age or upon the occurrence of a particular event or circumstance (notwithstanding that there is no actual termination or interruption of employment) in order to satisfy the Relevant Law:
- (1) the Trustee must pay or commence payment of that benefit subject to such conditions as are necessary to satisfy the Relevant Law; and
  - (2) subject to any contrary agreement between the Trustee and the Employer, for the purposes of determining the amount of or eligibility for payment of any benefit payable pursuant to this Deed in respect of an event or circumstances occurring or arising after the date the benefit is paid or commences to be paid, that Member must be treated for all intents and purposes under this Deed as if that Member had never previously been an Employee or a Member.

- (b) **Voluntary provision at particular age.** If, in the opinion of the Trustee, a benefit may be paid or commence to be paid from the Fund in respect of a Member upon the Member attaining a particular age or upon the occurrence of a particular event or circumstance (notwithstanding that there is no actual termination or interruption of employment) without causing a breach of the Relevant Law:
- (1) in the case of an Employed Member:
    - (i) the Employer and the Trustee may agree that the Trustee may pay or commence payment of that benefit; and
    - (ii) subject to any contrary agreement between the Trustee and the Employer, for the purposes of determining the amount of or eligibility for payment of any benefit payable pursuant to this Deed in respect of an event or circumstance occurring or arising after the date the benefit is paid or commenced to be paid, that Member must be treated for all intents and purposes under this Deed as if that Member had never previously been an Employee or a Member; or
  - (2) in any other case:
    - (i) the Trustee may pay or commence payment of that benefit; and
    - (ii) for the purposes of determining the amount of or eligibility for payment of any benefit payable pursuant to this Deed in respect of an event or circumstance occurring or arising after the date the benefit is paid or commenced to be paid, that Member must be treated for all intents and purposes under this Deed as if that Member had never previously been a Member.

#### **A.22.8 Minimum benefit.**

- (a) Subject to clause A22.8(b), the benefit payable to or in respect of a Member from the Fund shall not be less than the Member's SG Benefit, if any, but before increasing any benefit in order to give effect to this clause A.22.8(a) or in the course of doing so, the Trustee after obtaining the advice of the Actuary may require an undertaking from an Employer that it shall contribute to the Fund such additional amounts or rates of contribution and at such times as the Actuary shall calculate. If any undertaking required by the Trustee as aforesaid is not given or, having been given, is not fulfilled to the Trustee's satisfaction, the Trustee may refuse or cease to give effect to this clause A.22.8(a).
- (b) Clause A22.8(a) does not apply to or in respect of Members of division I.

#### **A.22.9 Payment of death benefits.**

- (a) Any benefit payable from the Fund on or after the death of a Member which under this Deed is not expressed to be payable to or for the benefit of some other specified person or persons must be paid or applied by the Trustee in accordance with the provisions of the relevant division.
- (b) The receipt of a person to whom an amount is paid by the Trustee under this Deed is a complete discharge to the Trustee in respect of an amount paid to that person and the Trustee is not bound to see to the application of that amount.

## Part A.23 Forfeiture

### A.23.1 Conditions on benefit entitlements.

(a) **Relevant conditions.**

- (1) Except as permitted, expressly or by necessary implication, under the Relevant Law and without limiting part A.2, no part of a person's interest or entitlement under this Deed is capable of being assigned to, or of becoming mortgaged, charged or otherwise encumbered in favour of, any other person.
- (2) Subject to part A.2, it is a condition precedent of a person being entitled to a benefit under this Deed that that person is, at all material times, an Entitled Person.

(b) **Alienation of benefits: protective trust.** If a person is not an Entitled Person by reason of that person falling within paragraph (a) of the definition of Entitled Person in clause A.1.1, the Trustee must hold any benefit to which, but for the operation of this clause A.23.1, that person would be entitled under this Deed upon trust to be paid or applied by the Trustee to or for the benefit of one or more of -

- (1) that person;
- (2) that person's Dependants; and
- (3) if that person has died, any other person to whom payment may be made in accordance with the provisions of the relevant division,

to the exclusion of the other or others of them and in the proportions, manner and form, and subject to the trusts and conditions, determined by the Trustee. Without limiting the preceding words, in the exercise of its discretion under this clause A.23.1 in respect of a person, the Trustee may pay any part of a relevant benefit to another person who in the opinion of the Trustee -

- (4) is a trustee for that person or a trustee for a Dependant of that person, including without limitation a trustee of a separate trust established for this purpose by the Trustee upon the trusts and Powers determined by the Trustee;
- (5) is a representative, Spouse, Child, parent or guardian of (or an executor or administrator of the estate of) that person or of a Dependant of that person; or
- (6) has the custody or care (or the financial expense of the custody or care) of that person or a Dependant of that person.

(c) **Non-compliance with clause A.22.5(a).** If a person is not an Entitled Person because of that person's failure to comply with clause A.22.5(a) to the Trustee's satisfaction, the Trustee may apply any benefit to which, but for the operation of this clause A.23.1, that person would be entitled under this Deed in any manner which is permissible under the Relevant Law and the Trustee considers appropriate.

(d) **Discharge of Trustee.** The receipt of a person to whom the Trustee is authorised to pay an amount under this clause A.23.1 is a complete discharge to the Trustee and the fact that a person is not an Entitled Person at the time an amount is paid to that person by the Trustee may not be asserted as a breach of duty by the Trustee and shall not result in any liability for the Trustee.

**A.23.2 Consequential adjustments.**

Subject to part A.2 -

- (a) the Trustee may adjust the rights, interests and obligations of any person (and of any other person otherwise entitled to claim in respect of that person or on the occurrence of an event or circumstance affecting that person) in the manner and to the extent the Trustee considers appropriate in taking account of clause A.23.1; and
- (b) if, having ceased to be an Entitled Person, a person subsequently becomes an Entitled Person, the Trustee may re-adjust any such right, interest or obligation in the manner, to the extent and on the conditions the Trustee considers appropriate, but the Trustee is not under a duty to apply this paragraph (b), or to consider whether the Trustee should apply this paragraph, even if the Trustee has actual notice of a relevant matter.

## **Part A.24**

### **Employers: Miscellaneous Provisions**

**A.24.1 Employer's Powers not affected.**

Nothing in this Deed prejudices the Powers of an Employer regarding the dismissal or remuneration of or any dealings whatever with any of its officers, employees or servants. Any benefit to which a person may be entitled under this Deed must not be used or alleged or claimed as damages or as grounds for increasing damages in any action or claim by or in respect of that person against an Employer in relation to the dismissal of or other dealings with that person by the Employer.

**A.24.2 Employer's Powers.**

Except to the extent otherwise expressly provided elsewhere in this Deed, in the exercise, non-exercise or partial exercise of each Power exercisable by it under this Deed, the Employer has an absolute and uncontrolled discretion.

**A.24.3 Appointment of Receiver.**

If a receiver, receiver and manager, liquidator or trustee in bankruptcy is appointed in respect of an Employer or the whole of the property of an Employer or if an Employer is placed under the official management of a person or a committee of management (collectively called "Receiver"), until the Receiver is discharged from, or otherwise ceases to hold, office all Powers exercisable by the Employer are exercisable by the Receiver and references in this Deed to that Employer are deemed to be references to the Receiver.

## **Part A.25**

### **Notices**

**A.25.1 Normal procedures.**

A notice, cheque or other written matter (collectively called "notice" in this part A.25) may be given to any person by handing it to that person personally, by leaving it at that person's address last known to the person giving the notice or by sending it to that address by ordinary prepaid post (including, in the case of a body corporate, the registered office or principal place of business of that body).

**A.25.2 Other procedures.**

Without limiting clause A.25.1, notification of any matter may also be given by the Trustee or an Employer -

- (a) to an Employee (whether or not a Member) by way of -
  - (1) a notice placed on a notice board; or
  - (2) a notice included in a magazine, newsletter or other publication, utilised (either generally or for any particular purpose) for information dissemination purposes at a normal workplace of the Employee or any other place the Employee could reasonably be expected to visit in the course of the Employee's normal duties; and
- (b) to any person -
  - (1) by way of a notice placed in a newspaper circulating in those places the Trustee may consider appropriate in the circumstances; or
  - (2) by way of any data or image transmission or communication facility or medium, including without limitation facsimile and electronic mail.

**A.25.3 Receipt of notices.**

A notice is deemed to have been received -

- (a) in the case of a notice given by hand, at the time of delivery;
- (b) in the case of a notice given by post, at the expiration of 3 normal working days (in the location at which the notice is posted) after posting;
- (c) in the case of a notice placed on a notice board as provided in clause A.25.2(a)(1), 2 normal working days (at the location of the notice board) after the notice is placed on the notice board;
- (d) in the case of a notice included in a magazine, newsletter or other publication as provided in clause A.25.2(a)(2), 5 normal working days (at the location at which the publication is published) after the date of publication;
- (e) in the case of a notice published in a newspaper as provided in clause A.25.2(b)(1), 2 calendar days after the date the newspaper is published; or
- (f) in the case of a notice given by way of a facility or medium falling within clause A.25.2(b)(2), when transmitted to the addressee (whether or not legibly received),

or, in any case, at any later date which the Trustee may determine to be appropriate in the circumstances.

## **Part A.26**

### **Applicable Currency and Law**

**A.26.1 Australian currency.**

Except as otherwise expressly provided in this Deed or as otherwise determined by the Trustee either generally or in any particular case, all monetary liabilities and obligations imposed on the Fund or any person under this Deed (including without limitation contributions and benefits payable under this Deed) must be calculated and expressed in Australian currency using a basis of conversion into Australian currency determined or approved by the Trustee.

**A.26.2 Proper law.**

- (a) This Deed is governed by, and takes effect and must be construed in accordance with, the proper law of this Deed.
- (b) The proper law of this Deed is the law of the State of Victoria or of any other State or Territory of Australia determined by the Trustee.

## Part A.27

### Portability of Benefits

**A.27.1 Transfers from Approved Benefit Arrangements.**

Subject to part A.2, this clause A.27.1 and clause A.27.3, the Trustee may make or carry into effect an arrangement either generally or in any particular case in respect of a participant or former participant in an Approved Benefit Arrangement whereby -

- (a) that person, if not already a Member or Beneficiary, becomes a Member or Beneficiary;
- (b) moneys and assets are paid or transferred to the Fund in respect of that person; and
- (c) that person is granted such rights and has such obligations under this Deed (whether in addition to or in lieu of any rights or obligations otherwise arising under this Deed) as determined by the Trustee, after obtaining the advice of the Actuary.

**A.27.2 Transfers to Approved Benefit Arrangements.**

- (a) **Transfer of benefits with consent.** Without limiting clause A.27.2(b) but subject to part A.2 and clause A.27.3 and the express provisions of any relevant division, in lieu of providing all or part of a benefit from the Fund in respect of a Beneficiary, the Trustee with the consent of the Beneficiary may pay or transfer to or towards an Approved Benefit Arrangement in which the Beneficiary participates or is eligible to participate -
  - (1) an amount representing the value of all or that part of the benefit, as determined by the Trustee; or
  - (2) any greater amount agreed between the Trustee and the Employer but not exceeding the Beneficiary's Equitable Share.
- (b) **Compulsory transfer of benefits.** Subject to part A.2 and clause A.27.3, if a Beneficiary does not take all steps which, in the opinion of the Trustee, are reasonably necessary in order to ensure that the value of the benefit payable to the Beneficiary (including without limitation any deferred or preserved benefit) is transferred to an Approved Benefit Arrangement approved by the Trustee, the Trustee must without obtaining the consent of the Beneficiary -
  - (1) cause that value to be transferred to another Approved Benefit Arrangement approved by the Trustee; or
  - (2) if the Trustee determines either generally or in any particular case, and after any period of time determined by the Trustee, cause that value to be transferred to division I of the Fund,

but the Trustee must refrain from making a payment or transfer under this clause A.27.2(b) if and for so long as the Trustee considers it is necessary to do so in order to comply with any applicable requirement of a Relevant Law.

- (c) **Transfer of Employed Member.** Without limiting clause A.27.2(b) but subject to part A.2 and clause A.27.3, if a Division B Member who is an Employed Member makes a written application to the Trustee:
  - (1) the Member may request the Trustee to transfer all or part of the Member's Account Balance to one or more Approved Benefit Arrangements in which the Employed Member participates or is eligible to participate; and
  - (2) the Trustee may, after consultation with the Employer, make or carry into effect an arrangement whereby all or part of the Member's Account Balance is paid or transferred from division B of the Fund to the Approved Benefit Arrangement or Arrangements selected by the Member.
- (d) **Transfer between divisions.** Without limiting clause A.27.2(b) but subject to part A.2 and clause A.27.3, the Trustee may make or carry into effect an arrangement whereby, with the consent of the Member, there is transferred part or all of an amount determined by the Trustee from one or more divisions of the Deed to any other division of this Deed.
- (e) **Method of transfers out.** The Trustee may effect a payment or transfer from the Fund under this clause A.27.2 by way of payment of money or transfer of assets.
- (f) **Discharge of Trustee.** The receipt of the trustees of, or of another person responsible for, an Approved Benefit Arrangement (including, in the case of an annuity effected in respect of a Member, the body providing that annuity) is a complete discharge to the Trustee and the Trustee is not responsible for the application or disposal of money or assets so paid or transferred.
- (g) **Effect of transfer on benefits.**
  - (1) Upon payment or transfer from the Fund of a Member's or Beneficiary's Fund Interest in accordance with this clause A.27.2, all of the rights and interests of that Member or Beneficiary under this Deed (and all of the rights and interests of any person otherwise entitled to claim in respect of the Member or Beneficiary or on the occurrence of any event or circumstance affecting the Member or Beneficiary) are extinguished.
  - (2) Upon payment or transfer from the Fund in accordance with this clause A.27.2 of the whole of the value of a benefit otherwise payable from the Fund to or in respect of a Member or Beneficiary, all of the rights and interests of that Member or Beneficiary under this Deed in respect of that benefit are extinguished.
  - (3) In the case of a payment or transfer from the Fund in respect of a Member or Beneficiary in accordance with this clause A.27.2 which does not fall within clause A.27.2(g)(1) or (2), the rights and interests of that Member or Beneficiary under this Deed (and the rights and interests of any person otherwise entitled to claim in respect of the Member or Beneficiary or on the occurrence of any event or circumstance affecting the Member or Beneficiary) are extinguished or adjusted in the manner and to the extent the Trustee, after obtaining the advice of the Actuary, determines to be appropriate and equitable in taking account of that payment or transfer.

### **A.27.3 Overriding conditions on portability.**

- (a) **Overriding compliance conditions.** All payments and transfers into the Fund under clause A.27.1, and out of the Fund under clause A.27.2, and any replacement of a Member's interest in a MySuper Product with another beneficial interest in the Fund, or with a beneficial interest in another superannuation entity, shall be subject to such conditions as the Trustee considers necessary in order to satisfy the Relevant Law,



including without limitation conditions necessary to satisfy conditions imposed under a Relevant Law concerning:

- (1) The deferral or preservation of a benefit; or
  - (2) MySuper products.
- (b) **Unilateral Trustee powers under the Relevant Law.** The Trustee is empowered and, in certain circumstances, required by the Relevant Law to make unilateral payments and transfers from or within the Fund, and (to the extent provided in the Relevant Law) may do so notwithstanding anything in this Deed to the contrary.
- (c) **Power to transfer interests to comply with MySuper.** The Trustee has the power to transfer to a MySuper Product any amount or interest of any Member that the Relevant Law requires to be treated as a MySuper interest.

## Part A.28 Amendment Powers and Procedures

### A.28.1 Amendment power.

Subject to clause A.28.3, the Trustee may by deed alter, add to or repeal all or any of the provisions contained in this Deed, including the provisions of this part A.28.

### A.28.2 Effective date.

Any alteration, addition or repeal shall come into force on the effective date specified in the deed (whether retrospective or prospective) and if no date is specified, the date of the deed.

### A.28.3 No violation of Supervision Act.

No alteration, addition or repeal shall take effect unless the Trustee is satisfied that the Supervision Act is not contravened.

## Part A.29 Reserve Account

### A.29.1 Establishment.

The Trustee may establish in respect of the Fund in accordance with this part A.29 one or more accounts to be called the Reserve Account.

### A.29.2 Credits and debits to Reserve Account.

There will be credited to the Reserve Account:

- (a) any amount which in accordance with clause A.22.5 or part A.23 is debited to a Member's account and which is not otherwise applied in accordance with those provisions;
- (b) any bonus, refund or rebate paid to the Fund in respect of Group Life Insurance effected under this Deed; and
- (c) any other amounts which this Deed may require to be credited to the account or which the Trustee may determine to credit to the account,

and there will be debited to the Reserve Account:

- (d) any amount to be debited to the account in accordance with clause A.29.3; and
- (e) any amounts which the Trustee may determine to debit to the account in respect of Tax, Fund Expenses or Group Life Insurance; and
- (f) any other amounts which this Deed may require to be debited to the account or which the Trustee may determine to debit to the account,

and interest at the rate determined by the Trustee will be periodically allocated to the Reserve Account (by credit or debit, as the case may require).

### **A.29.3 Application of credit balance in Reserve Account.**

- (a) **Payments from Reserve Account.** The Trustee may debit amounts to the Reserve Account for any purpose which the Trustee may consider to be appropriate and in accordance with the Relevant Law, including without limitation in order to:
  - (1) increase a Member's Fund Interest; and
  - (2) pay Tax, Fund Expenses or the costs of Group Life Insurance.
- (b) **Investment fluctuation reserve.** The Trustee may maintain an unallocated credit balance in the Reserve Account for the purpose of reducing fluctuations in the rates of interest allocated to the accounts of the Fund from time to time but the Trustee must ensure that the credit balance at any time does not exceed an amount which would cause the Fund to be in breach of or to fail to comply with an applicable requirement of the Relevant Law.

## **Part A.30 Special Investments**

### **A.30.1 Special investments.**

Subject to this part A.30 and to any conditions imposed by the Trustee either generally or in any particular case -

- (a) **Special portfolios.** The Trustee may establish investment portfolio arrangements for Members on such basis and within such parameters as the Trustee considers appropriate (any distinct portfolio of assets or classes of assets established for this purpose is hereinafter called a "Special Portfolio") and may invite a Member to elect to invest all or part of the Member's accumulation account balance or any other amount in any particular division in one or more Special Portfolios. Without limiting the generality of the foregoing, a Special Portfolio may take the form of an individual policy of life insurance issued in respect of a particular Member which provides for the Member to select among various investment options.
- (b) **Group life options.** The Trustee may establish options in respect of levels of insurance and may invite a Member to elect a particular option.
- (c) **Variation of elections.** At any date or dates determined by the Trustee, the Trustee may allow a Member to revoke or vary any previous Special Portfolio election made by the Member and to make further elections.

### A.30.2 Accounting for Special Portfolios.

Where any part of a Member's accumulation account balance is invested in a Special Portfolio as defined in clause A.30.1, in determining how and to what extent the relative investment performance of that Special Portfolio is allocated to the Member's accumulation account balance, the Trustee -

- (a) will have due regard to the extent to which, in the opinion of the Trustee, the Member's accumulation account balance is represented by or is attributable to, on the one hand, investments forming part of a Special Portfolio and, on the other hand, investments not forming part of a Special Portfolio; and
- (b) may allocate that investment performance to the Member's accumulation account balance on such basis as the Trustee may determine either generally or in any particular case, including without limitation by way of unit price movements or a particular Declared Rate.

### A.30.3 Overriding conditions.

- (a) **Maximum limits.** The aggregate amount which may be invested or applied in respect of a Member under clause A.30.1(a) and (b) must not exceed the Member's accumulation account balance.
- (b) **Trustee not bound.** The Trustee is not bound to establish or maintain any particular investment under clauses A.30.1(a) and (b) or to make it available to any particular Member, and the Trustee may vary, discontinue or dispose of any such arrangement or facility, as it considers the circumstances require.
- (c) **Trustee not liable.** The Trustee is not liable or responsible for or in connection with any cost, loss, expense or detriment suffered by any person as result of the exercise, partial exercise or non-exercise of any Power exercisable by the Trustee under this part A.30 including without limitation any detriment suffered as a result of the Trustee failing to act on any election by a Member or any delay by the Trustee in doing so.
- (d) **Apportionment of costs.** The Trustee may apportion the costs of any special investment arrangements established and maintained under this part A.30 between Members' accumulation account balances on such basis as the Trustee determines.

## Part A.31 Unitisation

### A.31.1 Division into Units.

Pursuant to clause A30.2(b), the Trustee may, if it thinks necessary or desirable, divide any or all of its investment portfolio, including any or all Special Portfolios, into Units and allocate Units to Members' accounts and all other accounts and reserves maintained for the purposes of the Fund, and unitisation will replace the Declared Rate where determined by the Trustee from time to time.

### A.31.2 Rules.

The Trustee may adopt rules from time to time in relation to:

- (a) the pricing of Units (including separate "buy" and "sell" prices and the timing and frequency of the pricing);
- (b) switching between Unit Classes;

- (c) the method and frequency of valuing the investment portfolio; and
- (d) any other matters which the Trustee determines to be necessary or appropriate to administer or maintain unitisation.

### **A.31.3 Unitised accounts.**

All Fund Members' accounts and, as determined by the Trustee, other amounts and reserves maintained for the purposes of the Fund, will be recorded in Units of the relevant Unit Classes. Any amount credited or debited to a relevant account or reserve will be converted into Units of the relevant Unit Classes immediately prior to being credited to the account or reserve, having regard to the relevant Unit Price.

### **A.31.4 Calculation by reference to Unit Price.**

Where this Deed refers to the balance, or the amount standing to the credit of an account or reserve maintained for the purposes of the Fund and the relevant account or reserve is unitised, it is taken to be a reference to the account or balance calculated by reference to the number of Units in the account or reserve and the relevant Unit Price (and a reference in this Deed to the crediting or debiting of investment earnings at the Declared Rate (if positive or negative, respectively) shall be a reference to the allocation of the relevant investment earnings by a change in the relevant Unit Price).

### **A.31.5 Unit Prices.**

The Trustee may determine different Unit Prices to apply to a specific Unit Class for different purposes.

### **A.31.6 Other.**

The Trustee may do anything that the Trustee determines is reasonably required to administer and maintain unitisation.

**DIVISION B**  
**ACCUMULATION MEMBERS CONTRIBUTIONS AND BENEFITS**  
**(including former LASPLAN Members)**

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**Part B.1**  
**Application and Interpretation**

**B.1.1 Application of division B.**

- (a) This division B is always subject to division A of this Deed, and division A prevails over this division B to the extent of any conflict.
- (b) This division B only applies to and in respect of a member of the Fund who -
  - (1) was a member of the LASPLAN part of the 1988 Fund immediately before the repeal of the 1988 Act; or
  - (2) transfers all or part of an amount from another division of the Fund to division B; or
  - (3) becomes a member of the Fund on or after 1 July 1998; andis for the time being categorised as a Member of division B.

**B.1.2 Definitions.**

In this division B, unless the contrary intention appears or the context requires otherwise:

“**Continuation Member**” means a member of this Division B who is not an SG Member.

“**Declared Rate**” means the rate of interest (which may be positive or negative) determined by the Trustee after having regard to the income of the Fund or of any particular investment portfolio within the Fund or any other matter considered relevant by the Trustee, in respect of any period for the purposes of the whole or any particular provision of this Deed and without limiting the preceding words but subject to any conditions determined by the Trustee, for the purposes of the whole or any particular provision of this Deed -

- (a) a Declared Rate may be prospectively determined on an interim basis in respect of a particular period; and
- (b) a Declared Rate may be subsequently determined on a final or declared basis in respect of that period.

“**Disability**” has the same meaning as that term has for the time being and from time to time in any applicable policy of insurance or, in any other case:

- (a) in relation to an SG Member means, the permanent inability of the Member due to a continuing or recurring injury, disease or infirmity to perform his or her duties or any other duties for which he or she is suited by education, training or experience or for which he or she would be suited as a result of retraining, as determined by the Trustee on the basis of reports provided by at least two legally qualified medical practitioners appointed by the Trustee; and

- (b) in relation to a Continuation Member, means the Continuation Member suffers an injury or sickness and, because of that injury or sickness, the Trustee determines on the basis of reports provided by at least two legally qualified medical practitioners appointed by the Trustee that the Member is permanently unable to perform at least two of the five activities of daily living, listed below, without assistance:
- (1) bathing and showering;
  - (2) dressing and undressing;
  - (3) eating and drinking;
  - (4) using the toilet to maintain personal hygiene; and
  - (5) getting in and out of bed, a chair, a wheelchair or moving from place to place by walking, by wheelchair or with a walking aid.

**“Initial Credit”** means in relation to a Member who was a member of the LASPLAN part of the 1988 Fund on 30 June 1998, the amount equal to the Member’s “member’s account balance” on 30 June 1998 as determined in accordance with the 1988 Act.

**“Member”** means a Member of this division B, being either a Continuation Member or an SG Member.

**“Member’s Account”** means in relation to a Member the account of that name maintained in respect of the Member in accordance with part B.3.

**“Member’s Account Balance”** means in relation to a Member as at any particular date the credit balance (if any) in the Member’s Account, after all relevant credits and debits have been made to that account.

**“Nominated Beneficiary”** means with respect to a Member, on or after 1 July 2009, one or more Dependants or the legal personal representative nominated on that Member’s last effective Valid Nomination Form to receive any death benefit that becomes payable from the Fund.

**“SG Member”** means an Employed Member in respect of whom contributions are (or would be, if the Employed Member were receiving any applicable earnings) made by an Employer to ensure that there is not an individual superannuation guarantee shortfall in respect of the Member in terms of the *Superannuation Guarantee (Administration) Act 1992*, or any other member as determined by the Trustee either generally or in any particular case.

**“Valid Nomination Form”** means a nomination form which has been signed by the Member in accordance with procedures determined by the Trustee and which is valid under the Relevant Law.

### **B.1.3 Membership.**

A Member of division B may also be a member of another division of the Fund while a Member of division B. In that event, any benefit payable from division B shall be paid in accordance with this division and any benefit payable from another division shall be paid in accordance with that division.

## **Part B.2**

### **Administration and Procedures**

#### **B.2.1 Member rejoining Fund.**

If, having previously ceased to be an Employee, a person again becomes an Employee, then during and in respect of the period after the date of again becoming an Employee that person must be treated for all intents and purposes under this division B as if that person had never previously been a member of the Fund.

#### **B.2.2 Transfers between Employers.**

A Member does not cease to be a member of the Fund or an Employee by reason of ceasing to be an Employee of one Employer and immediately becoming an Employee of another Employer.

#### **B.2.3 Disability assessment procedure.**

If the Trustee initially determines that an SG Member who has applied for a Disability benefit does not satisfy the applicable definition of Disability, the Member has the right to require the Trustee to review its initial determination and to obtain a further report from a registered medical practitioner mutually agreed upon by the Trustee and the Member.

#### **B.2.4 Benefits: restrictions and adjustments.**

- (a) **Limitations imposed by Insurer.** Any benefit of the Fund in respect of which the Trustee seeks to effect, or effects, insurance must be reduced to the extent to which -
- (1) for any reason the Insurer fails to provide insurance on the Insurer's standard terms for standard lives; or
  - (2) for any reason the Insurer -
    - (i) fails to provide or increase insurance;
    - (ii) reduces or terminates insurance;
    - (iii) limits or restricts insurance or the circumstances in which insurance proceeds will become payable; or
    - (iv) refuses to consider, defers or denies a claim in whole or in part.

The Trustee may adjust that benefit, and any other benefit which the Trustee may consider to be affected, in the manner and to the extent the Trustee considers necessary in order to effect and take account of that reduction.

- (b) **Alternative insurance.** If an event provided for in clause B.2.4(a) occurs in relation to insurance sought or effected, the Trustee is not bound to seek alternative insurance with the same or another Insurer. If the Trustee decides to seek alternative insurance, the Trustee may limit that search to the Insurer or Insurers determined by the Trustee.
- (c) **Conditions of payment of insurance proceeds.** The amount, time for and basis of payment of all or part of a benefit in respect of which insurance has been effected must be adjusted in the manner and to the extent necessary to take account of the terms and conditions upon which insurance proceeds are payable.
- (d) **Pre-existing condition.** If, during the first two years of membership of the Fund, a Member dies or suffers Disability as a direct consequence of a medical condition:
- (1) which was, in the opinion of the Trustee after obtaining the advice of a medical practitioner, pre-existing at the commencement of membership; and

- (2) in respect of which a contract of insurance is not available at reasonable costs, the Member has no cover under the Fund.
- (e) **Insufficient Member's Account Balance to pay premium.** Cover for insurance proceeds will only be maintained in respect of a Member for so long as sufficient moneys remain in the Member's Member Account to pay the relevant premium. If at any time the Member's Account Balance is not sufficient to pay the relevant premium, then cover will cease to be maintained from that time.

### **B.2.5 Payment of death benefits.**

- (a) **Binding death benefit nominations.** Any benefit payable from this division B on or after the death of a Member is payable:
  - (1) to the Member's Nominated Beneficiary (if applicable); or
  - (2) in accordance with clause B.2.5(b) if there is no Valid Nomination Form in respect of the Member or if payment in accordance with clause B.2.5(a)(1) cannot otherwise be made.
- (b) **Basis of payment.** Subject to clauses B.2.5(a) and B.2.5(c), any benefit payable from this division B on or after the death of a Member which under this division B is not expressed to be payable to or for the benefit of some other specified person or persons must be paid or applied by the Trustee to or for the benefit of one or more of -
  - (1) the Member's Dependants; and
  - (2) the Member's legal personal representatives,
 to the exclusion of the other or others of them and in the form, manner, proportions and subject to the conditions determined by the Trustee.
- (c) **No Dependants or legal personal representative.** If after such inquiries and such period as the Trustee considers appropriate, the Trustee is unable to identify a Dependant or legal personal representative of a deceased Member to its satisfaction, the Trustee may pay or apply the benefit otherwise payable in any other manner permissible under the Relevant Law.

## **Part B.3 Member's Account**

### **B.3.1 Establishment.**

The Trustee must cause to be maintained in respect of each Member in accordance with this part B.3 an account to be called the Member's Account.

### **B.3.2 Credits and debits.**

There shall be credited to a Member's Account:

- (a) the Member's Initial Credit, if any;
- (b) subject to clause A.18 -
  - (1) the Employer's contributions in respect of the Member in accordance with clause B.4.1;
  - (2) any contributions by the Member in accordance with clause B.4.2; and



- (3) any contributions made in accordance with clause B.4.3;
- (c) any amounts transferred in respect of the Member from another division of this Deed;
- (d) any amount transferred from an Approved Benefit Arrangement in respect of the Member in accordance with this Deed and which the Trustee determines to credit to the Member's Account;
- (e) any amounts the Trustee may determine to credit to the Member's Account because of a valid family law arrangement or a valid contributions splitting arrangement;
- (f) interest at the Declared Rate (if positive); and
- (g) any other amounts (except any insurance proceeds) which this Deed may require to be credited to the Member's Account or which the Trustee may determine to credit to the Account,

and there shall be debited to a Member's Account:

- (h) any amounts which the Trustee may determine to debit in respect of Tax, Fund Expenses and insurance;
- (i) any amount transferred to an Approved Benefit Arrangement in respect of the Member in accordance with this Deed and which the Trustee determines to debit to the Member's Account;
- (j) any amounts transferred in respect of the Member to another division of this Deed;
- (k) any benefit attributable to the Member's Account;
- (l) any amounts the Trustee may determine to debit to the Member's Account because of a valid family law arrangement or a valid contributions splitting arrangement;
- (m) interest at the Declared Rate (if negative); and
- (n) any other amounts which this Deed may require to be debited to the Member's Account or which the Trustee may determine to debit to the Member's Account.

## Part B.4 Contributions

### **B.4.1 Employer contributions.**

Subject to this part B.4, the Employer must contribute to the Fund in respect of an SG Member:

- (a) the amount necessary to fund the Member's SG Benefit; and
- (b) any additional amount which the Employer may determine either generally or in any particular case.

### **B.4.2 Member contributions.**

A Member may make voluntary contributions as the Trustee approves from time to time and in accordance with the procedures determined by the Trustee from time to time.

### **B.4.3 Other contributions.**

Any contributions may be made on behalf of or in respect of a Member as the Trustee approves from time to time and in accordance with the procedures determined by the Trustee from time to time.

## **Part B.5 Vesting**

### **B.5.1 Vesting.**

The whole of a Member's Account vests in the Member.

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## **Part B.6 Benefits**

### **B.6.1 Death or Disability benefit – SG Members.**

If -

- (a) an SG Member dies while an Employed Member;
- (b) an SG Member ceases Gainful Employment because of Disability; or
- (c) within 120 days of an SG Member ceasing to be an Employee, the Member becomes disabled to the extent that the Member would have been entitled to a Disability benefit if the Member had remained an Employed Member, subject to any conditions determined by the Trustee from time to time either generally or in any particular case,

there is, subject to division I only in the case where paragraphs (b) or (c) apply, payable to or in respect of the Member a lump sum benefit of an amount equal to the sum of -

- (d) the Member's Account Balance; and
- (e) any proceeds of insurance in respect of the Member subject to any maximum insured amount determined by the Trustee from time to time either generally or in any particular case.

### **B.6.2 Death or Disability benefit – Continuation Members.**

If -

- (a) a Continuation Member dies; or
- (b) in circumstances where clause B.6.1(c) is not applicable, a Continuation Member satisfies the applicable definition of Disability,

there is, subject to division I only in the case where paragraph (b) applies, payable to or in respect of the Member a lump sum benefit of an amount equal to the sum of -

- (c) the Member's Account Balance; and
- (d) any proceeds of insurance in respect of the Member subject to any maximum insured amount determined by the Trustee from time to time either generally or in any particular case.

### **B.6.3 Terminal medical condition.**

- (a) If a Terminal Medical Condition exists in relation to a Member, there is payable to the Member, if the Member so elects, a lump sum benefit of an amount equal to the sum of-

- (i) the Member's Account Balance; and
  - (ii) any proceeds of insurance in respect of the Member subject to any maximum insured amount determined by the Trustee from time to time either generally or in any particular case.
- (b) If a Member dies before all or any part of a benefit payable under clause B.6.3(a) has been paid, the Trustee shall pay or apply the balance of such benefit as if it were a benefit payable under clause B.6.1 or clause B.6.2 (as the case requires), and clause B.2.5 shall apply in relation to such payment or application;
- (c) For the purposes of this clause B.6.3, 'Terminal Medical Condition' has the meaning given to that term in the Relevant Law.

#### **B.6.4 Other benefits.**

Subject to division I, in the case of a Member who ceases to be an Employed Member in circumstances where no benefit is payable under clause B.6.1, there is payable to the Member a lump sum benefit of an amount equal to the Member's Account Balance.

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### **Part B.7**

#### **Transfers from Other Divisions**

- (a) Without limiting any other provision of this Deed, the Trustee may at any time (subject to such procedures and in accordance with such terms and conditions as it may determine) allow, either generally or in any particular case, a Defined Benefit Member or a class of Defined Benefit Members to elect to become a Member or Members of this division B.
- (b) The basis for division B membership shall be as agreed between the Trustee and the Employer and the amount credited to the Member's Account under clause B.3.2(c) shall be the amount determined by the Trustee after obtaining the advice of the Actuary.

## DIVISION C FORMER DEFINED BENEFIT MEMBERS UNDER 1988 ACT

### Part C.1 Application and Interpretation

#### C.1.1 Application of division C.

- (a) This division C is always subject to division A of the Deed, and division A prevails over this division C to the extent of any conflict.
- (b) This division only applies to a member of the Fund who -
  - (1) was a member of the 1988 Fund immediately before the repeal of the 1988 Act and whose benefits would have been determined under part 7 of the 1988 Act; or
  - (2) was a “pensioner” under the 1988 Act; or
  - (3) transfers to division C from division D or division E; or
  - (4) is an Employee of a Division C Employer; and
 is for the time being categorised as a Member of this division C.

#### C.1.2 Definitions.

In this division C, unless the contrary intention appears or the context requires otherwise:

“**1958 Act**” means the *Local Authorities Superannuation Act 1958* (Vic).

“**Adjusted Final Salary**” means the lesser of -

- (a) the Salary of a Member immediately before any benefits become payable to that Member; or
- (b) the greater of:-
  - (1) the Member's average Salary over the year immediately before the benefits became payable (or over any lesser period of time for which that person was a Member); or
  - (2) the sum referred to in paragraph (1) multiplied by -.

$$\frac{A+B}{2B} \text{ where -}$$

"A" is the Average Weekly Earnings Index most recently published by the Australian Bureau of Statistics before the benefits become payable; and

"B" is the Average Weekly Earnings Index published by the Australian Bureau of Statistics one year prior to the Average Weekly Earnings Index taken into account under "A".

and

- (3) the sum that would have been calculated on the date immediately prior to 28 September 2012, had the benefits become payable on that date, in accordance with the definition of Adjusted Final Salary in this clause C.1.2 in effect immediately prior to 28 September 2012.

For the purposes of calculating the Adjusted Final Salary of any Member whose Salary decreases before that person ceases to be a Member, the Trustee may:

- (c) determine a notional Adjusted Final Salary for that Member; or
- (d) make such other arrangements so as not to reduce the Member's accrued benefit.

**“Authority”** means an entity which:

- (a) is an Employer under division A who is not a Division C Employer and who has an Employee who is for the time being categorised as a Member of this division C; or
- (b) was an “Authority” for the purposes of section 3(1) of the 1988 Act as set forth in Schedule 4 to this division C; and
- (c) in relation to an Employee means the Authority in respect of which the Employee is for the time being an Employee.

**“Declared Rate”** means the rate of interest (which may be positive or negative) determined by the Trustee after having regard to the income of the Fund or of any particular investment portfolio within the Fund or any other matter considered relevant by the Trustee, in respect of any period for the purposes of the whole or any particular provision of this Deed and without limiting the preceding words but subject to any conditions determined by the Trustee, for the purposes of the whole or any particular provision of this Deed -

- (a) a Declared Rate may be prospectively determined on an interim basis in respect of a particular period; and
- (b) a Declared Rate may be subsequently determined on a final or declared basis in respect of that period.

**“Disability”** in relation to a Member, means the permanent inability of the Member before the age of 60 years due to a continuing or recurring injury, disease or infirmity -

- (a) to perform his or her duties as an Employee; and
- (b) to perform any other duties for which he or she is suited by education, training or experience or for which he or she would be suited as a result of retraining,

as determined by the Trustee on the basis of reports provided by at least 2 registered medical practitioners appointed by the Trustee.

**“Disability Beneficiary”** means a Member in respect of whom the Trustee has approved a benefit under clause C.4.4 or C.4.5.

**“Division C Employer”** means an Employer who is not an Authority but is approved by the Trustee to participate in division C.

**“Ill Health”** means a continuous or recurring impairment of the health of a Member which is due to a physical or mental incapacity, bodily injury, illness or disease, which in the opinion of the Trustee -

- (a) is not a Disability; and
- (b) is likely to be adversely affected if the Member continues to perform his or her present duties as an Employee; and
- (c) does not preclude the Member from seeking alternative employment; and
- (d) has not been incurred or inflicted for the purpose of obtaining a benefit.

**“Member”** means a Member of this division C who is not a Pensioner.

**“Old Benefits”** means in relation to a Member -

## (a) In the case of retirement other than retirement through Disability -

- (1) a yearly pension which is calculated by dividing an amount nominated by the member (“**Amount**”, and subject to any minimum pension amount determined by the Trustee) by the appropriate factor from the following Table -

TABLE

Age of Member in completed years	Factor
65	12.0
64	12.1
63	12.2
62	12.3
61	12.4
60	12.6
59	12.8
58	13.0
57	13.2
56	13.4
55	13.6

(with age to be calculated in years and completed months, and interpolation of factors as required),

where the “**Amount**” is:

- (i) if clause C.8.2(c) does not apply, not greater than 50% of the member’s benefit calculated under clause C.4.2; or
- (ii) if clause C.8.2(c) does apply:
  - (A) subject to paragraph (ii)(B), not greater than 50% of the member’s benefit calculated under clause C.4.2 before the adjustment is made under clause C.8.2(c); or
  - (B) if the benefit calculated under clause C.4.2 after the adjustment is made under clause C.8.2(c) (“**adjusted benefit**”) would be less than 50% of the benefit that otherwise would have been calculated under clause C.4.2 (before the adjustment is made under clause C.8.2(c)), 100% of the adjusted benefit; and
- (2) if paragraph (ii)(B) does not apply, a lump sum equal to the remainder of the benefit calculated under clause C.4.2 (adjusted under clause C.8.2(c), if applicable), not converted to pension pursuant to subparagraph (1).

## (b) In the case of retirement due to Disability -

- (1) a lump sum calculated by reference to Schedule 1 of this division C; and
- (2) a yearly pension which is 0.8333 per cent of the Member’s Salary for each year for which the Member was contributing to the Fund including prospective years to the age of 65 years (but not exceeding a total of 40 years),

subject to a reduction by the Trustee of either of the amounts referred to in paragraph (1) or (2) by an amount determined in accordance with Schedule 2 and Schedule 3 of this

division C, if the Member's most recent medical classification under the 1958 Act was not the top classification and subject to a reduction under clause C.8.2(c), if applicable.

**“Pensioner”** means a person who is receiving a pension (but not including a Pre-Retirement Pension) under this division C.

**“Post 93 Membership”** in relation to a Member, means, prior to attaining age 65, the number of years on and after 1 July 1993 (with each additional day counting as a fraction of the year) for which that Member:

- (a) was a “contributor” under the 1988 Act; and
- (b) is an Employed Member on and after 1 July 1998.

**“Post 93 Service Fraction”** means in relation to the period of a Member's Post 93 Membership, the Member's Service for that period divided by the number of years (with each additional day counting as a fraction of the year) in that period.

**“Pre-Retirement Pension Accrued Benefit”** means the amount of a Member's accrued benefit under this division C which (after having first transferred to division I all amounts in any accounts maintained for the Member in the Fund, including an account maintained for purposes of clause C.4.11 and any account under division B) the Member elects to transfer to division I for the purpose of establishing an Account Based Pension (as defined in section 3 of division I) and which the Trustee approves for that purpose.

**“Retrenchment”** means, in respect of a Member, ceasing to be an Employee before attaining the age of 55 years in circumstances where the Authority has certified in writing to the Trustee that retrenchment has occurred.

**“Salary”** means the annual rate, computed as determined by the Trustee on the basis of a year, of pecuniary emoluments payable periodically and regularly to a Member for the performance of the duties of his or her grade of employment but does not include payments -

- (a) for overtime or in the form of bonuses; or
- (b) for travelling allowances or incidental expenses; or
- (c) of a temporary character,

and if a Member's Salary is decreased in any year, the Member, the Employer and the Trustee may agree to maintain the Member's Salary at the previous higher level.

**“Service”** in relation to a Member, means, prior to attaining age 65:

- (a) the number of years (with each additional day counting as a fraction of the year) for which that Member:
  - (1) was a “contributor” under the 1988 Act; and
  - (2) is an Employed Member on and after 1 July 1998,
 

adjusted to take into account any period of part-time employment, unpaid maternity leave, or other leave without pay by a proportionate reduction reflecting the basis on which that Member was employed; and
- (b) if a Member is at any one time an Employee with respect to more than one Authority, that Member is to be treated as if he or she were an Employee for the longest period for which he or she continued to be an Employee of any of those Authorities.

## **Part C.2**

### **Administration and Procedures**

#### **C.2.1 Authority to notify Trustee of changes with respect to Employees.**

Subject to clause A.8.2, an Authority must notify the Trustee of any of the following events within 14 days after the date of that event:

- (a) a person becoming an Employee;
- (b) the resignation, retirement, dismissal or death of a Member;
- (c) a change of address or the conditions of employment or the Salary or the position of a Member.

#### **C.2.2 Medical examinations and classification.**

- (a) The Trustee may classify Members as Grade A, Grade B, Grade C or Grade D for the purposes of death and Disability benefits under clause C.4.3 and clause C.4.4, respectively.
- (b) The Trustee may at any time -
  - (1) reassign a Member to another grade from a specific date; and
  - (2) make any necessary adjustments to the Member's benefits.

#### **C.2.3 Interruptions to employment.**

- (a) If a person:
  - (1) ceases to be an Employee but within two months again becomes an Employee of another Employer who is either an Authority or Division C Employer under this Division C; and
  - (2) any benefits paid to the Member as a result of ceasing to be an Employee are repaid to the Trustee within the time specified by the Trustee,then the person will be regarded as having remained an Employee and continued as a Member of this division C during the period of cessation.
- (b) If the person does not repay the entire benefit within the time specified by the Trustee, the Trustee may recover the outstanding amount of the benefit (and any interest on that amount) as a debt.

#### **C.2.4 Re-employment of retrenched persons.**

If a Member who ceased to be an Employee because of Retrenchment again becomes an Employee and a Member within two years after Retrenchment, that Member may repay to the Trustee all or part of any benefits received by him or her, and after repayment of those benefits, the Trustee must credit the Member with the number of years of Service which the Actuary considers to be the appropriate number represented by the amount repaid.

#### **C.2.5 Disability assessment procedure.**

If the Trustee initially determines that a Member who has applied for a Disability benefit does not satisfy the definition of Disability, the Member has the right to require the Trustee to review its initial determination and to obtain a further report from a registered medical practitioner mutually agreed upon by the Trustee and the Member.



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## **Part C.3 Contributions**

### **C.3.1 Member contribution rates.**

A Member must contribute to the Fund at a rate equal to 6 per cent of Salary.

### **C.3.2 Length of contribution period.**

- (a) A Member must cease to contribute to this division C on the earliest of the dates on which that Member -
  - (1) attains the age of 65 years;
  - (2) becomes entitled to the maximum retirement benefit specified in clause C.4.2(d); or
  - (3) ceases to be an Employee.
- (b) Except where the Trustee is prohibited by the Supervision Act from accepting contributions during any period in which the Member is on parental leave or leave without pay:
  - (1) the Member and the Authority are not required to pay any contributions for the period of the parental leave or leave without pay, but the Trustee may on application allow such contributions; and
  - (2) with respect to a Member on leave without pay -
    - (i) the Member may elect to continue to contribute to the Fund at a rate equal to:
      - (A) 2 per cent of Salary; or
      - (B) such other percentage of Salary as is determined by the Trustee on the advice of an Actuary,in which event that Member's death and Disability benefits will continue during that period of leave and for this purpose:
      - (C) such benefits will be calculated as if the Member had continued to contribute to the Fund at the same rate at which he or she was contributing immediately before the period of leave commenced; and
      - (D) "Salary" will be the Member's Salary immediately before the period of leave commenced; and
    - (ii) the Trustee must adjust any benefit that is ultimately payable from the Fund to the Member to take into account any contributions which were payable under paragraph (i) but not paid.

### **C.3.3 Payment of contributions.**

- (a) An Authority must pay to the Fund, within 21 days after the date or dates specified by the Trustee, the contributions due under part A.20.
- (b) The Authority must pay the contributions in respect of an Employee until the Authority notifies the Trustee that that person is no longer an Employee.

- (c) If an Authority fails to pay or is late in paying any amount due, the Trustee may require the Authority to pay:
    - (1) the amount of the contribution which is unpaid or overdue; and
    - (2) interest at a rate determined by the Trustee from time to time.
  - (d) In respect of any interest referred to in clause C.3.3(c) -
    - (1) the Trustee may recover that interest in the same manner as it may recover any contributions; and
    - (2) the Authority which is required to pay that interest must not charge it to the Employee in respect of whom it is due; and
    - (3) the Trustee may waive the payment of any or all of the interest by the Authority.
  - (e) An Authority which has paid any contribution in respect of an Employee may deduct the amount of that contribution for which the Employee is liable under clause C.3.1 by regular equal instalments from any regular payments of Salary or other sums due to the Employee from the Authority.
- 

## **Part C.4 Benefits**

### **C.4.1 Old Benefits.**

- (a) Subject to clause C.4.1(c), a Member who was a “contributor” to the 1988 Fund on or before 25 May 1988 may elect to receive Old Benefits in lieu of the corresponding benefit otherwise provided under this part C.4, which election must be made no later than six months after the date the Member ceases to be an Employee and must be made in accordance with the procedures determined by the Trustee.
- (b) Any pension elected under this clause C.4.1 will be paid in accordance with part C.5.
- (c) If a Member:
  - (1) continues as an Employee on and after attaining the age of 65 years;
  - (2) would be eligible to elect to receive Old Benefits under clause C.4.1(a) if the Member had ceased to be an Employee; and
  - (3) makes an election to receive a benefit under clause C.4.2(a)(2),
 the Member must at the time of making the election under clause C.4.2(a)(2) also elect whether the Member wishes to receive Old Benefits in lieu of the corresponding benefit otherwise provided under this part C.4.
- (d) If a Member elects to receive Old Benefits under clause C.4.1(c), the benefit payable to the Member pursuant to the election under clause C.4.2(a)(2) will be:
  - (1) the lump sum portion of the Old Benefit (under paragraph (a)(2) of the definition of Old Benefit); and
  - (2) the pension portion of the Old Benefit (under paragraph (a)(1) of the definition of Old Benefit).

### **C.4.2 Benefit on retirement.**

- (a) Subject to clause B.7(a), clause C.4.1, clause C.4.2(d), clause C.8.2 and division I:

- (1) subject to clause C.4.2(a)(2), a Member who ceases to be an Employee on or after attaining the age of 55 years, when no benefit is payable under clauses C.4.3, C.4.4, C.4.5, C.4.6, C.4.7, C.4.8 and C.4.9, is entitled to receive a lump sum retirement benefit from the Fund calculated under this clause C.4.2; and
- (2) subject to the Relevant Law (and notwithstanding clause A.22.7(b)), if:
  - (i) a Member who is an Employee and has attained the age of 65 years would be entitled to a benefit under clause C.4.2(a)(1) if the Member had ceased to be an Employee,

then:

  - (ii) that Member may elect to receive a lump sum retirement benefit from the Fund calculated under this clause C.4.2 (notwithstanding that the Member remains an Employee); and
  - (iii) for purposes of determining the amount of or eligibility for payment of a benefit under this division C in respect of an event or circumstance occurring or arising after the date the benefit is paid pursuant to this clause C.4.2(a)(2), the Member will be treated as if he or she had never previously been an Employee or a Member.
- (b) For the Member's period of Service until 1 July 1993, the retirement benefit of a Member is 21 per cent of the Adjusted Final Salary for each year of Service.
- (c) For the period of Service on and after 1 July 1993, the retirement benefit of a Member is 18.5 per cent of the Member's Adjusted Final Salary for each year of Service during which the Member has contributed 6 per cent of Salary to the Fund.
- (d) The retirement benefit of a Member for any purpose other than clause C.4.3 must not exceed the Member's Adjusted Final Salary multiplied by:

$$\frac{ACM}{1} + \left[ \frac{(8.4 - ACM)}{1} \times \frac{18.5}{21} \right]$$

where "ACM" is the multiple determined in accordance with clause C.4.2(b).

- (e) A benefit under this clause C.4.2 does not continue to accrue after the Member attains 65 years of age. If a Member continues as an Employee after attaining 65 years of age, without limiting clause C.4.1(d), the Member must become a member of division B and any post age 65 benefit will be provided for that Member in division B.

#### **C.4.3 Benefit on death before retirement.**

- (a) Subject to clause C.4.1, clause C.4.3(b), clause C.4.3(f) and clause C.8.2, on the death of a Member before attaining age 65, the Trustee must pay to the Member's legal personal representative a lump sum equal to the sum of -
  - (1) the Member's retirement benefit calculated under clause C.4.2 as if the Member's date of death were the date of the Member's retirement and the death occurred prior to 1 July 1993; and
  - (2) 21 per cent of the Adjusted Final Salary of the Member multiplied by the number of years from the date of death until the Member would have attained the age of 60 years.
- (b) If the deceased Member's medical classification is not the top classification, the sum referred to in clause C.4.3(a)(2) may be reduced by the Trustee on the basis of medical classification by the percentage specified as follows:

Grade B	30%
Grade C	60%
Grade D	90%

- (c) The Member's legal personal representative must make a statutory declaration and produce any other evidence required by the Trustee to establish that legal personal representative's entitlement to the benefit under this clause C.4.3.
- (d) Payment under clause C.4.3(a) is valid with respect to any claim against the Trustee by any other persons claiming an interest in relation to the deceased Member, but does not affect any right of those persons to recover the whole or any part of the payment from the legal personal representative.
- (e) A written acknowledgment of receipt of a payment under clause C.4.3(a) is a release to the Trustee from any obligation to pay any further amounts in respect of the deceased Member.
- (f) For the purposes of clause C.4.3(a), the retirement benefit of a Member must not exceed a maximum of 8.4 times the Adjusted Final Salary of the Member.

#### **C.4.4 Benefit on retirement through Disability.**

- (a) Subject to clause C.4.1, clause C.4.7, clause C.8.2 and division I, if the Trustee is reasonably satisfied that a Member ceases to be an Employee because of Disability, the Member is entitled to have a Disability benefit calculated as a lump sum equal to the sum of -
  - (1) the Member's retirement benefit calculated in accordance with clause C.4.2, as if the Member's date of ceasing to be an Employee due to Disability were the date of the Member's retirement; and
  - (2) 21 per cent of the Adjusted Final Salary of the Member multiplied by the number of years from the date of ceasing to be an Employee until the Member would attain the age of 60 years,
 and credited to a Disability Beneficiary account together with any benefits from an additional benefits contract under clause C.4.11.
- (b) If, on application by a Member or an Authority or a Division C Employer at any time before, or within 6 months after, the Member ceased to be an Employee, the Trustee is reasonably satisfied that the person was suffering from a Disability on or before the date on which that Member ceased to be an Employee, that person becomes a Disability Beneficiary.
- (c) The Trustee must keep a Disability Beneficiary account for each Disability Beneficiary and must credit to that account -
  - (1) any amounts referred to in clause C.4.4(a); and
  - (2) interest on the amounts in the account at a rate determined from time to time by the Trustee; and
  - (3) any other amounts determined by the Trustee on the advice of the Actuary.
- (d) Any payment to the Disability Beneficiary under this clause C.4.4 must be debited against the Disability Beneficiary's account.
- (e) The Trustee may make payments from a Disability Beneficiary's account to the Disability Beneficiary (or any other person as the Trustee thinks fit on the Beneficiary's behalf) in instalments or in a single payment.

- (f) When the Disability Beneficiary's account balance is zero, the Trustee is discharged from any liability to make further payments to the Beneficiary.
- (g) When a Disability Beneficiary attains the age of 65 years, he or she is entitled to receive any balance in his or her Disability Beneficiary account.
- (h) If a Disability Beneficiary dies before attaining the age of 65 years, that Disability Beneficiary's legal personal representative is entitled to receive any balance in the Disability Beneficiary's account.
- (i) The Trustee may at any time review a Disability Beneficiary's medical condition to determine if the Beneficiary is still suffering from a Disability.
- (j) If the Trustee determines under clause C.4.4(i) that the Disability Beneficiary is no longer suffering from a Disability, it may -
  - (1) reduce the existing benefits; or
  - (2) discontinue the existing benefits, but

a determination to reduce the existing benefits does not take effect for a period of 3 months after the date of the determination.
- (k) For the purposes of clause C.4.4(a), the retirement benefit of a Member must not exceed a maximum of 8.4 times the Adjusted Final Salary of the Member.

#### **C.4.5 Temporary Disability benefit.**

- (a) This clause C.4.5 applies if the Trustee determines that a Member who has applied to retire on the ground of Disability is likely to substantially recover from injury, disease or infirmity.
- (b) The Trustee is to pay the Member a benefit calculated in accordance with clause C.4.4 for a limited period not exceeding 2 years from the date that the Trustee makes a determination under clause C.4.5(a) and clauses C.4.4(a), (c) and (d) apply accordingly.
- (c) The annual amount of the Temporary Disability benefit payable to the Member during the limited period must not exceed the annual rate determined by dividing the opening balance in the Disability Beneficiary's account under clause C.4.4 by 12 (or such other denominator as the Trustee may determine either generally or in any particular case as permitted by the Relevant Law). This annual rate will then be paid in monthly instalments.
- (d) The Trustee must within 12 months of making its determination under clause C.4.5(a) conduct a review to determine whether -
  - (1) clause C.4.5(a) still applies; or
  - (2) the Member is suffering from a Disability and may retire on the ground of Disability; or
  - (3) the Member is suffering from Ill Health and may retire on the ground of Ill Health; or
  - (4) the Member is not suffering from Disability or Ill Health.
- (e) If clause C.4.5(d)(1) applies, the Trustee must conduct a further review not later than 2 months before the expiry of the limited period.
- (f) If clause C.4.5(d)(2) applies, the Member is entitled to a benefit under clause C.4.4 calculated on the balance of his or her Disability Beneficiary's account as at the date the review is determined.

- (g) If clause C.4.5(d)(3) applies, the Member is entitled to a benefit equal to the lesser of the amount calculated in accordance with clause C.4.6 or the amount of the Disability Beneficiary's account as at the date of retirement.
- (h) If clause C.4.5(d)(4) applies, the Member ceases to be entitled to a benefit under this clause C.4.5.
- (i) If the Member fails to comply with a requirement by the Trustee to attend a medical examination or to provide information required by the Trustee so as to determine whether the Member is still suffering from a Disability or is Gainfully Employed, the Trustee may by notice in writing to the Member suspend payment of the benefit under this clause C.4.5.
- (j) If the Member has not complied with a requirement under clause C.4.5(i) within 30 days of being served with a notice of suspension, the Trustee may by further notice in writing to the Member cancel payment of the benefit.
- (k) The Trustee may at a further review determine that -
  - (1) the Member is suffering from a Disability and may retire on the ground of Disability; or
  - (2) the Member is suffering from Ill Health and may retire on the ground of Ill Health; or
  - (3) the Member is not suffering from Disability or Ill Health.
- (l) If clause C.4.5(k)(1) applies, the Member is entitled to a benefit under clause C.4.4 calculated on the balance of his or her Disability Beneficiary's account as at the date the review is determined.
- (m) If clause C.4.5(k)(2) applies, the Member is entitled to a benefit equal to the lesser of the amount calculated in accordance with clause C.4.6 or the amount of the Disability Beneficiary's account as at the date of retirement.
- (n) If clause C.4.5(k)(3) applies, the Member ceases to be entitled to a benefit under this clause C.4.5.

#### **C.4.6 Benefit on retirement due to Ill Health.**

- (a) Subject to division I, if a Member ceases to be an Employee because of Ill Health, the Member is entitled to a lump sum benefit equal to the Member's retirement benefit calculated under clause C.4.2.
- (b) A Member does not cease to be an Employee on the ground of Ill Health unless the Trustee considers that Ill Health was the reason for the cessation.

#### **C.4.7 Traumatic bodily injury.**

If a Member -

- (a) suffers any injury considered by the Trustee to be traumatic bodily injury; and
- (b) within 6 months after having suffered that injury (or such longer period as the Trustee determines either generally or specifically for the purposes of this clause C.4.7) -
  - (1) dies; or
  - (2) becomes entitled to receive Disability benefits under clause C.4.4,

the Member must be treated by the Trustee as if he or she is in the top medical classification of Members for the purposes of the payment of benefits under this clause C.4.7.

**C.4.8 Benefit on Retrenchment.**

Subject to division I, a Member who ceases to be an Employee due to Retrenchment is entitled to a lump sum benefit equal to the amount of the retirement benefit of that person calculated under clause C.4.2.

**C.4.9 Benefit on resignation.**

- (a) Subject to clause C.8.2 and division I, if a Member ceases to be an Employee due to resignation when no other benefit is payable under this division C, he or she is entitled to a lump sum benefit equal to the Member's Adjusted Final Salary multiplied by the sum of the following amounts -

- (1)  $15\% \times S$ ;
- (2)  $13.5\% \times \text{PSF} \times (M^1 - M^2)$ ; and
- (3)  $9\% \times M^2 \times \text{PSF}$ ,

where:

**S** is the Member's period of Service until 1 July 1993;

**PSF** is Post 93 Service Fraction;

**M<sup>1</sup>** is Post 93 Membership; and

**M<sup>2</sup>** is:

- (1) if the Member's period of Membership immediately prior to resignation was at least five years, five; or
- (2) if the Member's period of Membership immediately prior to resignation was less than five years, the period of Membership immediately prior to resignation.

- (b) In respect of a Member classified under the 1958 Act as Class 3, the Trustee, on the advice of an Actuary, may approve the payment of benefits additional to those set forth in clauses C.4.9(a).

**C.4.10 Deferred retirement benefit.**

- (a) A Member who resigns before attaining age 55 may instead of the benefit in clause C.4.9 choose to accept a deferred retirement benefit equal to the sum of -

- (1) the retirement benefit calculated under clause C.4.2; and
- (2) interest on the amount of that retirement benefit from the date on which that benefit falls due until the date it is paid.

- (b) Clause C.4.10(a) applies (subject to clause C.4.10(d)) unless a Member chooses to accept a deferred retirement benefit under clause C.4.10(c).

- (c) A Member who resigns before attaining age 55 may instead of the benefit in clause C.4.9 choose to accept a deferred retirement benefit equal to the retirement benefit calculated under clause C.4.2. Periodically or otherwise, the Trustee may, in its absolute discretion, adjust this deferred retirement benefit by the Declared Rate (whether positive or negative).

- (d) A Member who has chosen to accept a deferred retirement benefit under clause C.4.10(a) may, at any later time (**Changeover Time**), choose instead to accept a deferred retirement benefit equal to the amount calculated in respect of the Member at the Changeover Time under clause C.4.10(a) (**New Deferred Retirement Benefit**).

Periodically or otherwise, the Trustee may, in its absolute discretion, adjust the New Deferred Retirement Benefit by the Declared Rate (whether positive or negative).

- (e) A Member who chooses to accept the New Deferred Retirement Benefit under clause C.4.10(d) shall, on and from the Changeover Time:
  - (1) have his or her entitlements under clause C.4.10(a) extinguished; and
  - (2) have his or her entitlements determined in accordance with clause C.4.10(d).
- (f) The benefit in clause C.4.10(a), clause C.4.10(c) or clause C.4.10(d) (as applicable) is not payable before the Member attains the age of 55 years unless -
  - (1) the Member becomes subject to a Disability approved by the Trustee; or
  - (2) the Member dies before attaining the age of 55 years; or
  - (3) in any other circumstances determined by the Trustee so long as it is not prohibited by the Relevant Law.
- (g) If a Member entitled to a benefit under clause C.4.10(a), clause C.4.10(c) or clause C.4.10(d) dies before attaining the age of 55 years, the legal personal representative of that Member is entitled to receive from the Fund a lump sum benefit equal to the amount of the benefit to which the deceased Member would have been entitled.

#### **C.4.11 Additional benefits contracts with interest.**

- (a) An Authority and a Member may agree, subject to the Trustee's approval, to provide for the payment of additional contributions in respect of that Member so as to provide extra benefits to that Member under this clause C.4.11.
- (b) This clause C.4.11 applies unless an Authority, the Member and the Trustee agree to provide for the payment of additional contributions in respect of a Member under and in accordance with clause C.4.11A.
- (c) Subject to clause C.4.11(d):
  - (1) the Trustee must keep an interest bearing account for each Member with an additional benefits contract, and interest must be added to the account as determined by the Trustee;
  - (2) the Trustee must credit any Authority contributions and Member contributions less any Tax payable on those contributions to the Member's interest bearing account; and
  - (3) when the Member becomes entitled to a benefit under any other clause of this division C (excluding clause C.4.11A), the Member is entitled to the balance of the interest bearing account (as well as any interest to the date of termination).
- (d) A Member who has entered an agreement with an Authority in accordance with clause C.4.11(a), may, at any later time (**Changeover Time**), choose instead to transfer the amount standing to the Member's credit in the interest bearing account as at the Changeover Time to an account established under clause C.4.11A, in which case:
  - (1) the Member's entitlements under this clause C.4.11 are extinguished on and from the Changeover Time; and
  - (2) the Member's entitlements on and from the Changeover Time will be determined in accordance with clause C.4.11A(b).
- (e) Subject to any conditions determined by the Trustee from time to time either generally or in any particular case, a Member to whom this clause C.4.11 applies may at any time



elect to transfer the amount standing to the Member's credit to a "Member's Account" established under division B, or to another division of the Fund, in which case the additional contributions will be paid in accordance with the applicable provisions of division B (or other division) and the Member's entitlements under this clause C.4.11 are extinguished on and from the time of the transfer.

#### **C.4.11A Additional benefits contracts with the Declared Rate.**

- (a) An Authority and a Member may agree, subject to the Trustee's approval, to provide for the payment of additional contributions in respect of that Member so as to provide extra benefits to that Member under this clause C.4.11A.
- (b) If this clause C.4.11A applies to a Member:
  - (1) the Trustee must keep an account for each such Member;
  - (2) the Trustee must credit any Authority contributions, any Member contributions and any amount under clause C.4.11(d) less any Tax payable on those contributions or on that amount to the Member's account;
  - (3) periodically or otherwise, the Trustee may, at its absolute discretion, adjust the Member's account by the Declared Rate (whether positive or negative); and
  - (4) when the Member becomes entitled to a benefit under any other clause of this division C (excluding clause C.4.11), the Member is entitled to the balance of the account.
- (c) Subject to any conditions determined by the Trustee from time to time either generally or in any particular case, a Member to whom this clause C.4.11A applies may at any time elect to transfer the amount standing to the Member's credit to a "Member's Account" established under division B, or to another division of the Fund, in which case the additional contributions will be paid in accordance with the applicable provisions of division B (or other division) and the Member's entitlements under this clause C.4.11A are extinguished on and from the time of the transfer.

#### **C.4.12 Payment of benefits.**

Subject to division I, if a lump sum benefit to which a Member or other person is entitled is not paid within 14 days from the date the entitlement arose, interest must be added to the benefit at the rate calculated from time to time by the Trustee from the date the entitlement arose until the lump sum benefit is paid.

#### **C.4.13 General powers of the Trustee in respect of benefits.**

The Trustee has power for the purposes of this division C -

- (a) to provide any benefits under this division C in the form of lump sum payments, annuities, pensions or retiring allowances; and
- (b) to carry out any acts, matters or things which are incidental to the matters referred to in paragraph (a).

#### **C.4.14 Discretion to compensate for detriment.**

- (a) In relation to benefits payable under this division C, if the Trustee is satisfied that the reduction in benefits effective from 1 July 1993 has resulted in a detriment to a Member, the Trustee may take such steps as the Trustee considers necessary to compensate for that detriment.
- (b) For the purpose of clause C.4.14(a) -

- (1) “detriment” means receiving a lesser amount of after-tax benefit than would have been received if -
  - (i) the benefit accrual rates in clause C.4.2 and clause C.4.9 had not been reduced effective from 1 July 1993; and
  - (ii) the benefit had been classified for the purposes of the Tax Act as an untaxed benefit; and
  - (iii) tax had applied in accordance with the rates of tax and the basis for its assessment under the Tax Act as at 1 July 1993 in respect of a benefit that becomes payable to a person aged 55 years or more; and
- (2) “untaxed benefit” means there is no “taxed element” as defined in the Tax Act.

## Part C.5 Pensions (other than Pre-Retirement Pensions)

### C.5.1 Application.

If a Member has made an election under clause C.4.1, this part C.5 applies to the payment of that pension and, subject to the Trustee’s absolute discretion, all pensions payable under this part C.5 shall be paid in accordance with the provisions of the Relevant Law concerning the payment of “pensions” as defined in the Supervision Act.

### C.5.2 Retirement pensions.

A retirement pension shall be payable until the Pensioner dies.

### C.5.3 Death of Pensioner.

- (a) On the death of a Pensioner, there shall be payable to the Spouse of the deceased Pensioner -
  - (1) if the Spouse was the Spouse of the deceased Pensioner before the retirement of the deceased Pensioner, during the life of the Spouse a pension equal to two-thirds of the pension payable to the deceased Pensioner at the time of death;
  - (2) in respect of each Child of the Spouse or of the deceased Pensioner -
    - (i) who are under the age of eighteen years; or
    - (ii) who are not less than eighteen years of age and not more than 25 years of age and who, in the opinion of the Trustee, are full-time students,
 a pension at the rate of \$1085 per annum (as at 1 July 1998).
- (b) Where a pension in respect of any Child is payable to a Spouse, the pension shall, if the Spouse dies, be payable at the rate of \$2170 per annum (as at 1 July 1998) in respect of each Child.
- (c) On the death of a Pensioner who has no Spouse, if the Pensioner leaves Children of himself or of his Spouse -
  - (1) who are under the age of eighteen years; or
  - (2) who are not less than eighteen years of age and not more than 25 years and who in the opinion of the Trustee are full-time students,

there shall be paid to such person as the Trustee directs on behalf of the Children a pension at the rate of \$2170 per annum (as at 1 July 1998) in respect of each Child.

- (d) One amount only shall be payable as pension in respect of any Child who would otherwise be entitled to a pension in respect of more than one Pensioner.
- (e) Any money payable in respect of a Child may, at the discretion of the Trustee, be paid to such person as the Trustee directs on behalf of and for the benefit of the Child or expended by the Trustee for the benefit of the Child.
- (f) A person shall not be entitled to receive at any one time more than one pension as the Spouse of a deceased Pensioner (but any person who is entitled to a pension as the Spouse of more than one deceased Pensioner shall be entitled to receive whichever of the pensions is the greater).
- (g) Where a person becomes the Spouse of a Pensioner after the Pensioner's retirement, a pension shall not be payable to that Spouse on the death of the Pensioner, but a pension shall be payable if -
  - (1) the Pensioner was at the time the person became a Spouse receiving a Disability retirement pension and the person became a Spouse before the Pensioner attained the age of 60 years; or
  - (2) the person became a Spouse three years or more before the death of the Pensioner or such other period of time as the Trustee determines, having regard to the Relevant Law.
- (h) Where a Spouse is entitled to a pension by the operation of clause C.5.3(g)(2) and the Spouse was more than five years younger than the Pensioner, the pension payable to the Spouse shall be reduced to the value of the pension that in the opinion of an Actuary is the actuarial equivalent of the value of the pension that would have been payable if the Spouse was five years younger than the deceased Pensioner.

#### **C.5.4 Payment of pensions.**

- (a) For purposes of this part C.5, the following words have the following meanings:

**“Consumer Price Index”** means the all groups consumer price index number for the weighted average of eight capital cities published by the Australian Bureau of Statistics in respect of the June quarter and the December quarter for each year.

**“Financial Year”** means a period of twelve months ending on 30 June.

**“Financial Half Year”** means a period of six months ending on 30 June or 31 December.

**“Prescribed Proportion”** in relation to a prescribed half year means -

$$\frac{A-B}{B}$$

where -

- A is the Consumer Price Index number for the prescribed half year; and
- B is the Consumer Price Index number for the quarter ended 31 December 1996 or the highest Consumer Price Index number in the half years between that quarter and the Prescribed Half Year (whichever is higher) and where the Prescribed Proportion consists of or includes a fraction of a whole number, it shall be deemed to have been calculated in accordance with this clause C.5.4 if it is calculated to the nearest one hundredth part.

**“Prescribed Half Year”** means the half year ended 31 December 1996 and any subsequent half year ending on 31 December or 30 June in which the Consumer Price Index is higher than the highest Consumer Price Index in or since the half year ended 31 December 1996.

- (b) Pensions under this part C.5 shall be payable in fortnightly instalments or at any other frequency as determined by the Trustee either generally or in any particular case.
- (c) In order to ascertain the amount of an instalment, the annual pension shall be divided by 26.
- (d) Any pension to which a Pensioner or the Spouse or Child of a deceased Pensioner is entitled under this part C.5 shall -
  - (1) if it is then payable, be increased on the payment of the first instalment of pension in the month of June or December by an amount equal to one-sixth of the prescribed proportion of the pension that person is receiving under this Part C.5 for every whole month or part of a month during which that person was entitled to the pension during the preceding Financial Half Year; and
  - (2) if for any reason it is not then payable, be notionally so increased as if it is then payable.
- (e)
  - (1) Where a Pensioner becomes employed by an Authority (excluding the circumstance in which the Pensioner has remained an Employee beyond the age of 65 years and is receiving a pension as a result of clause C.4.1(d) while remaining an Employee), any pension payable shall be reduced by the amount by which the remuneration from the Authority together with the pension exceeds the current equivalent of the pensioner’s salary on retirement.
  - (2) For this purpose “current equivalent of salary on retirement” means the salary as determined by the Trustee as being equivalent to the salary payable to the Pensioner immediately prior to retirement, adjusted for any increases.
- (f)
  - (1) The Trustee may determine that a Pensioner may, within the period of three months immediately prior to attaining the age of 70 years, apply in writing to convert part of the fortnightly pension entitlement to an equivalent entitlement by way of a lump sum payment as determined by the Trustee on the advice of an Actuary and the proportion of the pension which may be converted shall be determined by the Trustee.
  - (2) Where a Pensioner applies under clause C.5.4(f)(1) and the application is approved by the Trustee, the Pensioner shall be entitled to the lump sum payment and the pension shall be reduced by the amount of the pension entitlement converted to a lump sum.
  - (3) Any application under clause C.5.4(f)(1) shall apply only in relation to that part of the entitlement of the pension which relates to the pension that would be payable after becoming entitled to the lump sum payment until death.
  - (4) A Pensioner shall not be entitled to make more than one application under clause C.5.4(f)(1).

## **Part C.6**

### **Transfers from Other Divisions**

#### **C.6.1 Transfers from division D.**

- (a) If a member of division D ceases to be an Employee of an Employer in division D so as to become an Employee of an Authority (as listed in Schedule 4 to this division C) -
- (1) including the Melbourne City Council or an Employer under division D; but
  - (2) excluding -
    - (i) Citywide Solutions Pty Ltd ACN 006 960 085; or
    - (ii) a wholly owned subsidiary of the Melbourne City Council established for the sole purpose of providing services to the City of Melbourne; or
    - (iii) a wholly owned company in which all the equity capital is held and continues to be held by the Melbourne City Council and another Council or Councils having contiguous boundaries with the City of Melbourne and which is established for the sole purpose of providing services to all of those Councils,
- the Employee will become a Member of this division C and the special benefit provisions in paragraph (b) shall apply.
- (b) The Member's resignation benefit under clause C.4.9 and retirement benefit under clause C.4.2 must be calculated as if the Member had been a Member of division C for the period in which he was a member of division D but with respect to the period in division D up to the date of commencement as a Member of division C the benefit must be calculated in accordance with the relevant provisions of division D which benefit must then be converted by the Actuary into the corresponding benefit under division C.

#### **C.6.2 Transfers from division E.**

- (a) If a member of division E ceases to be an Employee of an Employer in division E so as to become an Employee of an Authority (as listed in Schedule 4 to this division C) other than Melbourne Parks and Waterways, the Employee will become a Member of this division C and the special benefit provisions in paragraph (b) will apply.
- (b) The Member's resignation benefit under clause C.4.9 and retirement benefit under clause C.4.2 must be calculated as if the Member had been a Member of division C for the period in which he was a member of division D but with respect to the period in division D up to the date of commencement as a Member of division C the benefit must be calculated in accordance with the relevant provisions of division E which benefit must then be converted by the Actuary into the corresponding benefit under division C.

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## **Part C.7**

### **Adjustments for Valid Family Law Arrangements**

Notwithstanding anything to the contrary in this division C, the Trustee may:

- (a) adjust a benefit payable to or in respect of a Member or Pensioner under this division C;  
or

- (b) make an adjustment in respect of a benefit which will become payable to or in respect of a Member or Pensioner under this division C,

to the extent, and in any manner, as permitted by the Relevant Law to take account of a valid family law arrangement.

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## **Part C.8**

### **Pre-Retirement Pensions**

#### **C.8.1 Application to receive Pre-Retirement Pension.**

Subject to:

- (a) any rules, terms and conditions that the Trustee may determine;
- (b) obtaining the prior written approval of the Member's Employer; and
- (c) the requirements of the Relevant Law,

a Member may apply to the Trustee to receive a Pre-Retirement Pension and the Trustee may approve the Member's application.

#### **C.8.2 Transfer to division I and adjustment of benefits.**

- (a) This clause C.8.2 applies in respect of a Member who is approved by the Trustee to receive a Pre-Retirement Pension.
- (b) The Member's Pre-Retirement Pension Accrued Benefit will (together with amounts from any accounts maintained for the Member in the Fund) be transferred to a Pension Account (a defined in section 3 of Division I) in respect of the Member under division I and will be paid as a Pre-Retirement Pension in accordance with the provisions of division I.
- (c) If a benefit becomes payable to or in respect of a Member under this division C (including if the Member becomes entitled to elect to receive Old Benefits in accordance with clause C.4.1), then, notwithstanding any other provision of this Deed, the relevant benefit will be reduced by an adjustment to the Member's period of Service (or by any other manner of adjustment) as determined by the Trustee on the advice of the Actuary so as to take into account the Member's Pre-Retirement Pension Accrued Benefit which was transferred to a Pension Account (as defined in section 3 of Division I) in accordance with clause C.8.2(b).

## Schedule 1 of Division C - Old Benefits - Disability Lump Sum

The old lump sum Disability benefit for a Member is calculated by multiplying the Adjusted Final Salary by the Benefit Salary Multiple obtained for the age last birthday when the Member commenced membership of the Fund.

<i>Age</i>	<i>Benefit Salary Multiple</i>	<i>Age</i>	<i>Benefit Salary Multiple</i>
65	-	39	2.86
64	0.11	38	2.97
63	0.22	37	3.08
62	0.33	36	3.19
61	0.44	35	3.30
60	0.55	34	3.41
59	0.66	33	3.52
58	0.77	32	3.63
57	0.88	31	3.74
56	0.99	30	3.85
55	1.10	29	3.96
54	1.21	28	4.07
53	1.32	27	4.18
52	1.43	26	4.29
51	1.54	25	4.40
50	1.65	24	4.40
49	1.76	23	4.40
48	1.87	22	4.40
47	1.98	21	4.40
46	2.09	20	4.40
45	2.20	19	4.40
44	2.31	18	4.40
43	2.42	17	4.40
42	2.53	16	4.40
41	2.64	15	4.40
40	2.75		

## Schedule 2 of Division C - Old Benefits - Disability Lump Sum Reduction

The percentage reduction is calculated by deducting from 100 the figure obtained by adding the figure from column (1) under the heading of the appropriate Medical Class for the age last birthday when the Member commenced in the Fund plus the figure obtained from column (2) for the age last birthday when the Member commenced in the Fund multiplied by the number of complete years the Member was in the Fund at the age of becoming a Disability Beneficiary.

<i>Age</i>	2A (1)	2A ADJ (2)	2B (1)	2B ADJ (2)	2C (1)	2C ADJ (2)	2D+3 (1)	2D+3+ADJ (2)
64	100.00		100.00		100.00		100.00	
63	88.70	11.30	82.70	17.30	76.70	23.30	65.00	35.00
62	82.80	8.60	73.90	13.05	64.80	17.60	55.00	22.50
61	79.10	6.97	68.40	10.53	57.60	14.13	50.00	16.67
60	76.60	5.85	64.70	8.83	52.60	11.85	45.00	13.75
59	75.40	4.92	62.90	7.42	50.20	9.96	43.00	11.40
58	74.20	4.30	61.10	6.48	47.70	8.72	41.00	9.83
57	72.90	3.87	59.20	5.83	45.30	7.81	39.00	8.71
56	71.70	3.54	57.40	5.33	42.90	7.14	37.00	7.88
55	70.50	3.28	55.50	4.94	40.40	6.62	35.00	7.22
54	69.90	3.01	54.70	4.53	39.40	6.06	34.00	6.60
53	69.30	2.79	53.90	4.19	38.30	5.61	33.00	6.09
52	68.80	2.60	53.10	3.91	37.20	5.23	32.00	5.67
51	68.20	2.45	52.20	3.68	36.10	4.92	31.00	5.31
50	67.60	2.31	51.40	3.47	35.10	4.64	30.00	5.00
49	67.30	2.18	50.80	3.28	34.40	4.37	29.50	4.70
48	66.90	2.07	50.30	3.11	33.70	4.14	29.00	4.44
47	66.50	1.97	49.80	2.95	33.00	3.94	28.50	4.21
46	66.20	1.88	49.20	2.82	32.30	3.76	28.00	4.00
45	65.80	1.80	48.70	2.70	31.60	3.60	27.50	3.82
44	65.50	1.73	48.20	2.59	31.00	3.45	27.00	3.65
43	65.20	1.66	47.80	2.49	30.40	3.31	26.50	3.50
42	64.90	1.60	47.30	2.40	29.80	3.19	26.00	3.36
41	64.60	1.54	46.90	2.31	29.20	3.08	25.50	3.24
40	64.30	1.49	46.40	2.23	28.70	2.97	25.00	3.13
39	64.00	1.44	46.00	2.16	28.10	2.88	24.50	3.02



DIVISION C – FORMER DEFINED BENEFIT MEMBERS UNDER 1988 ACT

<i>Age</i>	2A (1)	2A ADJ (2)	2B (1)	2B ADJ (2)	2C (1)	2C ADJ (2)	2D+3 (1)	2D+3+ADJ (2)
38	63.70	1.40	45.60	2.09	27.60	2.78	24.00	2.92
37	63.40	1.36	45.10	2.03	27.00	2.70	23.50	2.83
36	63.10	1.32	44.70	1.97	26.40	2.63	23.00	2.75
35	62.80	1.28	44.30	1.92	25.90	2.56	22.50	2.67
34	62.50	1.25	43.90	1.87	25.40	2.49	22.00	2.60
33	62.30	1.22	43.50	1.82	24.90	2.42	21.50	2.53
32	62.00	1.19	43.10	1.78	24.40	2.36	21.00	2.47
31	61.80	1.16	42.70	1.74	23.90	2.31	20.50	2.41
30	61.50	1.13	42.30	1.70	23.40	2.25	20.00	2.35
29	61.20	1.11	41.90	1.66	22.90	2.20	19.50	2.30
28	61.00	1.08	41.60	1.62	22.40	2.16	19.00	2.25
27	60.70	1.06	41.20	1.59	21.90	2.11	18.50	2.20
26	60.50	1.04	40.80	1.56	21.50	2.07	18.00	2.16
25	60.20	1.02	40.40	1.53	21.00	2.03	17.50	2.12
24	60.00	1.00	40.10	1.50	20.70	1.98	17.00	2.08
23	59.80	0.98	39.80	1.47	20.30	1.94	16.50	2.04
22	59.60	0.96	39.60	1.44	20.00	1.90	16.00	2.00
21	59.40	0.94	39.30	1.41	19.60	1.87	15.50	1.97
20	59.20	0.93	39.00	1.39	19.30	1.83	15.00	1.93
19	59.00	0.91	38.80	1.36	18.90	1.80	14.50	1.90
18	58.90	0.89	38.50	1.34	18.60	1.77	14.00	1.87
17	58.70	0.88	38.30	1.31	18.30	1.74	13.50	1.84
16	58.60	0.86	38.00	1.29	18.00	1.71	13.00	1.81
15	58.40	0.85	37.80	1.27	17.70	1.68	12.50	1.79

### Schedule 3 of Division C - Disability Pension Reduction

1. The percentage reduction is calculated by deducting from 100 the figure shown under the appropriate Medical Class for the age last birthday of the Member at the date of becoming a Disability Beneficiary.
2. If the Member was classified Class 2B, Class 2C, Class 2D or Class 3 under the 1958 Act and had been a member of the Fund for less than 4 years and was under the age of 55 at the date of becoming a Disability Beneficiary, the reduction will be 100%.
3. If a Member was classified Class 2B, Class 2C, Class 2D or Class 3 under the 1958 Act and had been a member of the Fund for less than 2 years and had attained the age of 55 at the date of becoming a Disability Beneficiary, the reduction will be 100%.
4. Where the percentage from the Schedule, or in consequence of the operation of paragraphs 2 or 3 is zero the Member will be entitled to an additional lump sum payment of 8.75% of Adjusted Final Salary multiplied by the number of days the Member was a member of the Fund and divided by 365.

Age	Class 2A	Class 2B	Class 2C	Class 2D	Class 3
64	100.00	66.66	66.66	66.66	66.66
63	100.00	66.66	66.66	66.66	66.66
62	100.00	66.66	66.66	66.66	66.66
61	100.00	66.66	66.66	66.66	66.66
60	100.00	66.66	66.66	66.66	66.66
59	100.00	66.66	66.66	66.66	66.66
58	100.00	66.66	66.66	66.66	66.66
57	100.00	66.66	66.66	66.66	66.66
56	100.00	66.66	66.66	66.66	66.66
55	100.00	66.66	66.66	66.66	66.66
54	100.00	66.66	66.66	00.00	66.66
53	100.00	66.66	66.66	00.00	00.00
52	100.00	66.66	66.66	00.00	00.00
51	100.00	66.66	66.66	00.00	00.00
50	100.00	66.66	66.66	00.00	00.00
49	100.00	66.66	66.66	00.00	00.00
48	100.00	66.66	66.66	00.00	00.00
47	100.00	66.66	66.66	00.00	00.00
46	100.00	66.66	66.66	00.00	00.00
45	100.00	66.66	66.66	00.00	00.00
44	100.00	66.66	66.66	00.00	00.00

## DIVISION C – FORMER DEFINED BENEFIT MEMBERS UNDER 1988 ACT

Age	Class 2A	Class 2B	Class 2C	Class 2D	Class 3
43	100.00	66.66	66.66	00.00	00.00
42	100.00	66.66	66.66	00.00	00.00
41	100.00	66.66	66.66	00.00	00.00
40	100.00	66.66	66.66	00.00	00.00
39	100.00	66.66	66.66	00.00	00.00
38	100.00	66.66	66.66	00.00	00.00
37	100.00	66.66	66.66	00.00	00.00
36	100.00	66.66	66.66	00.00	00.00
35	100.00	66.66	66.66	00.00	00.00
34	100.00	66.66	66.66	00.00	00.00
33	100.00	66.66	66.66	00.00	00.00
32	100.00	66.66	66.66	00.00	00.00
31	100.00	66.66	66.66	00.00	00.00
30	100.00	66.66	66.66	00.00	00.00
29	100.00	66.66	66.66	00.00	00.00
28	100.00	66.66	66.66	00.00	00.00
27	100.00	66.66	66.66	00.00	00.00
26	100.00	66.66	66.66	00.00	00.00
25	100.00	66.66	66.66	00.00	00.00
24	100.00	66.66	66.66	00.00	00.00
23	100.00	66.66	66.66	00.00	00.00
22	100.00	66.66	66.66	00.00	00.00
21	100.00	66.66	66.66	00.00	00.00
20	100.00	66.66	66.66	00.00	00.00
19	100.00	66.66	66.66	00.00	00.00
18	100.00	66.66	66.66	00.00	00.00
17	100.00	66.66	66.66	00.00	00.00
16	100.00	66.66	66.66	00.00	00.00
15	100.00	66.66	66.66	00.00	00.00

**Schedule 4 of Division C - Authorities for purposes of section 3(1) of the 1988 Act as at 1 July 1998**

Andersons Creek Public Cemetery  
Ararat Cemetery Trust  
Ballarat General Cemetery  
Benalla Cemetery Trust  
Bendigo Cemeteries Trust  
Boroondara Cemetery Trust  
Box Hill Public Cemetery  
Brighton General Cemetery Trust  
Burwood Cemetery Trust  
Castlemaine Cemetery Trust  
Cheltenham Cemetery Trust  
Colac General Cemetery Trust  
Eltham Public Cemetery  
Emerald Cemetery Trust  
Fawkner Crematorium and Memorial Park  
Geelong Cemeteries Trust  
Hamilton Public Cemetery Trust  
Hazelwood Cemetery Trust  
Heathcote Cemetery Trust  
Horsham Public Cemetery Trust  
Lilydale Cemetery Trust  
Maddingley- Cemetery Trust  
Melbourne Chevra Kadisha  
Mildura Cemetery Trust  
Pleasant Creek Public Cemetery  
Queenscliff Cemetery Trust  
Rye Cemetery Trust  
Sale Public Cemetery  
Shepparton Public Cemetery Trust  
St Arnaud Public Cemetery  
Stratford Cemetery Trust  
Templestowe Cemetery Trust  
The Trustees of Memorial Park  
Tower Hill Cemetery Trust  
Traralgon Cemetery Trust  
Trustees of Necropolis Springvale  
Warragul Cemetery Trust  
Warnambool General Cemetery  
Yarram New Cemetery Trust

Carringbush Regional Library  
Casey Cardinia Library Corporation  
Central Highlands Regional Library  
Corangamite Regional Library Service  
Eastern Regional Library  
Echuca Regional Library  
Geelong Regional Library Corporation  
Glenelg Regional Library Corporation  
Goulburn Valley Regional Library Corporation  
High Country Library Corporation  
Hume Moonee Valley Regional Library Corporation  
North Central Goldfields Library  
Swan Hill Regional Library  
Upper Goulburn Regional Library  
Upper Murray Regional Library  
West Gippsland Regional Library Corporation  
Whitehorse Manningham Regional Library  
Wimmera Regional Library Corporation  
Yarra Plenty Regional Library  
Yarra-Melb Regional Library Corporation

Alpine Shire Council  
Banyule City Council  
Bass Coast Shire Council  
Baw Baw Shire Council  
Bayside City Council  
Brimbank City Council  
Buloke Shire Council  
Campaspe Shire Council  
Cardinia Shire Council  
Casey City Council  
Central Goldfields Shire Council  
City of Ballarat  
City of Boroondara  
City of Greater Bendigo City  
City of Greater Geelong  
City of Hobsons Bay  
City of Port Phillip  
City of Stonnington  
City of Yarra  
Colac Otway Shire Council

Corangamite Shire Council  
Darebin City Council  
Delatite Shire Council  
East Gippsland Shire Council  
Frankston City Council  
Gannawarra Shire Council  
Glen Eira City Council  
Glenelg Shire Council  
Golden Plains Shire Council  
Greater Dandenong City Council  
Greater Shepparton City Council  
Hepburn Shire Council  
Hindmarsh Shire Council  
Horsham Rural City Council  
Hume City Council  
Indigo Shire Council  
Kingston City Council  
Knox City Council  
La Trobe Shire Council  
Loddon Shire Council  
Macedon Ranges Shire Council  
Manningham City Council  
Maribyrnong City Council  
Maroondah City Council  
Melbourne City Council  
Melton Shire Council  
Mildura Rural City Council  
Mitchell Shire Council  
Moir Shire Council  
Monash City Council  
Moonee Valley City Council  
Moreland City Council  
Mornington Peninsula Shire Council  
Mount Alexander Shire Council  
Moyne Shire Council  
Murrindindi Shire Council  
Nillumbik Shire Council  
Northern Grampians Shire  
Pyrenees Shire Council  
Queenscliffe Borough Council  
Rural City of Ararat  
Rural City of Wangaratta  
Shire of Moorabool

South Gippsland Shire Council  
Sthn Grampians Shire Council  
Strathbogie Shire Council  
Surf Coast Shire Council  
Swan Hill Rural City Council  
Towong Shire Council  
Warrnambool City Council  
Wellington Shire Council  
West Wimmera Shire Council  
Whitehorse City Council  
Whittlesea City Council  
Wodonga Rural City Council  
Wyndham City Council  
Yarra Ranges Shire Council  
Yarriambiack Shire Council

Ballarat Regional Board Planning & Development  
Baw Baw Shire Quarry  
Bullock Creek Improvement Trust  
Bundoora Park Committee of Management Inc  
Eastern Regional Waste Management Group  
Geelong Performing Arts Centre Trust  
Local Authorities Superannuation Board  
Melbourne Market Authority  
Municipal Association of Victoria  
Northern Region Commission  
Phillip Island Nature Park Inc  
Purchasing Victoria Co-op Ltd  
Southern Eastern Regional Waste Management  
Strathdownie Drainage Trust  
Swan Hill Pioneer Settlement  
Victorian Arts Centre Trust  
Victorian Dairy Industry Authority  
Yarra Bend Park Trust  
Avoca River Management Board  
Barwon Regional Water Authority  
Central Gippsland Regional Water  
Central Highlands Regional Water  
Coliban Region Water Authority  
Corangamite Catchment Management Authority  
East Gippsland Catchment Management Authority  
East Gippsland Regional Water  
First Mildura Irrigation Trust

Gippsland and Southern Rural Water Authority  
Glenelg Hopkins Catchment Mgt Authority  
Glenelg Regional Water Authority  
Goulburn Murray Rural Water  
Goulburn Valley Region Water Authority  
Grampians Region Water Authority  
Lower Murray Region Water Authority  
Merri Creek Management Committee  
Mid Goulburn Broken Waterways  
North East Catchment Management Authority  
North East Region Water Authority  
Portland Coast Region Water Authority  
South Gippsland Region Water Authority  
South West Water Authority  
Sunraysia Rural Water Authority  
Upper Goulburn Waterways Authority  
West Gippsland Catchment Management Authority  
Western Regional Water Authority  
Westernport Regional Water Authority  
Wimmera Mallee Rural Water



## DIVISION D FORMER MEMBERS OF THE CITY OF MELBOURNE SUPERANNUATION FUND

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### Part D.1 Application and Interpretation

#### D.1.1 Application.

- (a) This division D is always subject to division A of this Deed, and division A prevails over this division D to the extent of any conflict.
- (b) This division D only applies to and in respect of a person who is a member of the Fund who is for the time being categorised as a Member of division D.

#### D.1.2 Definitions.

In this division D, unless the contrary intention appears or the context requires otherwise:

**“Additional Voluntary Contribution Account”** means in relation to a Member the account maintained in respect of the Member in accordance with clause D.4.5.

**“Annual Pay”** means in relation to a Member at any particular date the annual rate of ordinary time earnings for his or her usual job or employment at that date as determined in accordance with the standard procedures laid down from time to time by the Council and approved by the Trustee and suitably endorsed by it or for and on its behalf for the purposes of identifying those standard procedures as being those in force at the relevant date of determination provided that in the event that a Member’s salary or wage is reduced for any reason the Member and the Trustee may agree in writing that the Member’s Annual Pay in force at the date of the reduction shall continue to be the Member’s Annual Pay for the purposes of this division D.

**“Associated Employer”** means any person which was admitted to participation in the Previous Fund as an Associated Employer and which has not ceased to participate in the Fund and includes any person which replaces or succeeds such an Associated Employer.

**“Council”** means the Council of the City of Melbourne or any other relevant Employer.

**“Date of Disablement”** means in relation to a Member who becomes Totally and Permanently Disabled or Temporarily Totally Disabled the later of -

- (a) the date determined by the Trustee to be that on which the Member last ceased to be actively employed by the Employer; or
- (b) the date determined by the Trustee to be that on which the illness or injury which the Trustee, acting on evidence satisfactory to it considers was the primary cause of such disablement, commenced or occurred,

or, in any case, such other date (if any) as the Trustee may expressly declare to be the Member’s Date of Disablement.

**“Declared Rate”** means such rate of interest (which may be positive or negative) as may be determined in accordance with the applicable requirements of the Relevant Law by the Trustee, after obtaining the advice of the Actuary, in respect of any period for the purposes of the whole or any particular provision of this division D and, without limiting the generality of the foregoing, the Trustee may prospectively determine a Declared Rate on an interim basis in

respect of a particular period and for a particular purpose, and may subsequently and retrospectively determine a Declared Rate on a final or declared basis in respect of that period and for that purpose.

**“Final Average Pay”** means the average Annual Pay of the Member over the period of one year immediately preceding the earlier of the date on which the Member ceases to be an Employee and the Normal Retirement Date provided that if the period of the Member’s Fund Membership which precedes the earlier of the aforesaid dates is of a duration of less than one year, then the average of the Member’s Annual Pay over the said period of the Member’s Fund Membership shall be used.

**“Final Average Indexed Pay”** means the Final Average Pay of the Member increased in accordance with movements in the Price Index.

**“Fund Membership”** means:

- (a) in relation to a Member who is not a Previous Officers’ Fund Member, the most recent uninterrupted period during which the Member has been an Employee (including the period which counted for purposes of the 1988 Fund) and includes in the case of a Member who was formerly covered by the R.A.S. Scheme the most recent period of his or her Service completed prior to 1 July 1986 together with in the case of such a Member who was a Member on 1 July 1986 and whose most recent period during which he or she has been an Employee is at least ten years such further periods prior to 1 July 1986 that would have been taken into account for the purposes of determining his or her benefits under the R.A.S. Scheme had the R.A.S. Scheme continued in force; or
- (b) in relation to a Previous Officers’ Fund Member, the most recent uninterrupted period during which the Member has been an Employee but excluding any such period preceding the date on which the Member last became a member of the Previous Officers’ Fund,

where the relevant period is measured in years with each additional day counting as a fraction of the year.

**“Interim Deed”** means the Interim Trust Deed by which the Previous Fund was originally established dated 22 May 1986 as amended.

**“Member”** means a Member of this division D.

**“Normal Retirement Date”** means the date on which a Member attains the age of 65 years.

**“Pre-Retirement Pension Accrued Benefit”** means the amount of a Member’s accrued benefit under this division D which (after having first transferred to division I all amounts in any accounts maintained for the Member in the Fund, including an account maintained for purposes of clause D.4.5 and any account under division B) the Member elects to transfer to division I for the purpose of establishing an Account Based Pension (as defined in section 3 of Division I) and which the Trustee approves for that purpose.

**“Preserved Benefit”** means in relation to a Member the Preserved Benefit specified in whichever of the subsequent parts of this division D is applicable to the Member.

**“Previous Fund”** means the **City of Melbourne Superannuation Subplan** of the 1988 Fund in effect immediately prior to the repeal of the 1988 Act.

**“Previous Officers’ Fund”** means the **City of Melbourne Officers’ Superannuation Fund** governed by a set of Rules adopted by the Council on 21 August 1984.

**“Previous Officers’ Fund Member”** means a Member who was a member (thereunder described as an “Officer”) of the Previous Officers’ Fund on 30 June 1986.

**“Previous Officers’ Fund Rules”** means the Rules by which the Previous Officers’ Fund was governed immediately prior to 1 July 1986.

**“Price Index”** means the all groups figure of the consumer price index for the weighted average of the eight capital cities published by the Australian Statistician or, if such index shall cease to be published or in the opinion of the Trustee such Index no longer appropriately reflects general price movements, then such other index reflecting general price movements as the Trustee may from time to time select shall be used in substitution therefor.

**“R.A.S. Scheme”** means the Retirement Gratuity Scheme operated for certain Employees of the Council prior to 1 July 1986.

**“Recognised Scheme”** means a scheme or arrangement (excluding the Fund) which has governmental or legislative or trade union support or recognition or which is established or maintained pursuant to or in connection with an industrial agreement or like arrangement or undertaking (whether or not an Employer is a party to such agreement, arrangement or undertaking).

**“Retrenchment”** means in relation to a Member ceasing to be an Employee in circumstances where the Employer certifies to the Trustee in a form acceptable to the Trustee that -

- (a) the termination was for one or more of the following reasons -
  - (1) that the Member’s employment or position is no longer necessary; or
  - (2) that the work for which the Member was engaged or which was subsequently allotted to the Member is finished or is about to finish (except in the case of the expiration of a contracted period of employment or the completion of a contracted task); or
  - (3) that the quantity of work which the Member is qualified or competent to perform has diminished and has rendered necessary a reduction in the staff of the Employer; and
- (b) the Member was not offered an alternative position with the Employer which the Employer considers to be reasonably comparable (though not necessarily equivalent) to the position which the Member holds at the time retrenchment is contemplated,

and **“Retrenched”** shall have a corresponding meaning provided that an Employee shall in any event be deemed to have been retrenched if in the opinion of the Trustee that Employee voluntarily terminated his or her employment in anticipation of retrenchment.

**“Service”** means in relation to a Member the continuous period as an Employee with one or more Employers, whether concurrently or successively and, for the purpose of determining the Member’s length of Service, Service means the most recent uninterrupted period during which the Member has been an Employee together with, in the case of a Member who was formerly covered by the R.A.S. Scheme and who was a member of the Previous Fund or a Previous Officers’ Fund Member on 1 July 1986 and whose most recent period during which he or she has been an Employee is at least ten years, such further periods prior to 1 July 1986 that would have been taken into account for the purposes of determining his or her benefits under the R.A.S. Scheme had the R.A.S. Scheme continued in force provided that, unless otherwise determined by the Council with the written approval of the Trustee, employment with an Associated Employer before the date as at which it becomes an Associated Employer shall not count as Service.

**“Temporary Total Disablement”** in relation to a Member -

- (a) shall have the same meaning as is given to those words or what the Trustee considers to be the corresponding word or words for the purposes of any policy of insurance effected or acquired by the Trustee pursuant to the Deed and under which insurance is or may

become payable in the event of the disablement of any Member or group of Members, and (unless otherwise agreed between the Trustee and the Council in any particular case) any determination by the relevant Insurer as to whether or not a Member is so disabled in terms of such policy shall be final and binding on the Trustee, the Member and all other interested persons for the purposes of the Deed provided that, notwithstanding the provisions of any such policy, a Member shall not be classified as meeting this definition unless the Member has been continually absent from active employment for not less than three months provided further that if there is more than one such policy in force, the Trustee shall determine which of such policies shall apply for this purpose; and

- (b) if at the relevant time there is no such policy in force or in any other circumstances agreed between the Trustee and the Council, Temporary Total Disablement shall mean disablement (not amounting to Total and Permanent Disablement) due to an illness or injury as a result of which -
  - (1) the Member has been continuously absent from active employment for not less than three months; and
  - (2)
    - (i) if the Member has been continuously absent from active employment for less than twenty seven months (or such other period, if any, as may be agreed between the Trustee and the Council from time to time either generally or in any particular case), in the opinion of the Trustee after consideration of information and advice satisfactory to it, the Member is incapacitated to such an extent as to render the Member unable, for the time being, to resume work in the Member's former occupation; or
    - (ii) if the Member has been continuously absent from active employment for a period greater than that provided for in paragraph (i), in the opinion of the Trustee after consideration of information and advice satisfactory to it, the Member is incapacitated to such an extent as to render the Member unable, for the time being, to engage in any Gainful Employment for which the Member is reasonably qualified by education, training or experience,

provided always that, unless otherwise agreed between the Trustee and the Council from time to time either generally or in any particular case, Temporary Total Disablement shall not include disablement arising as a result of an illness or injury which, in the opinion of the Trustee after consideration of information and advice satisfactory to it, has been inflicted, incurred or aggravated for the purpose of obtaining a benefit, and **"Temporarily Totally Disabled"** shall have a corresponding meaning.

**"Total and Permanent Disablement"** in relation to a Member means disablement due to an illness or injury as a result of which -

- (a) the Member has been continuously absent from employment for a period of at least six months (or such lesser period as the Trustee may determine either generally or in any particular case); and
- (b) in the opinion of the Trustee after consideration of information and advice satisfactory to it, the Member is incapacitated to such an extent as to render the Member unlikely ever to engage or work for reward in any occupation for which the Member is reasonably qualified by education, training or experience,

and **"Totally and Permanently Disabled"** shall have a corresponding meaning provided that, if the Trustee pursuant to the Deed has effected a policy of insurance under which insurance is or may become payable in the event of the disablement of any Member or group of Members and the circumstances in which the disablement insurance is or would have been payable under any such policy are in the opinion of the Trustee similar to Total and Permanent Disablement defined

as aforesaid, then the Trustee may determine that the meaning of Total and Permanent Disablement shall in respect of the Member be modified in the manner and to the extent necessary (as determined by the Trustee) to ensure that the Member shall only be considered to be Totally and Permanently Disabled in the same circumstances as disablement insurance is or would have been payable in respect of any Member under such policy.

## **Part D.2**

### **Administration and Procedures**

#### **D.2.1 Transfer out of Fund while still an Employee.**

Notwithstanding clause A.27.2, while a Member is an Employee with the consent of the Member and the Council, the Trustee may pay or transfer to or towards an Approved Benefit Arrangement an amount agreed or determined and in a manner agreed between the Trustee and the Council but not exceeding an amount advised by the Actuary to the Trustee as being the Member's Equitable Share.

#### **D.2.2 Transfer of employment from one Employer to another.**

Subject to clause C.6.1, if a Member transfers as an Employee of one Employer under this division D to become an Employee of another Employer under this division D, the Member shall notwithstanding anything expressed or implied to the contrary in this division D remain a member of the Fund and that transfer shall not be deemed to be a cessation of employment or Service for the purposes of this division D. At the discretion of the Council any break in Service which the Council may determine to be trivial shall not be regarded as a cessation of employment or Service but the period of such a break shall not be included as a period of Service or Fund Membership for the purposes of this division D.

#### **D.2.3 Special arrangements.**

The Council, after consulting the Actuary and with the agreement of the Employee or Member concerned, may admit an Employee to membership or vary the terms of a Member's membership subject to such special terms and conditions as to benefits, contributions or otherwise as the Council thinks fit. Any such agreement shall be evidenced in writing (in one or more documents) by, and shall be subject to the approval of, the Trustee and each such agreement shall for the purposes of this division D be deemed to form part of this division D.

#### **D.2.4 Temporary cessation of employment and leave without pay.**

- (a) If a Member ceases to be an Employee in circumstances in which it is reasonable to expect that cessation will only be of a temporary nature and that the Member will again become an Employee, the Trustee may allow the Member to continue as a member of the Fund subject to such conditions as may be agreed upon by the Trustee, the Member and the Employer.
- (b) If any Member is granted leave of absence without pay by an Employer, the Member shall continue to be a member of the Fund on such conditions as are determined by the Trustee and approved by the Council.

#### **D.2.5 Part-time employment.**

Notwithstanding anything expressed or implied to the contrary in this division D, if a Member is or becomes an Employee in a part-time capacity, that Member shall contribute to the Fund for the period that he or she is an Employee in a part-time capacity (subject to the provisions of

clause D.3.1) and benefits shall be secured for and in respect of the Member during and in respect of that period on a basis determined by the Trustee after obtaining the advice of the Actuary and the Trustee may in like manner re-determine and adjust that basis in the event that the Member's part-time hours change or the Member becomes an Employee in a full-time capacity.

## **Part D.3 Member Contributions**

### **D.3.1 Member contributions.**

- (a) Subject to the other provisions of this clause D.3.1 each Member shall contribute to the Fund the amounts and in the manner specified in whichever of the subsequent parts of this division D is applicable to that Member.
- (b) A Member shall be deemed to have expressly authorised the Employer to deduct any contributions which the Member is liable to pay pursuant to this clause D.3.1 from the Member's remuneration from that Employer whenever that remuneration is paid. Any amount so deducted by an Employer shall be held by that Employer upon trust for the Fund to be paid to the Fund in the manner and at the times determined by the Trustee.
- (c) Unless otherwise provided in whichever of the subsequent parts of this division D is applicable to the Member, no contributions shall be payable by a Member after the Member ceases to be an Employee or, in any case, after the Normal Retirement Date.
- (d) Subject where applicable to the other provisions of this clause D.3.1, a Member may (with the approval of the Trustee and subject to such special terms and conditions as the Trustee shall think fit to impose) from time to time contribute to the Fund by deduction from remuneration or otherwise, amounts additional to those the Member is making or is required to make pursuant to clause D.3.1(a) and any contributions so made shall be applied for the benefit of the Member pursuant to clause D.4.5.

## **Part D.4 Benefits**

### **D.4.1 Retirement benefits.**

- (a) Unless whichever of the subsequent parts of this division D is applicable to the Member specifies to the contrary, subject to clause D.9.2 and division I, if a Member ceases to be an Employee:
  - (1) on the Normal Retirement Date; or
  - (2) on or after the attainment of the age of 55 years but prior to the Normal Retirement Date,
 there shall be paid to the Member from the Fund the lump sum retirement benefit specified in whichever of the subsequent parts of this division D is applicable to the Member.
- (b) If a Member continues as an Employee after the Normal Retirement Date then, subject to clause B.7(a), clause D.9.2 and division I:

- (1) subject to clause D.4.1(b)(2), upon the Member's subsequent retirement as an Employee there shall be paid to the Member from the Fund the lump sum retirement benefit which would have been payable pursuant to clause D.4.1(a) if the Member had retired on the Normal Retirement Date together with interest thereon for the period from the Normal Retirement Date to the Member's actual date of retirement at the Declared Rate; and
- (2) subject to the Relevant Law (and notwithstanding clause A.22.7(b)), if:
  - (i) the Member has attained the Normal Retirement Date and would be entitled to a benefit under clause D.4.1(a) if the Member had ceased to be an Employee,  
then:
    - (ii) that Member may elect to receive a lump sum retirement benefit from the Fund calculated under clause D.4.1(a) (notwithstanding that the Member remains an Employee) together with interest thereon for the period from the Normal Retirement Date to the date of payment at the Declared Rate; and
    - (iii) for purposes of determining the amount of or eligibility for payment of a benefit under this division D in respect of an event or circumstance occurring or arising after the date the benefit is paid pursuant to this clause D.4.1(b)(2), the Member will be treated as if he or she had never previously been an Employee or a Member.

#### **D.4.2 Death benefits.**

- (a) Upon the death of a Member while an Employee prior to the Normal Retirement Date, there shall be payable from the Fund in accordance with and subject to the provisions of clause D.4.7 the lump sum benefit specified in whichever of the subsequent parts of this division D is applicable to the Member.
- (b) Upon the death of a Member while an Employee on or after the Normal Retirement Date, there shall be payable in accordance with and subject to clause D.4.7 the lump sum benefit which would have been payable pursuant to the relevant provisions of clause D.4.1(a) or D.4.1(b) if the Member had retired as an Employee on the date of the Member's death.
- (c) Upon the death of a Member in respect of whom there has been secured a Preserved Benefit under the Fund there shall be payable from the Fund in accordance with and subject to clause D.4.7 and clause D.9.2 the lump sum benefit specified in whichever of the subsequent parts of this division D is applicable to the Member.

#### **D.4.3 Total and Permanent Disablement benefits.**

- (a) Subject to division I, upon a Member ceasing to be an Employee before the Normal Retirement Date as a result of the Member becoming Totally and Permanently Disabled, there shall be paid to the Member from the Fund the lump sum benefit specified in whichever of the subsequent parts of this division D is applicable to the Member.
- (b) Subject to division I, if a Member in respect of whom there has been secured a Preserved Benefit under the Fund retires from regular employment before attaining the age of 55 years in circumstances which in the opinion of the Trustee would have constituted Total and Permanent Disablement if the Member had been an Employee, there shall be paid to the Member from the Fund the lump sum benefit specified in whichever of the subsequent parts of this division D is applicable to the Member.

**D.4.4 Benefits on leaving employment.**

Subject to division I, upon a Member ceasing to be an Employee before the Normal Retirement Date otherwise than as provided in clause D.4.1, D.4.2 or D.4.3, there shall be paid to that Member from or secured in respect of that Member under the Fund the benefits specified in whichever of the subsequent parts of this division D is applicable to the Member.

**D.4.5 Additional benefits for additional voluntary contributions.**

- (a) Subject to division I, upon a Member ceasing to be an Employee for any reason including death or Total and Permanent Disablement, there shall be paid to or in respect of the Member in addition to any other benefits to which the Member is entitled under this division D, a lump sum benefit equal to the balance of the Additional Voluntary Contribution Account.
- (b) The Trustee must cause to be maintained in respect of each Member who makes contributions pursuant to clause D.3.1(d) an account to be called the Additional Voluntary Contribution Account.
- (c) There shall be credited to a Member's Additional Voluntary Contribution Account -
  - (1) the contributions made by or in respect of the Member under clause D.3.1(d);
  - (2) the contributions made by or in respect of the Member under clause 1.26(6) of the Previous Fund;
  - (3) interest at the Declared Rate (if positive);
  - (4) any amounts the Trustee may determine to credit to the Additional Voluntary Contribution Account because of a valid contributions splitting arrangement; and
  - (5) any other amounts which this Deed may require to be credited to the Additional Voluntary Contribution Account or which the Trustee determines to credit to the Additional Voluntary Contribution Account,
 and there shall be debited to the Member's Additional Voluntary Contribution Account -
  - (6) any amounts transferred in respect of the Member to an Approved Benefit Arrangement in accordance with this Deed and which the Trustee determines to debit to the Additional Voluntary Contribution Account;
  - (7) any amounts transferred to another division of this Deed;
  - (8) any benefit attributable to the Additional Voluntary Contribution Account;
  - (9) any amounts which the Trustee may determine to debit in respect of Tax, Fund Expenses and insurance;
  - (10) interest at the Declared Rate (if negative);
  - (11) any amounts the Trustee may determine to debit to the Additional Voluntary Contribution Account because of a valid contributions splitting arrangement; and
  - (12) any other amounts which this Deed may require to be debited to the Additional Voluntary Contribution Account or which the Trustee determines to debit to the Additional Voluntary Contribution Account.

**D.4.6 Alternative forms of benefits.**

- (a) Subject to part D.7 a person who is entitled to receive a lump sum benefit pursuant to any provision of this division D may apply to the Trustee to exchange all or any part of such lump sum benefit for a pension benefit payable to such persons as the Trustee shall approve and, if such application is approved, shall either -



- (1) pay such pension benefit direct from the Fund the amount of which and the terms and conditions of which shall be determined by the Trustee after obtaining the advice of the Actuary; or
  - (2) arrange for the provision of such pension benefit by applying the aforesaid lump sum benefit in purchasing from an Insurer or from such other organisation as the Trustee shall decide an annuity policy or contract providing for payment of an annuity on such terms and conditions as are approved by the Trustee and after application of the lump sum benefit or part thereof as aforesaid neither the person entitled thereto nor any other person claiming through or under the first mentioned person shall have any further claim on the Fund or the Trustee or any Employer in respect thereof.
- (b) If in accordance with the terms and conditions applicable to any such pension benefit payable from the Fund pursuant to clause D.4.6(a)(1) an amount is payable after the death of any person such amount shall be payable by the Trustee subject to and in accordance with clause D.4.7 unless the terms and conditions on which that benefit was granted provide otherwise.
- (c) A person in receipt of a pension under this division D may apply to the Trustee to commute all or any part of that pension for a lump sum benefit and if the Trustee approves that application (and it is confirmed that the Trustee is empowered to reject in total or in part such application without giving any reason therefor), that person shall be paid a lump sum benefit in exchange for the amount of the pension so commuted. The amount of any such lump sum benefit shall be determined by the Trustee after consulting the Actuary.
- (d) Notwithstanding the provisions of clause D.4.6(c), the commutation of any pension payable shall be made in accordance with any applicable requirement of a Relevant Law and the Trustee may take such action as it sees fit to ensure compliance including, without limitation, adjusting the amounts or terms of payment of benefits in such manner, to such extent and by way of such arrangements as the Trustee considers appropriate and any decision by the Trustee for the purposes of this clause D.4.6 shall be final and binding on all interested persons.
- (e) Subject to the Trustee's absolute discretion, all pensions payable under this division D shall be paid in accordance with the provisions of the Relevant Law concerning the payment of "pensions" as defined in the Supervision Act.

#### **D.4.7 Payment of lump sum death benefits.**

- (a) Lump sum benefits payable on the death of a Member while an Employee shall be applied by the Trustee to or for the benefit of such one or more of -
- (1) the Member's Dependants; and
  - (2) the Member's legal personal representatives,
- to the exclusion of the other or others of them and in such form, manner, proportions and subject to such conditions as the Trustee determines.
- (b) The receipt of a Dependant or legal personal representative ("**Beneficiary**" for purposes of this clause D.4.7) shall be a complete discharge to the Trustee in respect of the amount paid to that person and the Trustee is not bound to see to the application thereof.
- (c) Without prejudice to the foregoing, if a Beneficiary dies before the whole of a benefit which is payable to that Beneficiary has been paid, the amount of the unpaid benefit shall

be paid or applied in accordance with clause D.4.7(a) as if the Beneficiary was a Member at the date of death.

#### **D.4.8 Augmentation of benefits.**

The Council may direct the Trustee to augment the amount of any benefit otherwise payable or to be provided under this division D and the Council may direct the Trustee to rescind or discontinue all or any part of such augmentation. The Trustee shall act on such a direction provided that, before augmenting any benefit pursuant to such a direction, the Trustee may require an undertaking from an Employer that it shall contribute to the Fund such additional amounts or rates of contribution and at such times as the Trustee (after consulting the Actuary) shall determine. If any undertaking required by the Trustee as aforesaid is not given or, having been given is not fulfilled to the Trustee's satisfaction, the Trustee may refuse to proceed with or discontinue the augmentation to which the undertaking relates.

#### **D.4.9 Recognised Schemes.**

- (a) If during the continuance of the Fund any Recognised Scheme which provides any benefit which is similar in kind, effect or intent to a benefit provided by the Fund for (inter alia) Members or their Dependants is introduced or improved (and in this regard a Recognised Scheme in existence prior to the establishment of the Previous Fund shall be deemed to be improved if during the continuance of the Fund any Employer commences contributing towards that Recognised Scheme) and if any Employer pays either directly or indirectly any portion of the contributions, premiums or other costs of such Recognised Scheme or improvement, the Council may not more than 12 months after the date of such introduction or improvement give written notice to the Trustee of its intention from a date on or not more than 12 months after the date of such introduction or improvement to reduce the benefits provided by the Fund for all or any of the Members or their Dependants to an extent not exceeding the extent of the benefits provided for such Members or their Dependants under the Recognised Scheme pursuant to such introduction or improvement provided that, if the benefits provided under the Fund are of a different form or nature from the benefits provided under the Recognised Scheme, the maximum extent to which the benefits provided under the Fund may be reduced by the Council pursuant to this clause D.4.9 shall be determined by the Actuary. Such determination shall be communicated by the Actuary to the Council and the Trustee in writing.
- (b) In the event of a reduction in the benefits provided by the Fund pursuant to clause D.4.9(a), any Members obliged to contribute to such Recognised Scheme shall be relieved of their obligation to contribute to the Fund to the extent (if any) determined by the Actuary not exceeding the extent of the contributions or additional contributions which they are required to pay under the Recognised Scheme pursuant to the introduction or improvement in respect of which benefits have been reduced. Any such determination shall be communicated by the Actuary to the Council and the Trustee in writing and Members shall be advised by the Trustee of the extent of the relief granted to them.
- (c) Any such reduction in benefits and contributions shall be evidenced by a deed or other written instrument executed or made by the Trustee with the consent of the Council altering, varying or making additions to or deletions from this division D for the time being in force. Notwithstanding anything expressed or implied to the contrary in this division D, any alteration, variation, addition or deletion made by such deed or instrument shall be valid and binding on the Council, the Associated Employers, the Trustee, the Members and all other interested persons.

## Part D.5

### Contributions and Benefits for those Members who are not Previous Officers' Fund Members

#### D.5.1 Application of this part D.5.

- (a) The provisions of this part D.5 shall apply to and in respect of every member of the Fund who:
- (1) was a member of the 1988 Fund immediately before the repeal of the 1988 Act by virtue of section 53F of the 1988 Act (excluding those members to whom section 53FA of the 1988 Act applied prior to 1 July 1998); but
  - (2) is not a Previous Officers' Fund Member.
- (b) (1) Unless otherwise agreed between the Council and the Trustee, the period during which the Member is classified as a Member in respect of whom the provisions of this part D.5 apply or in respect of whom part 2 of the Previous Fund applied shall not be included for the purposes of determining the benefits to be provided in respect of the Member under any other part of this division D which applies to the Member.
- (2) The benefit provided for and in respect of the Member under this part D.5 shall be in addition to any benefit to be provided for and in respect of the Member under any other part of this division D which applies to the Member except to the extent (if any) that the benefit provided for in this part D.5 is included in any benefit payable under such other part.

#### D.5.2 Definitions.

In this part D.5, unless the contrary intention appears or the context requires otherwise:

“**Accrued Benefit Multiple**” means in relation to a Member at any date a multiple determined in accordance with the following formulae -

- (a)  $.09 \times FM_p + .02 \times (FM_{1p} + 2FM_{2p} + 3FM_{3p} + 4FM_{4p} + 5FM_{5p} + 6FM_{6p} + 7FM_{7p} + 8FM_{8p} + 9FM_{9p})$

plus

- (b)  $.0775 \times FM_a + .0175 \times (FM_{1a} + 2FM_{2a} + 3FM_{3a} + 4FM_{4a} + 5FM_{5a} + 6FM_{6a} + 7FM_{7a} + 8FM_{8a} + 9FM_{9a})$

provided that in no circumstances and at no date shall the Accrued Benefit Multiple be greater than the Maximum Accrued Benefit Multiple of that Member at that date.

“**Accrued Retirement Benefit**” means in relation to a Member at any date the product of the Accrued Benefit Multiple and the Member's Final Average Pay.

“**Contribution Rate Options**” means, in relation to this part D.5, 0%, 1%, 2%, 3%, 4%, 5%, 6%, 7%, 8% and 9%.

“**FM**” means in relation to a Member at any date the period of the Member's Fund Membership completed up to that date.

“**FM<sub>a</sub>**” means in relation to a Member at any date the period of the Member's Fund Membership on or after 1 July 1993.

“**FM<sub>p</sub>**” means in relation to a Member at any date the period of the Member's Fund Membership completed prior to 1 July 1993.

“**FM1a**”, “**FM2a**”, “**FM3a**”, “**FM4a**”, “**FM5a**”, “**FM6a**”, “**FM7a**”, “**FM8a**” and “**FM9a**” means in relation to a Member at any date those periods of the Member’s Fund Membership completed on or after 1 July 1993 during which the Member’s rate of contribution has been, respectively, 1%, 2%, 3%, 4%, 5%, 6%, 7%, 8% and 9%.

“**FM1p**”, “**FM2p**”, “**FM3p**”, “**FM4p**”, “**FM5p**”, “**FM6p**”, “**FM7p**”, “**FM8p**” and “**FM9p**” means in relation to a Member at any date those periods of the Member’s Fund Membership completed on or after 1 July 1993 during which the Member’s rate of contribution has been, respectively, 1%, 2%, 3%, 4%, 5%, 6%, 7%, 8% and 9%.

“**Former Accrued Retirement Benefit**” means the Accrued Retirement Benefit applying in relation to a Member determined pursuant to the equivalent provisions to this part D.5 that were in force pursuant to the governing rules of the Previous Fund immediately prior to 1 July 1993 as if those provisions had remained in force on and after 1 July 1993.

“**Maximum Accrued Benefit Multiple**” means in relation to a Member at any date a multiple determined in accordance with the following formula -

$$A + \frac{(M - A) \times 18.25}{21.00}$$

where:

M means the Maximum Accrued Benefit Multiple applying in relation to a Member determined pursuant to the equivalent provisions to this part D.5 that were in force pursuant to the governing rules of the Previous Fund immediately prior to 1 July 1993 as if those provisions had remained in force on and after 1 July 1993;

A means the Accrued Benefit Multiple at 1 July 1993 applying in relation to a Member determined pursuant to the equivalent provisions to this part D.5 that were in force pursuant to the governing rules of the Previous Fund immediately prior to 1 July 1993.

“**Preserved Benefit**” means in relation to a Member the benefit determined pursuant to the relevant provisions of clause D.5.8.

“**Rate of Contribution**” means in relation to a Member at any date the percentage rate determined pursuant to the relevant provisions of clause D.5.3 then being used to determine the contributions paid to the Fund by the Member.

### **D.5.3 Contribution by Members.**

- (a) The amount of contributions paid by a Member for the purposes of clause D.3.1(a) shall, subject to the other relevant provisions of that clause, be calculated as the product of the Rate of Contribution selected by the Member pursuant to clause D.5.3(b) and the Member’s Annual Pay.
- (b) A Member may by written advice to the Trustee at any time elect to change his or her Rate of Contribution by nominating, subject to clause D.5.3(c), another of the Contribution Rate Options which he or she wishes to contribute.
- (c) If the Accrued Benefit Multiple of the Member is equal to or greater than the Maximum Accrued Benefit Multiple, then the Member’s Rate of Contribution shall be reduced to the minimum extent necessary to ensure that the Member’s Accrued Benefit Multiple shall not exceed the Maximum Accrued Benefit Multiple.
- (d) If a Member elects pursuant to clause D.5.3(b) a Rate of Contribution higher than that permitted under clause D.5.3(c), then the Trustee shall deem the Member to have elected the highest permitted Rate of Contribution and shall advise the Member accordingly.

- (e) If a Member does not advise the Trustee pursuant to clause D.5.3(b), then the Trustee shall deem the Member to have advised it that the Member's Rate of Contribution is to continue unchanged.

#### **D.5.4 Retirement benefits.**

Upon a Member ceasing to be an Employee as provided in clause D.4.1(a), the lump sum retirement benefit for the purposes of that clause shall be equal to the Accrued Retirement Benefit at the date the Member ceased to be an Employee provided that in the case of a Member who is retiring prior to the Normal Retirement Date but after age 55, then in lieu of receiving immediate payment of the aforesaid benefit, the Member may elect to have secured under the Fund a Preserved Benefit payable -

- (a) at any time upon the request of the Member in writing to the Trustee after the Member has retired as an Employee (and for this purpose a Member who at the Normal Retirement Date has not made such a request shall be deemed to have requested payment at the Normal Retirement Date); or
- (b) on the Member's death,

whichever is the first to occur and of an amount equal to the Accrued Retirement Benefit at the date the Member ceases to be an Employee accumulated up to the date of payment with interest at the Declared Rate.

#### **D.5.5 Death benefits.**

Upon the death of such a Member while an Employee prior to the Normal Retirement Date the lump sum benefit for the purposes of clause D.4.2(a) shall be an amount equal to the lesser of a lump sum equal to 8.4 times the Member's Final Average Pay at the date of the death and an amount determined in the manner following -

- (a) in the case of a Member whose death occurs not later than the date of attainment of the age of 60 years, an amount equal to the sum of:
- (1) the Former Accrued Retirement Benefit determined as at the date of death; and
  - (2) an amount equal to the product of the Member's Final Average Pay and a multiple determined from the following Table according to the Member's age at the date of death -

Table

<b>Age in years at the Date of Death</b>	<b>Multiple</b>	<b>Age in years at the Date of Death</b>	<b>Multiple</b>
Less than 20	8.40	40	4.20
20	8.40	41	3.99
21	8.19	42	3.78
22	7.98	43	3.57
23	7.77	44	3.36
24	7.56	45	3.15
25	7.35	46	2.94
26	7.14	47	2.73
27	6.93	48	2.52

Age in years at the Date of Death	Multiple	Age in years at the Date of Death	Multiple
28	6.72	49	2.31
29	6.51	50	2.10
30	6.30	51	1.89
31	6.09	52	1.68
32	5.88	53	1.47
33	5.67	54	1.26
34	5.46	55	1.05
35	5.25	56	0.84
36	5.04	57	0.63
37	4.83	58	0.42
38	4.62	59	0.21
39	4.41	60	0.00

provided that for the purposes of this Table where the Member's age (in the case of a Member who is over the age of 20 years) is not an exact number of years, the multiple shall be obtained from the Table by linear interpolation; and

- (b) in the case of a Member whose death occurs on or after the date of attainment of the age of 60 years, an amount equal to the Accrued Retirement Benefit determined as at the date of death.

#### **D.5.6 Total and Permanent Disablement benefits.**

Upon a Member ceasing to be an Employee before the Normal Retirement Date as a result of Total and Permanent Disablement, the lump sum benefit for the purposes of clause D.4.3(a) shall be an amount determined in the manner set out in clause D.5.5 as if the Member had died on the Date of Disablement and for the purposes of this clause D.5.6 the proviso to clause D.5.5 shall apply provided that for the purpose of clause D.5.5(a)(1) the reference to "the Former Accrued Retirement Benefit" shall be taken to be a reference to "the Accrued Retirement Benefit".

#### **D.5.7 Benefits on Temporary Total Disablement.**

- (a) Subject to this division D, if a Member becomes Temporarily Totally Disabled while an Employee before the Normal Retirement Date -
- (1) an income benefit shall become payable to the Member subject to the following provisions of this clause D.5.7; and
  - (2) while that income benefit is payable no benefit shall become payable to or in respect of the Member under any other provision of this division D otherwise than as provided for in this clause D.5.7.
- (b) The annual amount of the income benefit shall be 70% of the Member's Annual Pay at the Date of Disablement, reduced (unless the Council determines otherwise) by -
- (1) any compensation benefit which is or becomes payable or which may reasonably become payable in respect of the Member under any workers compensation,

transport accident compensation or similar scheme having government support or recognition or which is maintained by the Employer, to the extent that such compensation benefit is attributable to an injury, illness or accident giving rise to the income benefit;

- (2) any income received from the Employer pursuant to a sick leave entitlement, to the extent that such income is attributable to an injury, illness or accident giving rise to the income benefit; and
- (3) any reward due to the Member in respect of any work carried out by the Member (whether for the Employer or otherwise) while the Member is entitled to receive the income benefit,

provided that, if such a compensation benefit or any such reward is payable in a different manner or form to the income benefit, the income benefit shall be reduced on the basis determined by the Trustee after obtaining the advice of the Actuary.

- (c) The income benefit shall be payable by monthly instalments. The income benefit shall commence to be payable on the date as at which the Member is determined to have become Temporarily Totally Disabled (the “admission date”), with the first instalment falling due on the first day of the month coincident with or next following the admission date. Unless a later cessation date is agreed between the Trustee and the Council, the income benefit shall cease to be payable on the date (the “cessation date”) which is the earliest to occur of the following -

- (1) the date as at which the Member ceases to satisfy the definition of Temporary Total Disablement;
- (2) the date as at which the Member is determined to have become Totally and Permanently Disabled;
- (3) the date of the Member’s death;
- (4) the Member’s Normal Retirement Date; or
- (5) the day after the admission date which falls immediately after:
  - (i) a continuous period of 24 months from the admission date; or
  - (ii) a total of 24 months as a result of the same or a related illness or injury where the periods of such disablement occurred within 6 months (or such lesser period as the Council may determine) of each other,

with the last instalment falling due on the first day of the month coincident with or next following the cessation date.

The first and last instalments shall each be a proportionate amount having regard to the number of days for which the income benefit was payable in the previous month.

- (d) If the Trustee has obtained insurance for all or part of the benefit payable under this clause D.5.7, and an instalment benefit continues to be payable under such insurance in respect of a Member after the income benefit has ceased to be payable under this clause -
  - (1) the Trustee shall continue to pay to the Member a benefit which in the Trustee’s opinion is consistent with the continued insurance benefit; and
  - (2) with the approval of the Council, the Trustee may deem the Member to continue to be Temporarily Totally Disabled for the purpose of this clause D.5.7 and in receipt of an income benefit for the whole or part of the period during which such an insurance benefit continues to be paid to the Member hereunder.

- (e) If the Member continues or returns as an Employee when the income benefit ceases, the Member's Fund Membership shall continue and this division D shall continue to apply to and in respect of the Member.
- (f) If the Member does not continue or return as an Employee when the income benefit ceases, there shall be payable to or in respect of the Member from the Fund a benefit determined in accordance with the relevant other provisions of this division D on the date as at which the income benefit ceased to be payable provided that, insofar as payment of all or part of a benefit under another relevant provision of this division D depends upon an Employer granting an approval or exercising a Power, it will still be necessary to ascertain whether the Employer grants such approval or is prepared to exercise such Power.
- (g) For the purposes of the whole or any particular provision of this division D, in the case of a Member who is entitled to receive an income benefit under this clause D.5.7 -
  - (1) the Member shall be deemed to have remained as an Employed Member during the whole of the period for which the income benefit is payable and during any deferment or waiting period for that benefit (the aggregate of such periods being hereinafter referred to as "the Disability Period");
  - (2) during the Disability Period the Member's Annual Pay shall be deemed to be equal to the Member's Annual Pay immediately before the Date of Disablement or such greater amount as may be determined by the Council; and
  - (3) the Council may waive the whole or any part of the contributions otherwise payable by the Member during the whole or any part of the Disability Period; and
  - (4) the Council may deem the whole or any part of any contributions waived as provided in paragraph (c) to have been paid by the Member.
- (h) If during payment of the income benefit the Trustee determines that a payment under this clause D.5.7(h) is appropriate and that to make such a payment would not, in the opinion of the Trustee, cause the Fund to be in breach of or to fail to comply with any applicable requirement under the Relevant Law, the Trustee with the approval of the Council may pay or apply from the Fund for or in respect of the Member an amount or amounts not exceeding in the aggregate -
  - (1) the minimum lump sum benefit (if any) which would have been payable from the Fund if the Member had voluntarily ceased to be an Employee in good health and without the consent or approval of the Employer on the date of such payment from the Fund; or
  - (2) such greater amount (if any) as the Council may determine but not exceeding the amount determined by the Trustee (after obtaining the advice of the Actuary) to be the Member's Equitable Share,

provided that, unless otherwise agreed between the Trustee and the Council, any benefit which later becomes payable from the Fund in respect of the Member (other than the income benefit) shall be adjusted in such manner and to such extent as the Trustee, after obtaining the advice of the Actuary, considers appropriate and equitable to take account of any payments made pursuant to this clause D.5.7(h).
- (i) If the Trustee effects or seeks to effect insurance with an Insurer in respect of any income benefit which might become payable from the Fund pursuant to this clause D.5.7 in respect of a person or group of persons and -
  - (1) that Insurer refuses to provide or increase insurance in respect of a person on its standard terms: or



- (2) that Insurer for any reason whatever fails to provide, increase or maintain or reduces, terminates or withholds insurance or does not admit or defers the whole or part of a claim,

then, unless otherwise agreed between the Trustee and the Council, the benefits in respect of which insurance has been or would have otherwise been effected shall be reduced to the extent to which insurance has not been effected on standard terms or has otherwise not been obtained, increased or maintained or has been reduced, terminated or withheld or such a claim has been deferred or not admitted, and the Trustee may adjust any affected benefit in such manner as the Trustee, after obtaining the advice of the Actuary, considers appropriate in effecting such a reduction.

### D.5.8 Benefits on leaving employment.

Upon such a Member ceasing to be an Employee as provided in clause D.4.4, the benefits to be provided for the purposes of that clause shall be -

- (a) a lump sum benefit payable immediately equal to the greater of:
- (1) an amount equal to -
- (i) in the case of a Member whose “AGE” is less than or equal to 50 years, an amount calculated in accordance with the formula -

$$ABM_5 \times FAP + C_5;$$

or

- (ii) in the case of a Member whose “AGE” is more than 50 years but less than 55 years, an amount calculated in accordance with the formula -

$$\frac{[(ABM_5 \times FAP + C_5) \times (55 - AGE) + (ABM \times FAP) \times (AGE - 50)]}{5}$$

and

- (2) an amount equal to the total of the contributions (if any) paid by the Member to the Fund and to the Previous Fund (excluding contributions made pursuant to clause D.3.1(5)) accumulated up to the date the Member ceased to be an Employee with interest at the Declared Rate,

provided that if the Member ceased to be an Employee by reason of Retrenchment the benefit shall be increased to an amount equal to the Accrued Retirement Benefit provided further that for the purposes of determining the formulae hereinbefore specified -

“AGE” in relation to a Member is the Member’s age in years (with each additional day counting as a fraction of the year) at the date on which the Member ceased to be an Employee;

“ABM” is the Accrued Benefit Multiple at the date on which the Member ceased to be an Employee;

“ABM<sub>5</sub>” is the Accrued Benefit Multiple as at the date 5 years prior to the date on which the Member ceased to be an Employee;

“FAP” is the Member’s Final Average Pay; and

“C<sub>5</sub>” is an amount equal to the total contributions (if any) paid by the Member to the Fund and to the Previous Fund (excluding contributions made pursuant to clause D.3.1(d)) during the period commencing 5 years prior to the date on which the Member ceased to be an Employee and the date

on which he or she became a Member, whichever is the later, and ending on the date he or she ceased to be an Employee accumulated up to the date the Member ceased to be an Employee with interest at the Declared Rate,

or

- (b) if at the date the Member ceases to be an Employee the Accrued Benefit Multiple is equal to or greater than 0.375, the Member may in lieu of taking the immediate payment specified in paragraph (a) of this clause D.5.8 elect to have a Preserved Benefit secured under the Fund payable -

(1) at any time upon the request of the Member in writing to the Trustee after the Member has ceased to be an Employee (and for this purpose a Member who at the Normal Retirement Date has not made such a request shall be deemed to have requested payment at the Normal Retirement Date); or

(2) on the Member's death,

whichever is the first to occur, of an amount equal to the amount specified in paragraph (a) of this clause D.5.8, accumulated up to the date of payment with interest at the Declared Rate,

provided that the benefit payable in the case of a Member -

- (i) who requests payment at any time on or after the attainment of the age of 55 years (and for this purpose a Member who at the Normal Retirement Date has not made such a request shall be deemed to have requested payment on the Normal Retirement Date); or
- (ii) who dies; or
- (iii) who prior to the attainment of the age of 55 years requests payment and satisfies the Trustee that he or she has retired from Gainful Employment in circumstances similar to Total and Permanent Disablement as provided in clause D.4.3(b); or
- (iv) who requests payment at any time (and for this purpose a Member who at the Normal Retirement Date has not made such a request shall be deemed, to have requested payment on the Normal Retirement Date) having ceased to be an Employee of the Employer by reason of Retrenchment,

shall not be less than an amount determined in accordance with the formula -

$$ABM \times FAIP$$

where:

“ABM” is the Accrued Benefit Multiple at the date on which the Member ceased to be an Employee; and

“FAIP” is the Member's Final Average Indexed Pay.

## Part D.6

### Contributions and Benefits for Previous Officers' Fund Members

#### D.6.1 Application of this part D.6.

- (a) The provisions of this part D.6 shall apply to and in respect of every member of the Fund who:
- (1) was a member of the 1988 Fund immediately before the repeal of the 1988 Act by virtue of section 53F of the 1988 Act (excluding those members to whom section 53FA of the 1988 Act applied prior to 1 July 1998); but
  - (2) is a Previous Officers' Fund Member.
- (b) (1) Unless otherwise agreed between the Council and the Trustee, the period during which the Member is classified as a Member in respect of whom the provisions of this part D.6 apply or in respect of whom part 3 of the Previous Fund applied shall not be included for the purposes of determining the benefits to be provided in respect of the Member under any other part of this division D which applies to the Member.
- (2) The benefit provided for and in respect of the Member under this part D.6 shall be in addition to any benefit to be provided for and in respect of the Member under any other part of this division D which applies to the Member except to the extent (if any) that the benefit provided for in this part D.6 is included in any benefit payable under such other part.

#### D.6.2 Definitions.

In this part D.6, unless the contrary intention appears or the context requires otherwise:

**“Accrued Benefit Multiple”** means in relation to a Member at any date a multiple determined in accordance with the provisions of clause D.6.8 and the expression **“ABM”** shall be taken, whenever it appears in this part D.6, to mean the same.

**“Accrued Retirement Benefit”** means in relation to a Member at any date the product of the Accrued Benefit Multiple and the Member's Final Average Pay.

**“Age 60 Female”** means a female Previous Officers' Fund Member whose “Normal Retiring Age” under the Previous Officers' Fund Rules was her 60th birthday.

**“Contribution Rate Options”** means in relation to this part D.6, 0%, 1%, 2%, 3%, 4%, 5%, 6%, 7%, 8% and 9%.

**“FAP”** and **“FAIP”** shall mean in relation to a Member at any date, respectively, the Final Average Pay and Final Average Indexed Pay wherever those expressions appear in this part D.6.

**“FM”** means in relation to a Member at any date the period of the Member's Fund Membership completed up to that date.

**“Former Accrued Retirement Benefit”** means the Accrued Retirement Benefit applying in relation to a Member determined pursuant to the equivalent provisions to this part D.6 that were in force pursuant to the governing rules of the Previous Fund immediately prior to 1 July 1993 as if those provisions had remained in force on and after 1 July 1993.

**“Ill Health”** means inability (which in the opinion of the Trustees is due to injury disease or infirmity but does not constitute Disablement) of an Officer to continue in the employment of the Council either in his appointed position or in some other capacity offered to him by the Council which in the opinion of the Trustees would be suitable and appropriate having regard to his

station in life his previous standing in the employment of the Council and the nature of his ill health.

“**Maximum Accrued Benefit Multiple**” means in relation to a Member at any date a multiple determined in accordance with the provisions of clause D.6.4.

“**Periodic Accrued Benefit Multiple**” means in relation to a Member a multiple determined for each Stable Period for which the Member remained in the Fund in accordance with whichever of the following formulas is applicable:

- (a) if on the last date of the aforesaid Stable Period the Member had completed less than 30 years Fund Membership, the sum of:

- (1)  $[\text{.23} - 2 \times (\text{SCR} - \text{ROC})] \times k_1$ ;
- (2)  $[\text{.22} - 2 \times (\text{SCR} - \text{ROC})] \times k_2$ ; and
- (3)  $[\text{.19125} - 1.75 \times (\text{SRC} - \text{ROC})] \times k_3$

where:

“ $k_1$ ” is the period of the Stable Period less the period of the Stable Period referred to in  $k_2$  and  $k_3$ ; and

“ $k_2$ ” is the period of the Stable Period on and after 1 September 1987 but prior to 1 July 1993; and

“ $k_3$ ” is the period of the Stable Period on or after 1 July 1993,

provided that if the Periodic Accrued Benefit Multiple calculated under (3) above for any Stable Period determined on the basis provided above is greater than  $.19 \times k_3$ , and the ROC is greater than the SCR, it shall be taken to be  $.19 \times k_3$ ;

- (b) if on the first date of the aforesaid Stable Period the Member had completed 30 years or more Fund Membership, the sum of:

- (1)  $[\text{.09} + 2 \times \text{ROC}] \times k_4$ ; and
- (2)  $[\text{.0775} + 1.75 \times \text{ROC}] \times k_5$ , limited to  $.19 \times k_5$  if ROC is less than or equal to 6.5%,

where:

“ $k_4$ ” is the length of the Stable Period less the period of the Stable Period referred to in  $k_2$ ;

“ $k_5$ ” is the length of the Stable Period on or after 1 July 1993.

“**Preserved Benefit**” means in relation to a Member the benefit determined pursuant to the relevant provisions of clause D.6.13.

“**Rate of Contribution**” means in relation to a Member at any date the percentage rate determined pursuant to the relevant provisions of clause D.6.7 then being used to determine the contributions paid to the Fund by the Member and the expression “**ROC**” shall be taken wherever it appears in this part D.6 to mean the same.

“**R.A.S. Benefit**” means in relation to a Member at any date the amount equal to the product of the Member’s RAS Multiple and the Member’s FAP as at that date.

“**R.A.S. Multiple**” means in relation to a Member at any date the multiple determined in respect of the Member pursuant to the provisions of clause D.6.6 and the expression “**RASM**” shall be taken wherever it appears in this part to mean the same.

“**Stable Period**” means the period of the Member’s Fund Membership falling prior to 1 July 1987 or any period on or after 1 July 1987 during which the Member’s Standard Contribution Rate and Rate of Contribution did not change.

“**Standard Contribution Rate**” means in relation to a Member at any date the percentage contribution rate determined pursuant to the provisions of clause D.6.3 and the expression “**SCR**” shall be taken wherever it appears in this part D.6 to mean the same.

### **D.6.3 Determination of the Standard Contribution Rate.**

- (a) The Standard Contribution Rate in respect of a Member at any date prior to 1 July 1987 shall, subject to clause D.6.3(c), be equal to the rate of contribution determined to be payable by that Member pursuant to the Previous Officers’ Fund Rules as at that date.
- (b) Subject to clause D.6.3(c), the Standard Contribution Rate in respect of such a Member shall be recalculated each 1 July occurring after 1 July 1987 and shall, subject to clause D.6.3(c), be determined according to the following formula:

$$\frac{SCR_0 \times AP_0 + (k \times (AP_1 - AP_0))}{AP_1}$$

where:

- “**SCR<sub>0</sub>**” is the Standard Contribution Rate determined as at the later of 1 July 1987 or the 1 July immediately preceding the date of calculation;
- “**AP<sub>1</sub>**” is the Member’s Annual Pay on the date of calculation;
- “**AP<sub>0</sub>**” is the Member’s Annual Pay as at 1 July last preceding the date of calculation; and
- “**k**” is the factor taken from the Table set out below according to the Member’s age on his or her birthday last preceding 1 July on which the determination is being made:

<b>Table</b>	
<b>Age</b>	<b>Factor</b>
16 - 26	6.0
27 - 30	7.0
31 - 35	8.0
36 - 64	9.0

- (c) The Standard Contribution Rate determined at any date on or after 1 July 1986 shall be -
  - (1) reduced to 7.25% for the period prior to 1 September 1987 if but for the operation of this clause D.6.3 it would be higher;
  - (2) reduced to 6.5% for the period on or after 1 September 1987 if but for the operation of this clause D.6.3 it would be higher;
  - (3) 0.00% in the case of a Member who at the date of determination has completed at least 30 years Fund Membership.

### **D.6.4 Determination of Maximum Accrued Benefit Multiple.**

The Maximum Accrued Benefit Multiple means in relation to a Member at any date a multiple determined in accordance with the following formula -

$$A + \frac{(M-A) \times 18.25}{21.00}$$

where:

- “M” means the Maximum Accrued Benefit Multiple applying in relation to a Member determined pursuant to the equivalent provisions to this part D.6 that were in force pursuant to the governing rules of the Previous Fund immediately prior to 1 July 1993 as if those provisions had remained in force on and after 1 July 1993;
- “A” means the Accrued Benefit Multiple at 1 July 1993 applying in relation to a Member determined pursuant to the equivalent provisions to this part D.6 that were in force pursuant to the governing rules of the Previous Fund immediately prior to 1 July 1993.

#### **D.6.5 Determination of Standard Accrued Benefit Multiple.**

[Deliberately left blank because of amendment.]

#### **D.6.6 Determination of R.A.S. Multiple.**

The R.A.S. Multiple for a Member at any date shall be a multiple equal to .09 for each year of Service completed prior to the earlier of -

- (a) the date on which the Member’s Fund Membership commenced; and
- (b) the date on which the RAS Multiple is being determined.

#### **D.6.7 Contributions by Members.**

- (a) The amount of contributions paid by a Member for the purposes of clause D.3.1(a) shall, subject to the other relevant provisions of that clause, be calculated as the product of the Rate of Contribution selected by the Member pursuant to clause D.6.7(b) and the Member’s Annual Pay.
- (b) A Member may by written advice to the Trustee at any time nominate from the options set out in clause D.6.7(c) the Rate of Contribution that the Member wishes to contribute.
- (c) The Rates of Contribution which a Member may nominate are:
  - (1) any of the Contribution Rate Options; or
  - (2) 2.25% if the Member has completed 30 years’ Fund Membership; or
  - (3) the Standard Contribution Rate,

provided that if the Accrued Benefit Multiple of the Member is greater than the Maximum Accrued Benefit Multiple, then the Member may only nominate a Rate of Contribution of 0%, provided further that if the Accrued Benefit Multiple is equal to the Maximum Accrued Benefit Multiple the Member may not nominate a Rate of Contribution higher than a rate determined by the Trustee to ensure that Member’s Accrued Benefit Multiple does not exceed the Maximum Accrued Benefit Multiple.
- (d) If the Rate of Contribution a Member has nominated pursuant to clause D.6.7(b) is higher than that permitted pursuant to clause D.6.7(c), then the Trustee shall deem the Member to have elected the highest permitted Rate of Contribution pursuant to clause D.6.7(c) and shall advise the Member accordingly.
- (e) Subject to clause D.6.7(c), if a Member does not advise the Trustee pursuant to clause D.6.7(b), then the Trustee shall deem the Member to have nominated that his or her Rate of Contribution is to continue unchanged provided that if the Member was contributing at

the Standard Contribution Rate the Trustee shall deem the Member to have nominated that he or she wishes to continue contributing at the Standard Contribution Rate.

#### **D.6.8 Accrued Benefit Multiple.**

The Accrued Benefit Multiple of a Member at the relevant date of determination shall be equal to the sum of the Member's Periodic Accrued Benefit Multiples at that date provided that in no circumstances shall the Accrued Benefit Multiple be greater than the Maximum Accrued Benefit Multiple less the RAS Multiple of the Member.

#### **D.6.9 Retirement benefits.**

Upon the retirement of a Member as an Employee as provided in clause D.4.1(a), the lump sum retirement benefit for the purposes of that clause shall be equal to the sum of:

- (a) the Accrued Retirement Benefit determined as at the date the Member retired as an Employee; and
- (b) the R.A.S. Benefit,

provided that in the case of a Member who is retiring prior to the Normal Retirement Date, then, in lieu of receiving immediate payment of the benefit, the Member may elect to have secured under the Fund a Preserved Benefit payable -

- (c) at any time upon the request of the Member in writing to the Trustee after the Member has retired as an Employee (and for this purpose a Member who at the Normal Retirement Date has not made such a request shall be deemed to have requested payment at the Normal Retirement Date); or
- (d) on the Member's death,

whichever is first to occur, and of an amount equal to the sum of the amounts in paragraphs (a) and (b) accumulated up to the date of payment with interest at the Declared Rate.

#### **D.6.10 Death benefits.**

- (a) Subject to clause D.6.10(b) upon the death of a Member while an Employee prior to the Normal Retirement Date, the benefit under clause D.4.2(a) shall be an amount equal to the sum of the R.A.S. Benefit and -
  - (1) in the case of a Member whose death occurs not later than the date of attainment of the age of 60 years, an amount equal to the sum of:
    - (i) the Former Accrued Retirement Benefit determined as at the date of death; and
    - (ii) an amount equal to the product of the Member's Final Average Pay and a multiple determined from the following Table according to the Member's age at the date of death:

Table			
Age in years at the Date of Death	Multiple	Age in years at the Date of Death	Multiple
Less than 20	8.40	40	4.20
20	8.40	41	3.99
21	8.19	42	3.78

Table			
Age in years at the Date of Death	Multiple	Age in years at the Date of Death	Multiple
22	7.98	43	3.57
23	7.77	44	3.36
24	7.56	45	3.15
25	7.35	46	2.94
26	7.14	47	2.73
27	6.93	48	2.52
28	6.72	49	2.31
29	6.51	50	2.10
30	6.30	51	1.89
31	6.09	52	1.68
32	5.88	53	1.47
33	5.67	54	1.26
34	5.46	55	1.05
35	5.25	56	0.84
36	5.04	57	0.63
37	4.83	58	0.42
38	4.62	59	0.21
39	4.41	60	0.00

provided that, for the purposes of this Table where the Member's age in the case of a Member who is over the age of 20 years is not an exact number of years, the multiple shall be obtained from the Table by linear interpolation; or

- (2) in the case of a Member whose death occurs on or after the date of attainment of the age of 60 years an amount equal to the Former Accrued Retirement Benefit determined as at the date of death,

provided that in no case shall the benefit payable pursuant to this clause D.6.10 exceed the product of 8.4 and the Member's Final Average Pay.

- (b) In the case of a Member who joined the Previous Fund prior to 31 August 1984, and who is survived by a Spouse or Dependant, the benefit shall never be less than the sum of the R.A.S. Benefit and the greater of:
- (1) 4 times the Member's Annual Pay at the date of the Member's death; and
  - (2) the total of the Member's contributions to the Fund, the Previous Fund and the Previous Officers' Fund multiplied by a factor determined from column 4 of Schedule A to this division D according to the period of the Member's Fund Membership.



**D.6.11 Total and Permanent Disablement benefits.**

- (a) Subject to clause D.6.11(b), upon the retirement of a Member as an Employee before the Normal Retirement Date as a result of his or her Total and Permanent Disablement the benefit under clause D.4.3(a) shall, subject to the other provisions of that clause be an amount determined in the manner set out in clause D.6.10(a), provided that for the purposes of clause D.6.10(a)(1)(i) the reference to “the Former Accrued Retirement Benefit” shall be taken to be a reference to the “Accrued Retirement Benefit”.
- (b) The benefit determined under clause D.6.11(a) will never be less than the sum of :
  - (1) an amount equal to the total of the Member’s contributions to the Previous Fund and to the Previous Officers’ Fund prior to 1 July 1993 multiplied by a factor determined from column 4 of Schedule A to this division D according to the period of the Member’s Fund Membership; and
  - (2) the total of the Member’s contributions to the Previous Fund and the Fund after 30 June 1993 multiplied by a factor determined from column 5 of Schedule A to this division D according to the period of the Member’s Fund Membership; and
  - (3) the R.A.S. Benefit.

**D.6.12 Benefits on Temporary Total Disablement.**

- (a) Subject to the Deed, if a Member becomes Temporarily Totally Disabled while an Employee before the Normal Retirement Date -
  - (1) an income benefit shall become payable to the Member subject to the following provisions of this clause D.6.12; and
  - (2) while that income benefit is payable no benefit shall become payable to or in respect of the Member under any other provision of this division D otherwise than as provided for in this clause D.6.12.
- (b) The annual amount of the income benefit shall be 70% of the Member’s Annual Pay at the Date of Disablement, reduced (unless the Council determines otherwise) by -
  - (1) any compensation benefit which is or becomes payable or which may reasonably become payable in respect of the Member under any workers compensation, transport accident compensation or similar scheme having government support or recognition or which is maintained by the Employer, to the extent that such compensation benefit is attributable to an injury, illness or accident giving rise to the income benefit;
  - (2) any income received from the Employer pursuant to a sick leave entitlement, to the extent that such income is attributable to an injury, illness or accident giving rise to the income benefit; and
  - (3) any reward due to the Member in respect of any work carried out by the Member (whether for the Employer or otherwise) while the Member is entitled to receive the income benefit,

provided that, if a compensation benefit or any reward is payable in a different manner or form to the income benefit, the income benefit shall be reduced on the basis determined by the Trustee after obtaining the advice of the Actuary.
- (c) The income benefit shall be payable by monthly instalments. The income benefit shall commence to be payable on the date as at which the Member is determined to have become Temporarily Totally Disabled (the “admission date”), with the first instalment falling due on the first day of the month coincident with or next following the admission

date. Unless a later cessation date is agreed between the Trustee and the Council, the income benefit shall cease to be payable on the date (the “cessation date”) which is the earliest to occur of the following -

- (1) the date as at which the Member ceases to satisfy the definition of Temporary Total Disablement;
- (2) the date as at which the Member is determined to have become Totally and Permanently Disabled;
- (3) the date of the Member’s death;
- (4) the Member’s Normal Retirement Date; and
- (5) the day after the admission date which falls immediately after -
  - (i) a continuous period of 24 months from the admission date; or
  - (ii) a total of 24 months as a result of the same or a related illness or injury where the periods of such disablement occurred within 6 months (or such lesser period as the Council may determine) of each other,

with the last instalment falling due on the first day of the month coincident with or next following the cessation date.

The first and last instalments shall each be a proportionate amount having regard to the number of days for which the income benefit was payable in the previous month.

- (d) If the Trustee has obtained insurance for all or part of the benefit payable under this clause D.6.12 and an instalment benefit continues to be payable under such insurance in respect of a Member after the income benefit has ceased to be payable under this clause -
  - (1) the Trustee shall continue to pay to the Member a benefit which in the Trustee’s opinion is consistent with the continued insurance benefit; and
  - (2) with the approval of the Council, the Trustee may deem the Member to continue to be Temporarily Totally Disabled for the purpose of this clause D.6.12 and in receipt of an income benefit for the whole or part of the period during which such an insurance benefit continues to be paid to the Member hereunder.
- (e) If the Member continues or returns as an Employee when the income benefit ceases, the Member’s Fund Membership shall continue and the Deed shall continue to apply to and in respect of the Member.
- (f) If the Member does not continue or return as an Employee when the income benefit ceases, there shall be payable to or in respect of the Member from the Fund a benefit determined in accordance with the relevant other provisions of this division D on the date as at which the income benefit ceased to be payable provided that, insofar as payment of all or part of a benefit under another relevant provision of this division D depends upon an Employer granting an approval or exercising a Power, it will still be necessary to ascertain whether the Employer grants such approval or is prepared to exercise such Power.
- (g) For the purposes of the whole or any particular provision of this division D, in the case of a Member who is entitled to receive an income benefit under this clause D.6.12 -
  - (1) the Member shall be deemed to have remained as an Employed Member during the whole of the period for which the income benefit is payable and any deferment or waiting period for that benefit (the aggregate of such periods being hereinafter referred to as “the Disability Period”);

- (2) during the Disability Period the Member's Annual Pay shall be deemed to be equal to the Member's Annual Pay immediately before the Date of Disablement or such greater amount as may be determined by the Council;
  - (3) the Council may waive the whole or any part of the contributions otherwise payable by the Member during the whole or any part of the Disability Period; and
  - (4) the Council may deem the whole or any part of any contributions waived as provided in paragraph (3) to have been paid by the Member.
- (h) If during payment of the income benefit the Trustee determines that a payment under this clause D.6.12(h) is appropriate and that to make such a payment would not, in the opinion of the Trustee, cause the Fund to be in breach of or to fail to comply with any applicable requirement under the Relevant Law, the Trustee with the approval of the Council may pay or apply from the Fund for or in respect of the Member an amount or amounts not exceeding in the aggregate -
- (1) the minimum lump sum benefit (if any) which would have been payable from the Fund if the Member had voluntarily ceased to be an Employee in good health and without the consent or approval of the Employer on the date of such payment from the Fund; or
  - (2) such greater amount (if any) as the Council may determine but not exceeding the amount determined by the Trustee (after obtaining the advice of the Actuary) to be the Member's Equitable Share,
- provided that, unless otherwise agreed between the Trustee and the Council, any benefit which later becomes payable from the Fund in respect of the Member (other than the income benefit) shall be adjusted in such manner and to such extent as the Trustee, after obtaining the advice of the Actuary, considers appropriate and equitable to take account of any payments made pursuant to this clause D.6.12(h).
- (i) If the Trustee effects or seeks to effect insurance with an Insurer in respect of any income benefit which might become payable from the Fund pursuant to this clause D.6.12 in respect of a person or group of persons and -
- (1) that Insurer refuses to provide or increase insurance in respect of a person on its standard terms; or
  - (2) that Insurer for any reason whatever fails to provide increase or maintain or reduces terminates or withholds insurance or does not admit or defers the whole or part of a claim, then, unless otherwise agreed between the Trustee and the Council, the benefits in respect of which insurance has been or would have otherwise been effected shall be reduced to the extent to which insurance has not been effected on standard terms or has otherwise not been obtained, increased or maintained or has been reduced, terminated or withheld or such a claim has been deferred or not admitted, and the Trustee may adjust any affected benefit in such manner as the Trustee, after obtaining the advice of the Actuary, considers appropriate in effecting such a reduction.

### **D.6.13 Benefits on leaving employment.**

- (a) Upon a Member ceasing to be an Employee by reason of Retrenchment, the benefit payable from the Fund for the purposes of clause D.4.4 shall be a lump sum equal to the sum of:
  - (1) the greater of:
    - (i) the Member's Accrued Retirement Benefit; and

- (ii) the sum of:
  - (A) an amount equal to the total of the Member's contributions to the Previous Fund and to the Previous Officers' Fund prior to 1 July 1993 multiplied by a factor determined from column 4 of Schedule A to this division D according to the period of the Member's Fund Membership; and
  - (B) the total of the Member's contributions to the Previous Fund and the Fund after 30 June 1993 multiplied by a factor determined from column 5 of Schedule A to this division D according to the period of the Member's Fund Membership; and
- (2) an amount equal to RASM x FAP.
- (b) Upon a Member ceasing to be an Employee as provided in clause D.4.4, but not due to Retrenchment, the benefit to be provided from the Fund for the purposes of clause D.4.4 shall be a lump sum equal to the sum of:
  - (1) the greater of:
    - (i) an amount equal to -
      - (A) in the case of a Member whose "AGE" is less than or equal to 50 years, an amount calculated in accordance with the formula -
 
$$ABM_5 \times FAP + C_5;$$

or

      - (B) in the case of a Member whose "AGE" is more than 50 years but less than 55 years, an amount calculated in accordance with the formula -
 
$$\frac{(ABM_5 \times FAP + C_5) \times (55 - AGE) + (ABM \times FAP) \times (AGE - 50)}{5};$$
    - and
  - (ii) the sum of:
    - (A) the total of the Member's contributions to the Previous Fund and Previous Officers' Fund prior to 1 July 1993 multiplied by a factor determined from column 2 of Schedule A to this division D according to the period of the Member's Fund Membership; and
    - (B) the total of the Member's contributions to the Previous Fund and the Fund after 30 June 1993 multiplied by a factor determined from column 3 of Schedule A to this division D according to the period of the Member's Fund Membership; and
- (2) an amount equal to RASM x FAP.

and for the purposes of this formula -

"AGE" in relation to a Member is the Member's age in years (with each additional day counting as a fraction of the year) at the date on which the Member ceased to be an Employee;

"ABM<sub>5</sub>" is the Accrued Benefit Multiple as at the date 5 years prior to the date on which the Member ceased to be an Employee; and

“C<sub>5</sub>” is an amount equal to the total contributions (if any) paid by the Member to the Fund or the Previous Fund (excluding contributions made pursuant to clause D.3.1(5) during the period commencing 5 years prior to the date on which the Member ceased to be an Employee and the date on which he or she became a Member, whichever is the later, and ending on the date the Member ceased to be an Employee, accumulated up to the date the Member ceased to be an Employee with interest at the Declared Rate.

(c) If the case of an Age 60 Female who has attained the age of 50 years but has not attained the age of 55 years at the time she ceases to be an Employee the benefit payable under this clause D.6.13 shall never be less than an amount determined by the Trustee on the advice of the Actuary to be equivalent to the net liability of the Fund in respect of the Member at the date of ceasing to be an Employee.

(d) Upon a Member ceasing to be an Employee by reason of Ill Health, the benefit payable from the Fund for the purposes of clause D.4.4 shall be a lump sum equal to the sum of:

(1) the greater of:

(i) an amount equal to -

(A) in the case of a Member whose “AGE” is less than or equal to 50 years, an amount calculated in accordance with the formula -

$$ABM_5 \times FAP + C_5;$$

or

(B) in the case of a Member whose “AGE” is more than 50 years but less than 55 years, an amount calculated in accordance with the formula -

$$\frac{(ABM_5 \times FAP + C_5) \times (55 - AGE) + (ABM \times FAP) \times (AGE - 50)}{5};$$

and

(ii) the sum of:

(A) the total of the Member’s contributions to the Previous Fund and Previous Officers’ Fund prior to 1 July 1993 multiplied by a factor determined from column 4 of Schedule A to this division D according to the period of the Member’s Fund Membership; and

(B) the total of the Member’s contributions to the Previous Fund and the Fund after 30 June 1993 multiplied by a factor determined from column 5 of Schedule A to this division D according to the period of the Member’s Fund Membership; and

(2) an amount equal to RASM x FAP.

and for the purposes of this formula -

“AGE” in relation to a Member is the Member’s age in years (with each additional day counting as a fraction of the year) at the date on which the Member ceased to be an Employee;

“ABM<sub>5</sub>” is the Accrued Benefit Multiple as at the date 5 years prior to the date on which the Member ceased to be an Employee; and

“C<sub>5</sub>” is an amount equal to the total contributions (if any) paid by the Member to the Fund or the Previous Fund (excluding contributions made pursuant to clause

D.3.1(5) during the period commencing 5 years prior to the date on which the Member ceased to be an Employee and the date on which he or she became a Member, whichever is the later, and ending on the date the Member ceased to be an Employee, accumulated up to the date the Member ceased to be an Employee with interest at the Declared Rate.

- (e) If at the date the Member ceases to be an Employee the Accrued Benefit Multiple is equal to or greater than 0.375, the Member may in lieu of taking the immediate payment specified in clause D.6.13 elect to have a Preserved Benefit secured in respect of him under the Fund payable -

(1) at any time upon the request of the Member in writing to the Trustee after the Member has ceased to be an Employee (and for this purpose a Member who at the Normal Retirement Date has not made such a request shall be deemed to have requested payment at the Normal Retirement Date); or

(2) on the Member's death;

whichever is the first to occur, and of an amount equal to the amount specified in clause D.6.13(b)(1) accumulated up to the date of payment with interest at the Declared Rate;

provided that the benefit payable in the case of a Member -

(3) who requests payment at any time on or after the attainment of the age of 55 years (and for this purpose a Member who at the Normal Retirement Date has not made such a request shall be deemed to have requested payment on the Normal Retirement Date); or

(4) who dies; or

(5) who prior to the attainment of the age of 55 years requests payment and satisfies the Trustee that he or she has retired from Gainful Employment in circumstances similar to Total and Permanent Disablement as provided in clause D.4.3(b); or

(6) who requests payment at any time (and for this purpose a Member who at the Normal Retirement Date has not made such a request shall be deemed to have requested payment on the Normal Retirement Date) having ceased to be an Employee by reason of Retrenchment,

shall not be less than an amount determined in accordance with the formula -

$$ABM \times FAIP + RASM \times FAIP.$$

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## Part D.7

### Guarantee for Previous Officers' Fund Members

- (a) Notwithstanding anything expressed or implied to the contrary in this division D and in particular in clauses D.4.6 and D.4.9 but subject to clause D.7(b) and clause D.9.2, in respect of a Previous Officers' Fund Member -

(1) any benefit payable to or in respect of that Previous Officers' Fund Member shall not be less than would have been paid had the Member continued in membership of the Previous Officers' Fund; and

(2) where, in the opinion of the Trustee, a provision of this division D (when applied to or in respect of a Previous Officers' Fund Member who joined the Previous Officers' Fund prior to 21 August 1984) would, when compared with the action permitted under a corresponding provision of the Previous Officers' Fund Rules,

be detrimental to that Member had he or she continued in membership of the Previous Officers' Fund then the Trustee shall decide what, if any, action to take.

- (b) In the event that any dispute arises as to whether, or as to the manner in which, this part D.7 shall apply to or in respect of a Member or group of Members, the Trustee shall seek the advice of the Actuary who in framing his or her advice shall have regard to all circumstances which the Actuary believes are relevant. The Trustee shall make a decision having regard to the Actuary's advice and any other factors which the Trustee determines to be relevant, and the Trustee's decision shall be final and binding on the Employer, the Trustee, the Member and any other interested persons.

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## **Part D.8**

### **Adjustments for Valid Family Law Arrangements**

Notwithstanding anything to the contrary in this division D, the Trustee may:

- (a) adjust a benefit payable to or in respect of a Member under this division D; or
- (b) make an adjustment in respect of a benefit which will become payable to or in respect of a Member under this division D,

to the extent, and in any manner, as permitted by the Relevant Law to take account of a valid family law arrangement.

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## **Part D.9**

### **Pre-Retirement Pensions**

#### **D.9.1 Application to receive Pre-Retirement Pension.**

Subject to:

- (a) any rules, terms and conditions that the Trustee may determine;
- (b) obtaining the prior written approval of the Member's Employer; and
- (c) the requirements of the Relevant Law,

a Member may apply to the Trustee to receive a Pre-Retirement Pension and the Trustee may approve the Member's application.

#### **D.9.2 Transfer to division I and adjustment of benefits.**

- (a) This clause D.9.2 applies in respect of a Member who is approved by the Trustee to receive a Pre-Retirement Pension.
- (b) The Member's Pre-Retirement Pension Accrued Benefit will (together with amounts from any accounts maintained for the Member in the Fund) be transferred to a Pension Account (as defined in section 3 of Division I) in respect of the Member under division I and will be paid as a Pre-Retirement Pension in accordance with the provisions of division I.
- (c) If a benefit becomes payable to or in respect of a Member under this division D, then, notwithstanding any other provision of this Deed, the relevant benefit will be reduced by an adjustment to the Member's period of Service or Fund Membership (or by any other manner of adjustment) as determined by the Trustee on the advice of the Actuary so as to take into account the Member's Pre-Retirement Pension Accrued Benefit which was

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transferred to a Pension Account (as defined in section 3 of Division I) in accordance  
with clause D.9.2(b).



**Schedule A of Division D**

Column 1 Fund Membership	Column 2 Resignation factor (pre 93)	Column 3 Resignation factor (post 93)	Column 4 Retrenchment factor (pre 93)	Column 5 Retrenchment factor (post 93)
0	1.03	1.03	3.09	2.78
1	1.06	1.06	3.18	2.86
2	1.09	1.08	3.27	2.93
3	1.12	1.11	3.36	3.01
4	1.15	1.13	3.45	3.09
5	1.18	1.16	3.54	3.16
6	1.33	1.29	3.63	3.24
7	1.49	1.42	3.72	3.32
8	1.65	1.56	3.81	3.39
9	1.83	1.71	3.93	3.50
10	2.03	1.88	4.05	3.60
11	2.24	2.06	4.20	3.72
12	2.47	2.25	4.35	3.85
13	2.68	2.43	4.47	3.95
14	2.91	2.63	4.59	4.06
15	3.14	2.82	4.71	4.16
16	3.38	3.03	4.83	4.26
17	3.63	3.24	4.95	4.36
18	3.87	3.44	5.07	4.46
19	4.15	3.68	5.19	4.57
20	4.43	3.92	5.31	4.67
21	4.50	3.98	5.40	4.74
22	4.58	4.05	5.49	4.82
23	4.65	4.11	5.58	4.90
24	4.73	4.18	5.67	4.97
25	4.80	4.23	5.76	5.05
26	4.88	4.30	5.85	5.13
27	4.95	4.36	5.94	5.20
28	5.03	4.43	6.03	5.28
29	5.10	4.49	6.12	5.36

## DIVISION D – FORMER MEMBERS OF THE CITY OF MELBOURNE SUPERANNUATION FUND

30	5.18	4.56	6.21	5.43
31	5.25	4.62	6.30	5.51
32	5.33	4.69	6.39	5.59
33	5.40	4.74	6.48	5.66
34	5.48	4.81	6.57	5.74
35	5.58	4.90	6.69	5.84
36	5.68	4.98	6.81	5.94
37	5.78	5.07	6.93	6.05
38	5.88	5.15	7.05	6.15
39	5.98	5.24	7.17	6.25
40	6.08	5.32	7.29	6.35

## DIVISION E

### FORMER MEMBERS OF THE MELBOURNE WATER CORPORATION EMPLOYEES' SUPERANNUATION FUND

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#### Part E.1

#### Application and Interpretation

##### E.1.1 Application.

- (a) This division E is always subject to division A of this Deed, and division A prevails over this division E to the extent of any conflict.
- (b) This division E only applies to and in respect of a person who is a member of the Fund who is for the time being categorised as a Member of division E.

##### E.1.2 Definitions.

In this division E, unless the contrary intention appears or the context requires otherwise:

**“Agreed Rate”** means a rate or rates of interest determined by the Trustee from time to time as being fair and reasonable for application under this division E.

**“Agreements Scheme”** means in relation to each person to whom the provisions of clause E.4.2 apply, the individual agreement made under seal and entered into by that person with the Board, as varied by any subsequent resolution, order or decision of the Board or where the context so requires means collectively all such agreements entered into with the Board.

**“Annual Salary”** means in relation to a Member at any particular date the annual rate of the Member’s Salary as at that date.

**“Approved Superannuation Agreement”** means in relation to a Member, any agreement entered into by the Board under which the Board agrees to pay contributions to the Fund and which is ratified by a decision handed down by the Commission or such other agreement not necessarily ratified or requiring ratification by the Commission which the Board shall declare to be an Approved Superannuation Agreement for the purposes of this division E.

**“Board”** means the Melbourne Water Corporation.

**“Commission”** means as the case requires either -

- (a) the Australian Conciliation and Arbitration Commission established under the *Australian Conciliation and Arbitration Act 1904*; or
- (b) any industrial commission established under the law of any State or Territory of the Commonwealth of Australia;

which expression shall include any body, organisation or commission established as successor thereto.

**“Contributor”** means a person who joined the WIS Fund prior to 1 September 1987 and includes a former employee of the Board in receipt of a pension under the Former Regulations and any other person whom the Board declares to be a Contributor for the purposes of this division E.

**“Expense Allowance”** means an allowance payable to a Member which is designated as an expense allowance or an expense of office allowance or which is granted in respect of expenses which are normally and properly incurred by a Member in carrying out the duties of his or her office.

**“Final Salary”** means in relation to a Member, the Member’s Annual Salary at the date on which the Member ceases to be an Employee.

**“Former Regulations”** means the *Melbourne and Metropolitan Board of Works Superannuation Scheme Regulations* (S.R.270 of 1981).

**“Fund Membership”** means the sum of the following periods -

- (a) in relation to an Employee who became a Contributor prior to 1 January 1983, the Employee’s period of Service;
- (b) in relation to an Employee who became a Contributor on or after 1 January 1983, the most recent uninterrupted period during which the Employee has been a Contributor and an Employee; or
- (c) in relation to any other Employee, the most recent uninterrupted period of Service completed subsequent to 1 September 1987 as a member of the WIS Fund; and
- (d) in relation to any Employee who became a member of the 1988 Fund by virtue of section 53G of the 1988 Act, the most recent uninterrupted period of Service under the 1988 Fund; and
- (e) in relation to any Employee who became a member of the Fund after the repeal of the 1988 Act, the most recent uninterrupted period of Service since that date.

where the relevant period is measured in years with each additional day counting as a fraction of the year.

**“Gratuity Scheme”** means the Gratuity Scheme operated by the Board and in force prior to 1 September 1987.

**“Member”** means a Member of this division E.

**“New Basis Member”** means a person to whom Section B of the WIS Fund Regulations applied immediately prior to the repeal of the 1988 Act.

**“Old Basis Member”** means a person to whom Section C of the WIS Fund Regulations applied immediately prior to the repeal of the 1988 Act.

**“Partial Disablement”** means in relation to a Member having become in the opinion of the Trustee unable through injury or illness or general failure of health (such injury, illness or general failure of health not amounting to Total and Permanent Disablement) to continue his or her normal occupation as an Employee and for whom the Employer considers there is no suitable alternative work available in its employment.

**“Pre-Retirement Pension Accrued Benefit”** means the amount of a Member’s accrued benefit under this division E which (after having first transferred to division I all amounts in any accounts maintained for the Member in the Fund, including any account under this division E or division B) the Member elects to transfer to division I for the purpose of establishing an Account Based Pension (as defined in section 3 of Division I) and which the Trustee approves for that purpose.

**“Previous Fund”** means as the case requires either -

- (a) the Provident Fund; or
- (b) the Gratuity Scheme.

**“Previous Fund Member”** means a Member who was admitted to the WIS Fund on 1 September 1987 and who on the day immediately prior to 1 September 1987 was a member of a Previous Fund.

**“Previous Fund Membership”** means in relation to a Member who immediately prior to becoming a member of the WIS Fund -

- (a) was a member of the Provident Fund but has not been a member of the Gratuity Scheme, the most recent uninterrupted period during which the Member was a member of the Provident Fund completed immediately before the Member became a member of the WIS Fund; or
- (b) was a member of the Gratuity Scheme, the most recent uninterrupted period during which the Member was a member of the Gratuity Scheme completed immediately before the Member became a member of the WIS Fund; or
- (c) was a member of the Provident Fund but prior to becoming a member of the Provident Fund was a member of the Gratuity Scheme, the sum of -
  - (1) the most recent uninterrupted period during which the Member was a member of the Gratuity Scheme completed immediately before the Member last became a member of the Provident Fund; and
  - (2) the most recent uninterrupted period during which the Member was a member of the Provident Fund completed immediately before the Member became a member of the WIS Fund -

except that, where any of the aforesaid periods are concurrent with any periods of Fund Membership then any such concurrent periods shall be excluded for the purposes of determining a Member’s period of Previous Fund Membership.

**“Prior Scheme”** means and includes any scheme (save and except a Previous Fund) whereby the Board has in exercise of the powers conferred upon it by section 42(3) of the *Melbourne and Metropolitan Board of Works Act 1958*, or any previous corresponding enactment, made provision for the granting and payment of superannuation allowances or pensions.

**“Provident Fund”** means the Melbourne and Metropolitan Board of Works Provident Fund as constituted by the *Melbourne and Metropolitan Board of Works Provident Fund Regulations* (S.R. 463 of 1980).

**“Salary”** means in relation to a Member, the actual salary of the Member from time to time determined by the Commission or the Employer (as applicable) and includes -

- (a) allowances (where applicable) which are included to make up the all purpose rate of pay for the classification or class of work of the Member, such as industry or construction allowances, state incremental payments, service grants and fixed amounts included in the Member’s salary to compensate for overtime and weekend duty worked as part of normal hours and/or availability; plus
- (b) in the case of a Member classified by the Employer as a permanent shift worker, an allowance of 10 per cent of the rate of pay determined by the Commission or the Employer (as applicable), for the classification or class of work carried out by that Member,

but shall not include any Expense Allowance. If the Member’s Salary is reduced at any time by the Employer, the Trustee and the Member may agree that the Member’s Salary immediately prior to the reduction shall continue to be the Member’s Salary for the purposes of this division E during the period when the Member’s actual Salary is less than the Salary immediately prior to the reduction.

“**Service**” means in relation to a Member, the most recent uninterrupted period during which the Member has been an Employee.

“**Temporary Disablement**” means in relation to a Member having been absent from employment as an Employee through illness or injury, such illness or injury being in the opinion of the Trustee sufficiently serious as to render the Member unlikely for the time being to continue his or her normal occupation as an Employee.

“**Total and Permanent Disablement**” means in relation to a Member having ceased to be an Employee through illness or injury, such illness or injury being in the opinion of the Trustee sufficiently serious as to render the Member unlikely ever to resume work in or attend to any gainful occupation for which the Member is reasonably suited by education, training or experience.

“**WIS Fund**” means the **Water Industry Superannuation Fund** established initially pursuant to the *Melbourne and Metropolitan Board of Works Employees’ Superannuation Fund Regulations*.

“**WIS Fund Regulations**” means the regulations governing the WIS Fund in effect on 12 October 1995.

## Part E.2 Administration and Procedures

### E.2.1 Temporary cessation of employment and leave without pay.

- (a) If any Member ceases to be an Employee in circumstances in which it is reasonable to expect that the cessation will only be of a temporary nature and that the Member will again become an Employee of the Employer, the Trustee may, with the consent of the Board and of the Member, continue that Member’s membership of the Fund subject to such conditions as may be agreed upon by the Trustee, the Board and the Member.
- (b) If any Member is granted leave without pay by the Employer, the Member shall continue his or her membership of the Fund on such conditions as are determined by the Employer and approved by the Trustee.

### E.2.2 Part-time employment.

Notwithstanding anything contained in this division E, if a Member is or becomes an Employee in a part-time capacity, that Member shall contribute during the period that he or she is an Employee in a part-time capacity and benefits shall be secured for and in respect of the Member during and in respect of that period on a basis determined by the Board and approved by the Trustee after obtaining the advice of the Actuary, and the Board may in like manner re-determine or adjust that basis in the event that the Member’s part-time hours change or the Member becomes an Employee in a full-time capacity.

### E.2.3 Transfer from one Employer to another.

Subject to clause C.6.2, if a Member transfers as an Employee of one Employer under this division E to become an Employee of another Employer under this division E, then that transfer shall not be deemed to constitute a cessation of employment for the purposes of an entitlement to any benefit under this division E provided that the Trustee shall arrange for the Actuary to make a further determination of an amount in respect of the transfer (if considered appropriate by the Actuary) for the purposes of the Employer Accounts referred to in clause A.20.3.

**E.2.4 Special transfer rules.**

If an Employer establishes or has established another superannuation fund which a Member or group or class of Members is eligible to join or if that Employer contributes to or is obliged to contribute to an Approved Benefit Arrangement on behalf of or with respect to a Member or group or class of Members then the Trustee may, in either case without the need to obtain the Member’s consent (unless such consent is required by Relevant Law), pay or transfer to or towards that Approved Benefit Arrangement such amount in respect of the Member or group or class of Members as is determined by the Trustee on the advice of the Actuary provided that any transfer under this clause E.2.4 shall not substantially prejudice the value of the rights secured for or in respect of any Member by contributions paid to the Fund, a Prior Scheme, a Previous Fund and the WIS Fund prior to the date on which the transfer occurs.

**E.2.5 Payment of death benefits.**

- (a) Except where otherwise provided in this division E, benefits payable on the death of a Member shall be paid to or applied by the Trustee to or for the benefit of such one or more of -
  - (1) the Member’s Dependants; or
  - (2) the Member’s legal personal representatives,
 to the exclusion of the other or others of them and in such form, manner, proportions and subject to such conditions as the Trustee determines.
- (b) The receipt of a Dependant or legal personal representative (“**Beneficiary**” for purposes of this clause E.2.5) shall be a complete discharge to the Trustee in respect of the amount paid to that person and the Trustee is not bound to see to the application thereof.
- (c) Unless otherwise determined by the Trustee, if a Beneficiary dies before the whole of a benefit which is payable to that Beneficiary has been paid, the amount of the unpaid benefit shall be paid or applied in accordance with paragraph (a) as if the Beneficiary was a Member when he or she died.

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## **Part E.3 Employer Contributions**

**E.3.1 Employer contributions.**

Each Employer shall contribute to the Fund -

- (a) an amount equal to twice the contributions paid by each Member; plus
- (b) such contributions as the Employer is bound to pay pursuant to any Approved Superannuation Agreement; plus
- (c) an amount equal to the contribution determined pursuant to part A.20.

**E.3.2 Employer accounts.**

- (a) The Trustee must establish and maintain a separate account for each Employer or group of Employers as the case may be and may establish sub-accounts in relation to each Employer account if considered appropriate.
- (b) For the purposes of this clause E.3.2, the Trustee may make collective determinations for any group of Employers who consent to be regarded as related Employers.

- (c) Each Employer account, or account in respect of a group of Employers, maintained for the purposes of this clause E.3.2 is to be allocated with-
- (1) an initial amount as determined by the Actuary as the Employer’s share of this division as at the date that the Employer is admitted as an Employer of this division or, with respect to an Employer who had an “Employer account” in the 1988 Fund immediately prior to 1 July 1998, that Employer account balance at that date;
  - (2) any further amount determined by the Actuary for the purposes of clause E.2.3;
  - (3) all amounts received by the Trustee from another fund or benefit arrangement in respect of any Member employed by the Employer;
  - (4) all contributions received by the Trustee made by or on behalf of the Members employed by the Employer; and
  - (5) the amount (whether positive or negative) earned on the investment of the Employer’s share of the division after deduction of any Fund expenses relevant to that Employer account,
- and is to be debited with-
- (6) all benefits paid to or in respect of Members who are employed by that Employer; and
  - (7) all amounts transferred out of the Fund in respect of a Member in accordance with this division E.

## Part E.4 Benefits

### E.4.1 Discretion to compensate for detriment.

- (a) In relation to benefits payable under part E.5, if the Trustee is satisfied that the reduction in benefits effective from 1 July 1993 has resulted in a detriment to a Member, the Trustee may take such steps as the Trustee considers necessary to compensate for that detriment.
- (b) For the purpose of clause E.4.1(a) -
- (1) “detriment” means receiving a lesser amount of after-tax benefit than would have been received if -
    - (i) the “Accrued Benefit Multiple” in clause E.5.2 had not been reduced effective from 1 July 1993; and
    - (ii) the benefit had been classified for the purposes of the Tax Act as an untaxed benefit; and
    - (iii) tax had applied in accordance with the rates of tax and the basis for its assessment under the Tax Act as at 1 July 1993 in respect of a benefit that becomes payable to a person aged 55 years or more; and
  - (2) “untaxed benefit” means there is no “taxed element” as defined in the Tax Act.

### E.4.2 Rights under Agreements Scheme.

Notwithstanding anything contained in this division E (other than clause E.4.4), in no event shall any benefit payable to or in respect of a Member from the Fund who was formerly covered by the Agreements Scheme be payable in less favourable circumstances or be less in amount than would



have applied had it been payable in accordance with the terms and conditions governing the Agreements Scheme and in the event that the Trustee is of the opinion that in relation to a particular Member a benefit would be payable in less favourable circumstances or be less in amount as aforesaid then the Trustee shall take such action as it considers appropriate in order to rectify the situation including where necessary paying benefits of amounts and in circumstances not otherwise provided for under this division E.

#### **E.4.3 Application to receive Pre-Retirement Pension.**

Subject to:

- (a) any rules, terms and conditions that the Trustee may determine;
- (b) obtaining the prior written approval of the Member’s Employer; and
- (c) the requirements of the Relevant Law,

a Member may apply to the Trustee to receive a Pre-Retirement Pension and the Trustee may approve the Member’s application.

#### **E.4.4 Transfer to division I and adjustment of benefits because of Pre-Retirement Pension.**

- (a) This clause E.4.4 applies in respect of a Member who is approved by the Trustee to receive a Pre-Retirement Pension.
- (b) The Member’s Pre-Retirement Pension Accrued Benefit will (together with amounts from any accounts maintained for the Member in the Fund) be transferred to a Pension Account (as defined in section 3 of Division I) in respect of the Member under division I and will be paid as a Pre-Retirement Pension in accordance with the provisions of division I.
- (c) If a benefit becomes payable to or in respect of a Member under this division E, then, notwithstanding any other provision of this Deed, the relevant benefit will be reduced by an adjustment to the Member’s period of Service or Fund Membership (or by any other manner of adjustment) as determined by the Trustee on the advice of the Actuary so as to take into account the Member’s Pre-Retirement Pension Accrued Benefit which was transferred to a Pension Account (as defined in section 3 of Division I) in accordance with clause E.4.4(b).

## **Part E.5 Contributions and Benefits for New Basis Members**

### **E.5.1 Application.**

- (a) The provisions of this part E.5 shall apply to and in respect of each and every member of the Fund who:
  - (1) was a New Basis Member immediately before the repeal of the 1988 Act; or
  - (2) is a member of the Fund who is for the time being categorised under this part E.5.
- (b) This part E.5 shall be subject to parts E.1 to E.4. Unless inconsistent with the context or subject matter this part E.5 shall be read to the entire exclusion of part E.6.

**E.5.2 Definitions.**

In this part E.5, unless the contrary intention appears or the context requires otherwise:

**“Accrued Benefit Multiple”** means in relation to a Member at any particular date the multiple which is the sum of -

- (a) the multiple determined according to the following formula for the period of Fund Membership to 30 June 1993:

$$\frac{(SM_0 \times 8 + SM_{2.5} \times 14 + SM_5 \times 20 + SM_{7.5} \times 26)}{1200}$$

where:

“SM<sub>0</sub>”, “SM<sub>2.5</sub>”, “SM<sub>5</sub>” and “SM<sub>7.5</sub>” mean periods calculated in months of the Member’s Fund Membership after 1 September 1987 up to and including 30 June 1993 during which the Member’s rate of contribution to the WIS Fund was respectively 0%, 2.5%, 5% or 7.5% of Salary; and

- (b) the multiple determined according to the following formula for the period of Fund Membership on and after 1 July 1993:

$$\frac{(SM_0 \times 7 + SM_{2.5} \times 12.25 + SM_5 \times 17.5 + SM_{7.5} \times 22.75)}{1200}$$

where:

“SM<sub>0</sub>”, “SM<sub>2.5</sub>”, “SM<sub>5</sub>” and “SM<sub>7.5</sub>” mean periods calculated in months of the Member’s Fund Membership after 30th June 1993 during which the Member’s rate of contribution to the WIS Fund or the Fund (as applicable) was respectively 0%, 2.5%, 5% or 7.5% of Salary;

- (c) the Gratuity Scheme Multiple;  
 (d) the Past Fund Multiple;  
 (e) the Provident Fund Multiple; and  
 (f) the Special Additional Multiple.

**“Accrued Retirement Benefit”** means in relation to a Member at any particular date, the product of the Member’s Final Salary and the Accrued Benefit Multiple.

**“Changeover Date”** means in relation to a Transferred Existing Member the date on which that Member’s contributions and benefits commenced to be determined in accordance with Section B of the WIS Fund Regulations.

**“Combined Fund Membership”** means in relation to a Member, the sum of -

- (a) the period of the Member’s Fund Membership; and  
 (b) the period of the Member’s Previous Fund Membership.

**“Existing Fund Accumulation”** means in relation to a Transferred Existing Member, the sum of -

- (a) the amount standing to the credit of the Member’s Contributor Fund Account as at 1 September 1987 as defined in and established pursuant to regulation 15 of the Former Regulations;  
 (b) an amount equal to three times the contributions made by the Member to the WIS Fund on and after 1 September 1987 pursuant to clause E.6.3 except that a Member who, but for the clauses E.6.3(b) or (c) would have been liable to contribute to the WIS Fund in excess of

the maximum rate of contribution specified in that clause, shall be deemed to have contributed to the Fund at the rate which he or she would have been liable to contribute had the said maximum rate not applied;

- (c) an amount equal to three times the contributions made by the Member to the Fund and the WIS Fund on and after 1 September 1987 pursuant to clause E.5.3; and
- (d) compound interest at the Agreed Rate for the period from 1 September 1987 in relation to the amount specified in paragraph (a) and from the date of receipt into the Fund or the WIS Fund, as applicable, of the contributions in relation to the amounts specified in paragraphs (b) and (c), up to in each case the date on which the Member ceases to be an Employee.

**“Gratuity Scheme Multiple”** means in relation to a Member, the multiple calculated by multiplying one-twelfth of 0.05 by the number of months in the Member’s period of membership of the Gratuity Scheme which are included in the period of the Member’s Previous Fund Membership.

**“Maximum Benefit”** means an amount equal to the product of the Members’ Final Salary and -

$$A + \frac{(B-A) \times 17.5}{20}$$

where:

“A” is the accrued multiple at 30 June 1993; and

“B” is the maximum fund multiple at 30 June 1993.

**“Past Fund Multiple”** means in relation to a Transferred Existing Member the multiple according to the following formula:

$$\frac{LS_{60} \times t}{FS \times n} + AM$$

where:

“LS<sub>60</sub>” is the lump sum determined by the Trustee as that which the Member could have exchanged for the annual pension to which the Member would have been entitled under the Former Regulations had the Member retired at the age of 60 years except that for the purposes of determining that pension the period of Fund Membership which the Member would have completed at the age of 60 years shall be used;

“FS” is the Member’s Final Salary;

“t” is the number of months in the period of Fund Membership completed up to the Changeover Date;

“n” is the number of months in the period of Fund Membership which the Member would have completed had the Member continued as a Member and an Employee up to the date of attainment of the age of 60 years; and

“AM” is the lesser of 0.7 and the multiple determined according to the following formula:

$$\frac{0.02 \times t}{12}$$

where “t” has the meaning ascribed to it above.

**“Provident Fund Multiple”** means in relation to a Member a multiple equal to the sum of -

- (a) one-twelfth of 0.11 multiplied by the number of months in the Member’s period of Previous Fund Membership during which the Member’s rate of contribution to the Provident Fund was 2.5% of wage; and
- (b) one-twelfth of 0.14 multiplied by the number of months in the Member’s period of Previous Fund Membership during which the Member’s rate of contribution to the Provident Fund was 5% of wage.

**“Short Term Employee”** means any Employee appointed pursuant to Sections 21, 25A or 41 of the *Melbourne and Metropolitan Board of Works Act 1958* and whose appointment is for a fixed period not exceeding 5 years.

**“Special Additional Multiple”** means -

- (a) in relation to a Member who was a member of the WIS Fund on 1 September 1987, the multiple (if any) determined by the Trustee at that date as being the Member’s Special Additional Multiple; and
- (b) in relation to any Member in respect of whom a transfer into the Fund or the WIS Fund is, or was, effected subsequent to 1 September 1987, the multiple determined by the Trustee to take account of that transfer.

**“Transferred Existing Member”** means a person who elected prior to 1 March 1988 to become a member of the WIS Fund to whom Section B of the WIS Fund Regulations would apply.

### **E.5.3 Member contributions.**

- (a) Subject to the other provisions of this clause E.5.3, each Member shall contribute to the Fund a percentage of Salary at the date the contribution is due, the percentage being:
  - (1) 0%, 2.5% or 5%; or
  - (2) 0%, 2.5%, 5% or 7.5%, in the case of a Transferred Existing Member; or
  - (3) 0%, 2.5% or 5% in the case of a person who is not a Transferred Existing Member, or 7.5% where that person -
    - (i) immediately before 1 September 1987 was an Employee; and
    - (ii) has an Accrued Benefit Multiple of less than one twelfth of 0.20 for each month of Service,

whichever the Member selects.

- (b) A Member may by written notice to the Trustee in a form determined or approved by the Trustee elect to change his or her rate of contribution by nominating another of the rates specified in paragraph (a) and such nomination shall be made at any time and shall become effective from the date of payment of the Member’s Salary following the date of the change.
- (c) Notwithstanding anything contained in paragraph (b), a Member’s rate of contribution shall be and shall remain 0% if -
  - (1) without payment of further contributions by the Member, the Member’s Accrued Retirement Benefit at the date on which the Member would have attained the age of 60 years would exceed the Maximum Benefit; or
  - (2) the Member’s Accrued Retirement Benefit exceeds the Maximum Benefit.
- (d) Subject to paragraph (d) -
  - (1) a Member who does not select a rate of contribution pursuant to paragraph (a) shall -

- (i) in the case of a Member who was a member of the Provident Fund, be deemed to have selected the rate of contribution he or she was contributing to the Provident Fund immediately prior to 1 September 1987; or
  - (ii) in the case of any other Member (including a Member who was a member of the Gratuity Scheme) be deemed to have selected a rate of contribution of 0% of Salary; or
- (2) in any case where a Member does not notify any change in his or her rate of contribution as provided for under paragraph (b), the Trustee shall deem that Member to have notified the Trustee that the Member’s rate of contribution is to continue unchanged.

#### **E.5.4 Retirement and Partial Disablement benefits.**

Subject to clause E.4.4 and division I, if Member ceases to be an Employee other than in circumstances provided in clause E.5.5 or E.5.6:

- (a) at any time on or after the attainment of the age of 55 years; or
  - (b) at any time prior to the attainment of the age of 55 years on account of Partial Disablement,
- there shall be paid to the Member from the Fund a lump sum benefit equal to the Member’s Accrued Retirement Benefit as at the date the Member ceased to be an Employee. However, the lump sum benefit shall not in any event exceed the Maximum Benefit.

#### **E.5.5 Death benefit.**

Subject to clause E.4.4, if a Member dies while an Employee, there shall be paid from the Fund, in respect of the Member in accordance with the provisions of clause E.2.5 a lump sum benefit equal to the greater of -

- (a) the sum of -
  - (1) the Member’s Accrued Retirement Benefit calculated on the basis applicable at 30 June 1993 at the date of death; and
  - (2) if the Member’s death occurs before the attainment of the age of 60 years, an amount determined according to the following formula:

$$\frac{FS \times F \times PFM}{12}$$

where:

“FS” is the Member’s Final Salary;

“F” is 0.20 or, in the case of a Member whose rate of contribution immediately prior to the date of death was 7.5 per cent, 0.26; and

“PFM” is the number of months between the date of death of the Member and the date on which the Member would have attained the age of 60 years; and

- (b) in the case of a Previous Fund Member who was formerly a member of the Provident Fund, an amount determined according to the following formula:

$$FS \times DBM$$

where:

“FS” is the Member’s Final Salary; and

“DBM” is the multiple which would have been used to determine the Member’s retirement benefit under the Provident Fund had the Member continued after 1 September

1987 as a member of the Provident Fund until the attainment of the age of 65 years, but calculated assuming the Member’s rate of contribution in force on the day prior to 1 September 1987 would have continued unaltered.

However, the aforesaid lump sum benefit shall not in any event exceed the Maximum Benefit.

### **E.5.6 Total and Permanent Disablement benefit.**

Subject to clause E.4.4 and division I, if a Member ceases to be an Employee on account of Total and Permanent Disablement, there shall be paid to the Member from the Fund a lump sum benefit of an amount equal to the greater of:

(a) the sum of -

- (1) the Member’s Accrued Retirement Benefit at the date of cessation an Employee; and
- (2) if the Member’s death occurs before the attainment of the age of 60 years, an amount determined according to the following formula:

$$\frac{FS \times F \times PFM}{12}$$

where:

“FS” is the Member’s Final Salary;

“F” is 0.20 or, in the case of a Member whose rate of contribution immediately prior to the date of cessation of employment was 7.5 per cent, 0.26; and

“PFM” is the number of months between the date of death of the Member and the date on which the Member would have attained the age of 60 years; and

(b) in the case of a Previous Fund Member who was formerly a member of the Provident Fund, an amount determined according to the following formula:

$$FS \times DBM$$

where:

“FS” is the Member’s Final Salary; and

“DBM” is the multiple which would have been used to determine the Member’s retirement benefit under the Provident Fund had the Member continued after 1 September 1987 as a member of the Provident Fund until the attainment of the age of 65 years, but calculated assuming the Member’s rate of contribution in force on the day prior to 1 September 1987 would have continued unaltered.

However, the aforesaid lump sum benefit shall not in any event exceed the Maximum Benefit applicable at 30 June 1993.

### **E.5.7 Temporary Disablement benefit.**

- (a) If Member becomes Temporarily Disabled while an Employee and prior to the attainment of the age of 60 years, an income benefit (“the Income Benefit”) shall be payable to the Member from the Fund in accordance with this clause E.5.7.
- (b) The Income Benefit shall be a monthly amount equal to one-twelfth of 70 per cent of the Member’s Annual Salary from time to time and shall commence to be payable from the date which the Employer notifies the Trustee as being that on which the Member’s right to any sick leave entitlements relating to the Member’s conditions of employment with the Employer has expired. The Trustee shall reduce the Income Benefit by the monthly

equivalent of any sum paid or payable to the Member under any provision for workers compensation, sick leave or what the Trustee considers to be similar payments, but only to ensure, so far as is practicable, that the amount of the Income Benefit when aggregated with such payments shall not exceed one-twelfth of 100 per cent of the Member’s Annual Salary from time to time.

- (c) The Income Benefit shall be paid by equal monthly instalments on the last day of each month or as soon as practicable thereafter and where necessary, pro-rata instalments shall be paid.
- (d) The Income Benefit shall terminate on the first to occur of -
  - (1) the death of the Member;
  - (2) the date on which the Member ceases to be an Employee;
  - (3) the date on which the Member becomes Totally and Permanently Disabled; or
  - (4) the day immediately following the date on which the equivalent of 24 monthly instalments of the Income Benefit have been received by the Member.
- (e) Without derogating in any way from the provisions contained in paragraph (d), if the Member -
  - (1) engages in remunerative employment with the Employer or any other organisation or person; or
  - (2) in the opinion of the Trustee, is or becomes able to engage in any remunerative employment,

the Trustee may reduce or suspend the Income Benefit to such extent and for such period as the Trustee sees fit or may permanently discontinue the income Benefit.

#### **E.5.8 Retrenchment benefit.**

Subject to clause E.4.4 and division I, if a Member ceases to be an Employee and the Employer certifies to the Trustee that such cessation is due to retrenchment there shall be paid to the Member from the Fund a lump sum benefit equal to the Member’s Accrued Retirement Benefit as at the date the Member ceased to be an Employee. However, the aforesaid lump sum benefit shall not in any event exceed the Maximum Benefit.

#### **E.5.9 Cessation of employment for other reasons.**

- (a) Subject to division I, if a Member ceases to be an Employee in circumstances in which a benefit is not payable under any other clause of this part E.5, there shall be paid to the Member from the Fund, subject to clause E.5.10, a lump sum benefit calculated in accordance with whichever of the succeeding paragraphs are applicable to the Member.
- (b) If the Member’s period of Combined Fund Membership is less than 5 years, the sum of -
  - (1) the total of the contributions paid by the Member to the Fund and WIS Fund on and after 1 September 1987; and
  - (2) in the case of a Transferred Existing Member an amount equal to -
    - (i) the total of the contributions paid by the Member to the Provident Fund accumulated with interest in accordance with the provisions of the Provident Fund up to the commencement of the Member’s Fund Membership and thereafter with compound interest at the rate of 5 per cent per annum calculated with quarterly rests up to 1 September 1987; plus

- (ii) the total of the contributions paid by the Member to the WIS Fund prior to 1 September 1987 accumulated with compound interest at the rate of 5 percent per annum calculated with quarterly rests up to 1 September 1987; and
  - (3) in the case of a Previous Fund Member, the total of the contributions paid by the Member to the Provident Fund during the period of Previous Fund Membership accumulated with interest up to 1 September 1987 in accordance with the provisions of the Provident Fund; and
  - (4) compound interest at the Agreed Rate for the period from, the date of receipt into the Fund in relation to contributions specified in paragraph (1) above and from 1 September 1987 in relation to the amount specified in paragraph (2) or (3) above, up to in each case the date on which the Member ceases to be an Employee.
- (c) If the Member’s period of Combined Fund Membership is at least 5 years, but less than 20 years, the greater of -
- (1) an amount determined according to the following formula:

$$FS \times (ABM_5 + MCR_5)$$

where:

“FS” is the Member’s Final Salary;

“ABM<sub>5</sub>” is the Member’s Accrued Benefit Multiple as at the date 5 years prior to the date on which the Member ceased to be an Employee; and

“MCR<sub>5</sub>” is five times the average percentage rate of contribution made by the Member in the period of 5 years prior to the date on which the Member ceased to be an Employee, such average being based on -

- (i) the percentage rates of contributions made by the Member to the Fund or the WIS Fund, as applicable, during the period of Fund Membership which is contained in the said period of 5 years; and
- (ii) the percentage rates of contributions made by the Member to the Provident Fund during the period of Previous Fund Membership which is contained in the said period of 5 years,

provided that in the case of a Transferred Existing Member then, for any period of Fund Membership prior to the Changeover Date for which percentage rates of contributions are required for the purposes of this expression, the percentage rate of contribution of the Member effective on the day immediately prior to the Changeover Date shall be used; and

- (2) an amount calculated in accordance with the provisions of clause E.5.9(b).
- (d) If the Member’s period of Combined Fund Membership is at least 20 years, but less than 25 years, an amount determined according to the following formula:

$$EFB + \frac{t(ARB - EFB)}{60}$$

where:

“EFB” is an amount calculated in accordance with paragraph (c);

“t” is the number of months by which the Member’s period of Combined Fund Membership exceeds 240; and



“ARB” is the Member’s Accrued Retirement Benefit at the date on which the Member ceased to be an Employee.

- (e) If the Member has attained the age of 50 years but the Member’s period of Combined Fund Membership is less than 25 years, an amount determined according to the following formula:

$$NRB + \frac{n (ARB - NRB)}{t}$$

where:

“NRB” is an amount calculated in accordance with whichever of paragraph (b), (c) or (d) is applicable to the Member;

“n” is the number of months which the Member has completed as an Employee since the attainment of the age of 50 years;

“t” is the lesser of 60 and the number of months which the Member would have completed as an Employee on the attainment of the age of 55 years; and

“ARB” is the Member’s Accrued Retirement Benefit at the date on which the Member ceased to be an Employee.

- (f) If Member’s period of Combined Fund Membership is at least 25 years, an amount equal to the Member’s Accrued Retirement Benefit as at the date on which the Member ceased to be an Employee.

#### **E.5.10 Minimum benefits.**

Notwithstanding anything contained in this division E (except for clause E.4.4) -

- (a) the benefit payable to a Short Term Employee who ceases to be an Employee shall not be less than the Accrued Retirement Benefit at the date on which the Member ceased to be an Employee;
- (b) the benefit payable to a Transferred Existing Member who is retired by the Employer before the attainment of the age of 55 years for any cause other than dismissal for misconduct, shall not be less than the Existing Fund Accumulation;
- (c) the benefit payable to a Previous Fund Member who was a member of the Provident Fund and who is retired by the Employer before the attainment of the age of 55 years for any cause other than dismissal for misconduct, shall not be less than the Accrued Retirement Benefit at the date on which the Member ceased to be an Employee.

## **Part E.6**

### **Contributions and Benefits for Old Basis Members**

#### **E.6.1 Application.**

- (a) The provisions of this part E.6 shall apply to and in respect of each and every member of the Fund who was an Old Basis Member immediately before the repeal of the 1988 Act.
- (b) This part E.6 shall be subject to parts E.1 to E.4. Unless inconsistent with the context or subject matter this part E.6 shall be read to the entire exclusion of part E.5.

**E.6.2 Definitions.**

In this part E.6, unless the contrary intention appears or the context requires otherwise:

**“Accrued Benefit Multiple”** means in relation to a Member at any particular date the multiple which is the sum of -

- (a) the multiple determined according to the following formula:

$$\frac{LS_{55} \times t}{FS \times n} + AM$$

where:

“LS<sub>55</sub>” is the lump sum determined by the Trustee as that which the Member could have exchanged for the annual pension to which the Member would have been entitled under clause E.6.6(b) had the Member retired at the age of 55 years except that for the purposes of determining that pension the period of Fund Membership which the Member would have completed at the age of 55 years shall be used;

“FS” is the Member’s Final Salary;

“t” is the number of months of Fund Membership completed;

“n” is the number of months of Fund Membership which the Member would have completed had the Member continued as a Member and an Employee up to the date of attainment of the age of 55 years; and

“AM” is the lesser of 0.7 and the multiple determined according to the following formula:

$$\frac{0.02 \times t}{12}$$

where:

“t” has the meaning ascribed to it above;

- (b) the Gratuity Scheme Multiple;
- (c) the Provident Fund Multiple; and
- (d) the Special Additional Multiple.

**“Accrued Retirement Benefit”** means at the date on which the Member ceased to be an Employee -

- (a) in relation to a Member who had attained the age of 55 years, the sum of -

- (1) an amount equal to one-twelfth of 2 per cent of the Member’s Final Salary for each month of Fund Membership, subject to a maximum of 0.7 times the Member’s Final Salary; and
- (2) the amount which the Member could have received pursuant to clause E.6.13(a), if at the date of determination the Member had commuted the pension to which the Member was entitled under clause E.6.6; or

- (b) in relation to a Member who has not attained the age of 55 years, the sum of -

- (1) an amount equal to one-twelfth of 2 per cent of the Member’s Final Salary for each month of Fund Membership, subject to a maximum of 0.7 times the Member’s Final Salary; and

- (2) an amount determined according to the following formula:

$$LS_{55} \times \frac{t}{n}$$

where:

- “LS<sub>55</sub>” is the amount which would have been payable to the Member pursuant to clause E.6.13(a) had the Member continued as a Member and an Employee up to the date of attainment of the age of 55 years and retired on that date and elected to commute the pension to which the Member would have been entitled under clause E.6.6(b);
- “t” is the number of months in the period of the Member’s Credited Fund Membership completed up to the date the Member ceased to be an Employee; and
- “n” is the number of months in the period of Credited Fund Membership which the Member would have completed had the Member continued as a Member and an Employee up to the date of attainment of the age of 55 years.

**“Age Election”** means in relation to a Member, an election made pursuant to clause E.6.15.

**“Combined Fund Membership”** has the same meaning as in part E.5.

**“Credited Fund Membership”** means the period of the Member’s Fund Membership plus any additional period which the Board may declare to be Fund Membership for the purposes of the whole or any particular part of this division E.

**“Existing Fund Accumulation”** means in relation to a Member the sum of -

- (a) the amount standing to the credit of the Member’s Contributor Fund Account as at 1 September 1987 as defined in and established pursuant to regulation 15 of the Former Regulations; and
- (b) an amount equal to three times the contributions made by the Member to the Fund and the WIS Fund, as applicable, on and after 1 September 1987 pursuant to clause E.6.3 except that a Member who, but for clause E.6.3(b) or (c), would have been liable to contribute to the Fund or the WIS Fund, as applicable, in excess of the maximum rate of contribution specified in that paragraph, shall be deemed to have contributed to the Fund or the WIS Fund, as applicable, at the rate which he or she would have been liable to contribute had the said maximum rate not applied; and
- (c) compound interest at the Agreed Rate for the period from 1 September 1987 in relation to the amount specified in paragraph (a) above and from the date of receipt into the Fund or the WIS Fund, as applicable, of the contributions in relation to the amount specified in paragraph (b) above, up to in each case the date on which the Member ceases to be an Employee.

**“Gratuity Scheme Multiple”** has the same meaning as in part E.5.

**“Normal Retirement Date”** means -

- (a) for a Member who has joined the WIS Fund or the Fund on or after 1 January 1983, the date of the attainment of the age of 60 years;
- (b) for a Member who has joined the WIS Fund or a Prior Scheme on or after 1 January 1973 but before 1 January 1983 and before the date of attainment of the age of 45 years, the date of attainment of the age of 60 years;

- (c) for a Member who has joined the WIS Fund or a Prior Scheme on or after 1 January 1973 but before 1 January 1983 and on or after the date of attainment of the age of 45 years, the date of attainment of the age of 65 years;
- (d) for a Member who has joined a Prior Scheme before 1 January 1973 and before the attainment of the age of 45 years, the date of attainment of the age of 60 years or 65 years as elected by the Member and communicated to the Board in writing not later than 31 March 1973;
- (e) for a Member who has joined a Prior Scheme before 1 January 1973 but on or after the date of attainment of the age of 45 years, the date of attainment of the age of 65 years;
- (f) for a Member who comes within the meaning of paragraphs (c), (d) or (e) and who has made an Age Election, the date of attainment of the age of 60 years.

**“Provident Fund Multiple”** has the same meaning as in part E.5.

**“Schedule A”, “Schedule B”, “Schedule C” and “Schedule D”** means respectively the Schedules set forth in the Appendix to this division E.

**“Special Additional Multiple”** has the same meaning as in part E.5.

### **E.6.3 Member contributions.**

- (a) Subject to the other provisions of this clause E.6.3, the rate of contribution of each Member shall be determined in the following manner -
  - (1) in the case of a Member admitted to the WIS Fund before 1 January 1983, the initial contribution and any additional contribution of the Member shall be calculated pursuant to Schedule A, where the Normal Retirement Date of the Member is the date of attainment of the age of 60 years and pursuant to Schedule B where the Normal Retirement Date of the Member is the date of attainment of the age of 65 years;
  - (2) in the case of a Member who commenced contributing to the WIS Fund prior to the commencement date of the Former Regulations, the initial contribution rate shall be (and be deemed to be) that which was the Member’s contribution rate immediately prior to that date, and in the case of a Member who commenced contributing on or after that date but prior to 1 January 1983, the initial contribution rate shall be that determined by reference to whichever of Schedule A or Schedule B has application and having regard to the amount of the pension to be secured to the Member at the Normal Retirement Date, the Member’s age and sex;
  - (3) in respect of any increase in the Salary of a Member who commenced contributing to the WIS Fund before 1 January 1983 and whose Normal Retirement Date on that date was the date of attainment of the age of 60 years, there shall be added to the contributions previously made by the Member such further amount as shall in relation to such increase be determined by reference to Schedule A;
  - (4) in respect of any increase in the Salary of a Member who commenced contributing to the WIS Fund before 1 January 1983 and whose Normal Retirement Date on that date was the date of attainment of the age of 65 years and who subsequently made or makes an Age Election, there shall be added -
    - (i) if any increase in the Salary occurs between 1 January 1983 and the date on which the Age Election became operative, to the contribution previously made by the Member prior to that increase, a further amount which shall in relation to that increase be determined by reference to Schedule A; and

- (ii) if any increase in Salary occurs subsequent to the date on which the Age Election became operative, to the contributions previously made by the Member prior to that increase, a further amount as shall in relation to that increase be determined by reference to Schedule B;
  - (5) in respect of any increase in the Salary of a Member who commenced contributing to the WIS Fund before 1 January 1983 and whose Normal Retirement Date is the date of attainment of the age of 65 years, there shall be added to the contribution previously made by the Member such further amount as shall in relation to that increase be determined by reference to Schedule B; and
  - (6) in respect of a Member admitted to the Fund or the WIS Fund, as applicable, on or after 1 January 1983, the contribution shall be a percentage of the Salary of the Member, such percentage being determined by reference to Schedule D having regard to the age of the Member at his or her birthday coinciding with or immediately preceding the date on which the Member was admitted to the Fund or WIS Fund, as applicable.
- (b) Notwithstanding anything contained in this part E.6, and without affecting any benefit conferred upon a Member under this division E, the maximum rate of contribution payable by a Member is -
- (1) 9 per cent of Salary where the Member has completed less than 30 years of Fund Membership; or
  - (2) 8 per cent of Salary where the Member has completed 30 or more years of Fund Membership.
- (c) The contributions of a Member shall in any event cease -
- (1) on the completion of 40 years of Fund Membership; or
  - (2) on the Normal Retirement Date,
- whichever is the earlier.

#### **E.6.4 Retirement on the Normal Retirement Date.**

Subject to clause E.4.4 and division I, if a Member ceases to be an Employee on the Normal Retirement Date, there shall be paid to the Member -

- (a) a lump sum benefit of an amount equal to one-twelfth of 2 per cent of the Member’s Final Salary for each month of Fund Membership subject to a maximum of 0.7 times the Member’s Final Salary; and
- (b) by equal monthly instalments for five years certain and for the Member’s subsequent lifetime, a pension of an annual amount equal to -
  - (1) in the case of a Member who joined the Fund or WIS Fund, as applicable, on or after 1 January 1983, one-twelfth of two and one third per cent of the Member’s Final Salary multiplied by the number of months of Credited Fund Membership (not exceeding 360 months) the Member completed at the date of retirement; or
  - (2) in the case of a Member who joined the WIS Fund prior to 1 January 1983, an amount equal to a percentage of the Member’s Final Salary, the percentage being determined from Schedule C according to the number of years of Credited Fund Membership completed by the Member at the date of retirement,

reduced in the following manner in the case of a Member who has made an Age Election -

- (c) if the Age Election became operative prior to 1 April 1986, by one-quarter of the difference between,
- (1) the annual amount of the pension calculated in the manner provided in paragraph (2); and
  - (2) the annual amount of the pension which would have been payable on the date of attainment of the age of 60 years pursuant to clause E.6.6 as if the Member’s Normal Retirement Date had remained the date of attainment of the age of 65 years,
- and for the purposes of determining the amount specified in paragraphs (1) and (2), the Member’s Annual Salary at the date the Member’s Age Election became operative shall be used in lieu of the Member’s Final Salary at the date of retirement;
- (d) if the Member’s Age Election became or becomes operative on or after 1 April 1986, by such amount as the Board and the Trustee shall determine but in any event not less than the amount calculated in the manner provided in paragraph (c),

provided that if the Member became a member of a Prior Scheme before 1 July 1975 and had elected pursuant to the regulations then in force to contribute for less than a full pension entitlement, then the annual amount of pension shall be reduced to a proportion of that amount, the proportion being that portion for which the Member had elected to contribute pursuant to the aforesaid regulations.

#### **E.6.5 Retirement after the Normal Retirement Date.**

- (a) Subject to clause E.4.4, clause E.6.5(b) and division I, if a Member ceases to be an Employee after the Normal Retirement Date, there shall be paid to the Member a lump sum benefit equal to the sum of -
- (1) an amount equal to one-twelfth of 2 per cent of the Member’s Final Salary for each month of Fund Membership, subject to a maximum of 0.7 times the Member’s Final Salary; and
  - (2) an amount determined according to the following formula:

$$\frac{LS_{NRD}}{AS_{NRD}} \times FS$$

where:

“ $LS_{NRD}$ ” is the amount which would have been payable to the Member on the Normal Retirement Date pursuant to clause E.6.13(a) had the Member commuted the pension to which the Member was entitled under clause E.6.13(1)(b);

“ $AS_{NRD}$ ” is the Member’s Annual Salary at the Normal Retirement Date; and

“ $FS$ ” is the Member’s Final Salary.

- (b) A Member may elect to substitute an annual pension for the lump sum specified in clause E.6.6(a)(ii), the amount of which shall be determined by the Trustee acting on the advice of the Actuary, but shall in no event be less than an amount determined according to the following formula:

$$\frac{AP_{NRD}}{AS_{NRD}} \times FS$$

where:

“AP<sub>NRD</sub>” is the annual pension which the Member would have received under clause E.6.4(b) had the Member ceased to be an Employee on the Normal Retirement Date; and

“AS<sub>NRD</sub>” and “FS” shall have the meanings ascribed to them in clause E.6.6(a)(ii).

### **E.6.6 Retirement before the Normal Retirement Date.**

If a Member ceases to be an Employee before the Normal Retirement Date, other than in the circumstances provided in clause E.6.7, E.6.8 or E.6.9, at any time on or after the attainment of the age of 55 years, there shall be paid to the Member (subject to clause E.4.4, clause E.6.6(c) and division I) -

- (a) a lump sum benefit of an amount equal to one-twelfth of 2 per cent of the Member’s Final Salary for each month of Fund Membership, subject to a maximum of 0.7 times the Member’s Final Salary; and
- (b) by equal monthly instalments for five years certain and for the Member’s subsequent lifetime a pension of an annual amount equal to -
  - (1) in the case of a Member whose Normal Retirement Date is the date of attainment of the age of 65 years and who is at least 60 years of age, an amount calculated in the manner provided in clause E.6.4(b) but taking into account only Credited Fund Membership completed at the date the Member ceases to be an Employee and reduced by 0.079365 per cent in respect of each complete month by which the Member’s date of retirement precedes the date on which the Member would have attained the age of 65 years; or
  - (2) in the case of a Member who -
    - (i) has attained the age of 55 years but not the age of 60 years; and
    - (ii) has not made an Age Election -
      - (A) an amount determined according to the following formula:

$$ASP \times \frac{t}{n}$$

where:

“ASP” is

- (aa) in the case of a Member whose Normal Retirement Date is the date of attainment of the age of 60 years, a pension calculated in the manner provided in clause E.6.4 had the Member continued as an Employee until the date of attainment of the age of 60 years; or
- (ab) in the case of a Member whose Normal Retirement Date is the date of attainment of the age of 65 years, a pension calculated in the manner provided in paragraph (b)(1) above had the Member continued as an Employee until the date of attainment of the age of 60 years;

“t” is the number of months of Credited Fund Membership completed at the date of the Member’s retirement; and

“n” is the number of months of Credited Fund Membership which the Member would have

completed had the Member continued as an Employee until the date of attainment of the age of 60 years,

reduced by:

(B) an amount determined in the manner following -

- (aa) in the case of a Member whose Normal Retirement Date is the date of attainment of the age of 60 years, one-twelfth of 5 per cent of the amount specified in paragraph (A) for each complete month by which the date of the Member’s retirement precedes the Normal Retirement Date; or
- (ab) in the case of a Member whose Normal Retirement Date is the date of attainment of the age of 65 years, one-twelfth of 7 per cent of the amount specified in paragraph (A) for each complete month by which the date of the Member’s retirement precedes the date of attainment of the age of 60 years,

provided that the annual amount of the pension pursuant to this clause E.6.6 shall not in any event be less than the annual amount of the pension which the Actuary certifies has a commuted value equal to -

- (1.1) in the case of a Member whose Normal Retirement Date is the date of attainment of the age of 60 years and the date from which the Member’s period of Credited Fund Membership is measured is before the date of attainment of the age of 20 years, the Members Final Salary at the date of retirement multiplied by a factor determined in accordance with the following formula:

$$7.70 - \frac{.01(AE - 180)(720 - AR)}{144} - \frac{.14(720 - AR)}{12}$$

where:

“AE” is the Member’s age at the day from which the Member’s period of Credited Fund Membership is measured, calculated in months; and

“AR” is the Member’s age at the date of retirement, calculated in months;

or

- (1.2) in the case of a Member whose Normal Retirement Date is the date of the attainment of the age of 60 years and the date from which the Member’s period of Credited Fund Membership is measured is on or after the date of attainment of the age of 20 years, one-twelfth of 19.25 per cent of the Member’s Final Salary multiplied by the number of months of Credited Fund Membership;

or



- (1.3) in the case of a Member whose Normal Retirement Date is the date of attainment of the age of 65 years -
  - (AA) if the Member became an Employee before attaining the age of 20 years, 95.238 per cent of the amount calculated in the manner provided in paragraph (1.1) of this proviso; or
  - (AB) if the Member became an Employee on or after attaining the age of 20 years, 95.238 per cent of the amount calculated in the manner provided in paragraph (1.2) of this proviso; or
  - (AC) in the case of a Member who -
    - (1.1.1) has attained the age of 55 years but not the age of 60 years; and
    - (1.1.2) has made an Age Election,
 

an amount calculated in the manner provided in paragraph (AB) and for this purpose the Member shall be deemed to have been a Member whose Normal Retirement Date has throughout the whole period of the Member’s Credited Fund Membership been the date of attainment of the age of 60 years,

reduced by:

      - (aaa) if the Member’s Age Election became operative prior to 1 April 1986, one-quarter of the difference between -
        - (1.1.1.1) the annual amount of the pension calculated in the manner provided in this paragraph (AC); and
        - (1.1.1.2) the annual amount of the pension which would have been payable pursuant to the relevant provisions of paragraph (AB) if the Normal Retirement Date had remained the date of the attainment of the age of 65 years,

and for the purposes of determining the amounts specified in paragraphs (1.1.1.1)

and (1.1.1.2) the Member’s Annual Salary at the date the Member’s Age Election became operative shall be used in lieu of the Member’s Final Salary at the date of retirement;

or

(aab) if the Member’s Age Election became operative on or after 1 April 1986, by such amount as the Board and the Trustee shall determine but in any event not less than the amount calculated in the manner provided in paragraph (aaa);

and

- (c) if a Member elects pursuant to clause E.6.13(a) to commute the pension payable under paragraph (b) then the sum of the lump sum payable pursuant to such commutation and the amount under paragraph (a) shall not in any event be less than the lump sum which would have been payable to the Member under clause E.6.12(e) or (f) (as applicable) had the Member ceased to be an Employee on the attainment of the age of 55 years.

#### **E.6.7 Death benefit.**

Subject to clause E.4.4, if a Member dies while an Employee, there shall be paid from the Fund in respect of the Member, in accordance with the provisions of clause E.2.5, a lump sum benefit equal to -

- (a) if the death of the Member occurs on or prior to the Normal Retirement Date the greater of -
  - (1) an amount equal to -
    - (i) if the Member’s death occurs on the Normal Retirement Date, an amount calculated in the manner provided in clause E.6.4, assuming in the case of the pension specified thereunder that the Member had elected pursuant to clause E.6.13(a) to commute that pension to a lump sum; or
    - (ii) if the Member’s death occurs prior to the Normal Retirement Date, the Member’s Accrued Retirement Benefit; and
  - (2) four times the Member’s Final Salary; or
- (b) if the death of the Member occurs after the Normal Retirement Date, an amount equal to the lump sum benefit which would have been payable pursuant to clause E.6.5 if the Member had otherwise ceased to be an Employee under that paragraph on the date of death,

provided that the aforesaid lump sum benefit shall not in any event be less than the greater of -

- (c) the Member’s Existing Fund Accumulation at the date of death; and
- (d) an amount equal to -
  - (1) in the case of a Member whose death occurs prior to the attainment of the age of 55 years, an amount calculated in accordance with the provisions of clause E.6.12; or

- (2) in the case of a Member whose death occurs on or after the attainment of the age of 55 years, an amount calculated pursuant to clause E.6.12(e) or E.6.12(b) (as applicable) had the Member ceased to be an Employee on the attainment of the age of 55 years.

#### **E.6.8 Total and Permanent Disablement benefit.**

Subject to division I, if a Member ceases to be an Employee on account of Total and Permanent Disablement, there shall be paid to the Member from the Fund a lump sum benefit of an amount equal to that which would have been payable pursuant to clause E.6.7, if the Member had died on the date the Member ceased to be an Employee.

#### **E.6.9 Partial Disablement benefit.**

Subject to division I, if a Member ceases to be an Employee on account of Partial Disablement there shall be paid to the Member from the Fund a lump sum benefit equal to the Member’s Accrued Retirement Benefit provided that the aforesaid lump sum benefit shall not in any event be less than -

- (a) in the case of a Member who ceases to be an Employee prior to the attainment of the age of 55 years, an amount calculated in accordance with the provisions of clause E.6.12; or
- (b) in the case of a Member who ceases to be an Employee on or after the attainment of the age of 55 years, an amount calculated pursuant to clause E.6.12(e) or E.6.12(f) (as applicable) had the Member ceased to be an Employee on the attainment of the age of 55 years.

#### **E.6.10 Temporary Disablement benefit.**

- (a) If a Member becomes Temporarily Disabled while an Employee and prior to the attainment of the age of 60 years, an income benefit (“the Income Benefit”) shall be payable to the Member from the Fund in accordance with this clause E.6.10.
- (b) The Income Benefit shall be a monthly amount equal to one twelfth of 70 per cent of the Member’s Annual Salary from time to time and shall commence to be payable from the date which the Employer notifies the Trustee as being that on which the Member’s right to any sick leave entitlement relating to the Member’s conditions of employment with the Employer has expired. The Trustee shall reduce the Income Benefit calculated as aforesaid by the monthly equivalent of any sum paid or payable to the Member under any provision for workers compensation, sick leave or what the Trustee considers to be similar payments, but only to ensure, so far as is practicable, that the amount of the Income Benefit when aggregated with such payments shall not exceed one-twelfth of 100 per cent of the Member’s Annual Salary from time to time.
- (c) The Income Benefit shall terminate on the first to occur of:
  - (1) the death of the Member;
  - (2) the date on which the Member ceases to be an Employee;
  - (3) the date on which the Member becomes Totally and Permanently Disabled; or
  - (4) the day immediately following the date on which the equivalent of 24 monthly instalments of the Income Benefit have been received by the Member.
- (d) Without derogating in any way from the provisions contained in paragraph (c), if the Member -
  - (1) engages in remunerative employment with the Employer or any other organisation or person; or

- (2) in the opinion of the Trustee, is or becomes able to engage in any remunerative employment,

the Trustee may reduce or suspend the Income Benefit to such extent and for such period as the Trustee sees fit or may permanently discontinue the Income Benefit.

#### **E.6.11 Retrenchment benefit.**

Subject to division I, if a Member ceases to be an Employee and the Employer certifies to the Trustee that such cessation is due to retrenchment, there shall be paid to the Member from the Fund a lump sum benefit equal to the Member’s Accrued Retirement Benefit provided that the aforesaid lump sum benefit shall not in any event be less than -

- (a) in the case of a Member who ceases to be an Employee prior to the attainment of the age of 55 years, an amount calculated in accordance with the provisions of clause E.6.12; or
- (b) in the case of a Member who ceases to be an Employee on or after the attainment of the age of 55 years, an amount calculated pursuant to clause E.6.12(e) or E.6.12(f) (as applicable) had the Member ceased to be an Employee on the attainment of the age of 55 years.

#### **E.6.12 Cessation of employment for other reasons.**

- (a) Subject to clause E.4.4 and division I, if a Member ceases to be an Employee in circumstances in which a benefit is not payable under any other clause of this part E.6, there shall be paid to the Member from the Fund, subject to clause E.6.12(g), a lump sum benefit calculated in accordance with whichever of the succeeding paragraphs are applicable to the Member.
- (b) If the Member’s period of Combined Fund Membership is less than 10 years, the sum of -
  - (1) the total of the contributions paid by the Member to the Fund or the WIS Fund, as applicable, on and after 1 September 1987; and
  - (2) an amount equal to -
    - (i) the total of the contributions paid by the Member to the Provident Fund during the period of Previous Fund Membership accumulated with interest in accordance with the provisions of the Provident Fund up to the commencement of the Member’s Fund Membership and thereafter with compound interest at the rate of 5 per cent per annum calculated with quarterly rests up to 1 September 1987; plus
    - (ii) the total of the contributions paid by the Member to the WIS Fund prior to 1 September 1987 accumulated with compound interest at the rate of 5 per cent per annum calculated with quarterly rests up to 1 September 1987; and
  - (3) compound interest at the Agreed Rate for the period from, the date of receipt into the Fund or the WIS Fund, as applicable, in relation to contributions specified in paragraph (1) above and from 1 September 1987 in relation to the amount specified in paragraph (2) above, up to in each case the date on which the Member ceases to be an Employee.
- (c) If the Member’s period of Combined Fund Membership is at least 10 years, but less than 20 years, the greater of -
  - (1) an amount determined according to the following formula:

$$FS \times (ABM_{10} + MCR_{10})$$

where:

“FS” is the Member’s Final Salary;

“ABM<sub>10</sub>” is the Member’s Accrued Benefit Multiple as at the date 10 years prior to the date on which the Member ceased to be an Employee; and

“MCR<sub>10</sub>” is ten times the average percentage rate of contribution made by the Member in the period of 10 years prior to the date on which the Member ceased to be an Employee, such average being based on -

- (i) the percentage rates of contributions made by the Member to the Fund or the WIS Fund, as applicable, during the period of Fund Membership which is contained in the said period of 10 years; and
- (ii) the percentage rates of contributions made by the Member to the Provident Fund during the period of Previous Fund Membership which is contained in the said period of 10 years,

provided that for the said period of Fund Membership for which percentage rates of contributions are required for the purposes of this expression, the percentage rate of contribution of the Member effective on the day immediately prior to the date on which the Member ceased to be an Employee shall be used; and

(2) an amount calculated in accordance with the provisions of paragraph (b) above.

- (d) If the Member’s period of Combined Fund Membership is at least 20 years, but less than 30 years, an amount determined according to the following formula:

$$EFB + \frac{t}{120} (ABM \times FS - EFB)$$

where:

“EFB” is an amount calculated in accordance with paragraph (c);

“t” is the number of months by which the Member’s period of Combined Fund Membership exceeds 240;

“ABM” is the Member’s Accrued Benefit Multiple at the date on which the Member ceased to be an Employee; and

“FS” is the Member’s Final Salary.

- (e) If the Member has attained the age of 50 years but the Member’s period of Combined Fund Membership is less than 30 years, an amount determined according to the following formula:

$$NRB + \frac{n}{t} (ABM \times FS - NRB)$$

where:

“NRB” is an amount calculated in accordance with whichever of paragraphs (b), (c) or (d) is applicable to the Member;

“n” is the number of months which the Member has completed as an Employee since the attainment of the age of 50 years;

“t” is the lesser of 60 and the number of months which the Member would complete as an Employee on the attainment of the age of 55 years;

“ABM” is the Member’s Accrued Benefit Multiple at the date on which the Member ceased to be an Employee; and

“FS” is the Member’s Final Salary.

- (f) If the Member’s period of Combined Fund Membership is at least 30 years, an amount equal to the product of the Member’s Final Salary and the Member’s Accrued Benefit Multiple at the date on which the Member ceased to be an Employee.
- (g) Notwithstanding anything contained in this clause E.6.12, the lump sum benefit payable to a Member who is retired by the Employer before the Normal Retirement Date for any cause other than dismissal for misconduct and is not entitled to a benefit under any other clause of this division E shall be subject to a minimum amount equal to the Member’s Existing Fund Accumulation determined as at the date on which the Member ceased to be an Employee.

#### **E.6.13 Commutation and variation of pensions.**

- (a) The Trustee, at the request in writing of a person who is in receipt of or entitled to receive payments in respect of any pension payable pursuant to this division E (other than the Income Benefit specified in clause E.6.10) (“**Beneficiary**” for purposes of this clause E.6.13 and clause E.6.14), may in its absolute discretion commute the whole of any such pension for a lump sum benefit and the Trustee shall pay the amount of any such lump sum benefit to that person in lieu of and in full satisfaction of the payments in respect of the pension so commuted. The amount of any lump sum benefit payable pursuant to this paragraph shall be determined by the Trustee on the advice of the Actuary.
- (b) Subject to such conditions as the Trustee shall determine, a Member may at the time of ceasing to be an Employee elect to substitute for any pension to which the Member is entitled under this division E -
  - (1) a pension payable to the Member by equal monthly instalments for ten years certain and for the Member’s subsequent lifetime; or
  - (2) a pension payable to the Member during the joint lifetime of the Member and the Member’s Spouse and to the survivor of them during the lifetime of such survivor.

Any such substituted pension shall be of such amount as shall be certified by the Actuary to be the equivalent in value of the pension which but for the provisions of this paragraph (b) would otherwise have been payable to the Member.

- (c) Notwithstanding anything contained in this clause E.6.13 -
  - (1) the payment of any pension or annuity; and
  - (2) the commutation of any pension payable, shall comply with any applicable requirement of a Relevant Law and the Trustee may take such action as it sees fit to ensure such compliance including without limitation adjusting the amount or terms of payment of benefits in such manner, to such extent and by way of such arrangements as the Trustee considers appropriate and any decision by the Trustee for the purposes of this clause E.6.13 shall be final and binding on all interested persons.

#### **E.6.14 Terms and conditions for payment of pensions.**

- (a) All pensions payable under this division E (including an Income Benefit payable under clause E.6.10) shall be paid by equal monthly instalments on the last day of each month or as soon as practicable thereafter and where necessary, pro rata instalments shall be paid.
- (b) Upon the death of a Beneficiary during a period described in clauses E.6.4, E.6.5, E.6.6 and E.6.13 as a period certain, the monthly instalments of pension for the balance of that period shall be paid in such manner as the Trustee may determine to the Dependents of the

Beneficiary or to the legal personal representatives of the Beneficiary in accordance with clause E.2.5.

- (c) Notwithstanding anything contained in this division E, if the Trustee is of the opinion that by reason of a Beneficiary’s illness or infirmity it is desirable that the pension which is payable to the Beneficiary should be applied in whole or in part in payment of hospital, medical or like expenses or for the maintenance of the Beneficiary or of any Dependant of the Beneficiary, the Trustee may in its absolute discretion apply such pension or part thereof accordingly and any such application shall be deemed to be payment to the Beneficiary of the pension or the part thereof so applied.
- (d) Subject to the Trustee’s absolute discretion, all pensions payable under this division E shall be paid in accordance with the provisions of the Relevant Law concerning the payment of “pensions” as defined in the Supervision Act.

#### **E.6.15 Age election.**

A Member whose Normal Retirement Date is the date of attainment of the age of 65 years may at any time, in writing to the Trustee, elect that his or her Normal Retirement Date shall be the date of attainment of the age of 60 years and any such election shall be irrevocable and shall become operative from the date it is received by the Trustee.

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### **Part E.7**

#### **Adjustments for Valid Family Law Arrangements**

Notwithstanding anything to the contrary in this division E, the Trustee may:

- (a) adjust a benefit payable to or in respect of a Member under this division E; or
- (b) make an adjustment in respect of a benefit which will become payable to or in respect of a Member under this division E,

to the extent, and in any manner, as permitted by the Relevant Law to take account of a valid family law arrangement.

## **Appendix to Division E - Schedules A to D**



## Schedule A of Division E

Fortnightly contributions from Member for pension of \$100 per annum commencing on the date of attainment of the age of 60 years.

Age Next Birthday	Contributions		Age Next Birthday	Contributions	
	Males	Females		Males	Females
16	0.05	0.03	40	0.40	0.35
17	0.05	0.04	41	0.43	0.38
18	0.06	0.05	42	0.47	0.41
19	0.06	0.05	43	0.51	0.45
20	0.07	0.06	44	0.56	0.5
21	0.08	0.06	45	0.61	0.56
22	0.09	0.07	46	0.67	0.63
23	0.10	0.08	47	0.74	0.71
24	0.11	0.09	48	0.83	0.81
25	0.12	0.1	49	0.93	0.92
26	0.13	0.11	50	1.04	1.04
27	0.14	0.12			
28	0.15	0.13	Exact Age		
29	0.17	0.14	50	1.10	1.10
30	0.18	0.15	51	1.25	1.25
31	0.20	0.17	52	1.46	1.46
32	0.21	0.18	53	1.70	1.73
33	0.23	0.19	54	2.03	2.09
34	0.25	0.21	55	2.51	2.63

Age Next Birthday	Contributions		Age Next Birthday	Contributions	
	Males	Females		Males	Females
35	0.27	0.23	56	3.20	3.44
36	0.29	0.25	57	4.37	4.82
37	0.31	0.27	58	6.71	7.58
38	0.34	0.29	59	13.73	15.62
39	0.37	0.32	60	14.06	16.10

NOTE: For ages over 50 contributions are based on the rates shown, but allowing for age in years and months (to the next higher month).

## Schedule B of Division E

Fortnightly contributions from Member for pension of \$100 per annum payable by monthly instalments for five years certain and subsequent lifetime and commencing on the date of attainment of age of 65 years.

*(Contributions are shown in dollars and cents)*

*Completed Years of Credited Fund Membership at attainment of age 65 years*

<b>Age next Birthday</b>	<b>Males 15 and less than 20</b>	<b>Males 20 and less than 25</b>	<b>Males 25 and less than 30</b>	<b>Males 30 and over</b>	<b>Females</b>
16				0.04	0.02
17					0.03
18				0.05	0.03
19				0.05	0.03
20				0.05	0.04
21				0.06	0.04
22				0.07	0.05
23				0.07	0.05
24				0.08	0.06
25				0.08	0.06
26				0.09	0.07
27				0.10	0.07
28				0.11	0.08
29				0.11	0.09
30				0.12	0.09
31				0.13	0.10
32				0.14	0.11
33				0.15	0.12
34				0.16	0.13
35				0.17	0.14

<b>Age next Birthday</b>	<b>Males 15 and less than 20</b>	<b>Males 20 and less than 25</b>	<b>Males 25 and less than 30</b>	<b>Males 30 and over</b>	<b>Females</b>
36			0.20	0.19	0.15
37			0.21	0.20	0.16
38			0.23	0.22	0.18
39			0.24	0.23	0.19
40			0.26	0.25	0.21
41		0.29	0.28	0.27	0.22
42		0.31	0.30	0.29	0.24
43		0.33	0.32	0.31	0.26
44		0.36	0.35	0.34	0.29
45		0.39	0.38	0.37	0.31
46	0.43	0.42	0.41	0.40	0.34
47	0.47	0.45	0.44	0.43	0.37
48	0.51	0.49	0.48	0.47	0.41
49	0.56	0.54	0.52	0.51	0.45
50	0.61	0.59	0.57	0.56	0.50
51	0.67	0.65	0.63	0.62	0.55
52	0.73	0.71	0.69	0.68	0.61
53	0.81	0.79	0.77	0.76	0.69
54	0.90	0.87	0.85	0.84	0.78
55	1.01	0.98	0.96	0.95	0.89
Exact Age					
55	1.06	1.03	1.01	1.00	0.95
56	1.21	1.18	1.15	1.14	1.09
57	1.38	1.35	1.32	1.31	1.28
58	1.61	1.57	1.54	1.53	1.52

<b>Age next Birthday</b>	<b>Males 15 and less than 20</b>	<b>Males 20 and less than 25</b>	<b>Males 25 and less than 30</b>	<b>Males 30 and over</b>	<b>Females</b>
59	1.91	1.87	1.84	1.83	1.85
60	2.33	2.29	2.26	2.24	2.32
61	2.95	2.91	2.88	2.86	3.02
62	3.99	3.95	3.92	3.90	4.21
63	6.06	6.01	5.98	5.96	6.60
64	12.28	12.23	12.20	12.18	13.82
65	12.41	12.41	12.41	12.41	12.46

NOTE: For ages over 55, contributions are based on the rates shown but allowing for age in years and months (to the next higher month).

## Schedule C of Division E

### Pension Percentages for Member

Years of Credited Fund Membership	Pension Percentage	Years of Credited Fund Membership	Pension Percentage
1	3.5	16	53.667
2	7	17	54.833
3	10	18	56
4	14	19	57.167
5	17.5	20	58.333
6	21	21	59.5
7	24.5	22	60.667
8	28	23	61.883
9	31.5	24	63
10	35	25	64.167
11	38.5	26	65.333
12	42	27	66.5
13	45.5	28	67.667
14	49	29	68.833
15	52.5	30 or more	70.000

NOTE: For the purposes of this Schedule C, the period of Credited Fund Membership shall be calculated in years and months and where the period of Credited Fund Membership is not an exact number of years, the Pension Percentage shall be obtained from the Schedule by linear interpolation.

## Schedule D of Division E

Contribution rates for Members who join the Fund, the 1988 Fund or the WIS Fund, as applicable, on or after 1 January 1983 shall be as follows:

Age at Birthday coinciding with or immediately preceding date of joining Fund	Contribution Rate Percent	Age at Birthday coinciding with or immediately preceding date of joining Fund	Contribution Rate Percent
19	4.00	41	7.1
20	4.20	42	7.2
21	4.40	43	7.3
22	4.60	44	7.4
23	4.80	45	7.5
24	5.00	46	7.60
25	5.25	47	7.70
26	5.50	48	7.80
27	5.75	49	7.90
28	6.00	50	8.00
29	6.25	51	8.10
30	6.50	52	8.20
31	6.50	53	8.30
32	6.60	54	8.40
33	6.60	55	8.50
34	6.70	56	8.60
35	6.70	57	8.70
36	6.80	58	8.80
37	6.80	59	8.90
38	6.90		
39	6.90		
40	7.00		

NOTE: The application of this Schedule D is subject to the Member’s contribution rate not exceeding the maximum rates specified in clause E.6.3.

## **DIVISION F**

### **MISCELLANEOUS MEMBERS**

All benefit accruals and benefit entitlements that a “port authority employee” (formerly being a member of the Transport Superannuation Fund, the State Superannuation Fund (Revised Division) or the Port of Melbourne Authority Superannuation Scheme, as applicable) had under the 1988 Fund pursuant to section 120 of the *Port Services Act 1995* (Vic) shall under this Deed continue to have the same status, operation and effect as they would have had if the 1988 Act had not been repealed except that the Trustee may adjust the benefit accruals and benefit entitlements to the extent, and in any manner, as permitted by the Relevant Law to take account of a valid family law arrangement.



## DIVISION I – TRANSFERRING VSF AND OTHER MEMBERS

### SECTION 1 – GENERAL PROVISIONS

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#### Part I.1.1

#### Application and Interpretation

##### I.1.1.1 Application of Division I.

- (a) This division I is always subject to division A of this Deed, and division A prevails over this division I to the extent of any conflict.
- (b) This division I applies only to and in respect of a member of the Fund who -
  - (1) is a Transferring VSF Member; or
  - (2) is an Eligible Person who is a member of the Fund and who is for the time being categorised as a Member of division I.

##### I.1.1.2 Application of Section 1.

This Section 1 applies to and in respect of all division I Members and Beneficiaries. Except where another Section of this division expressly provides otherwise this Section 1 prevails to the extent of any conflict between this Section 1 and any other Section within this division I.

##### I.1.1.3 Definitions.

In this division I, unless the contrary intention appears or the context requires otherwise:

**“Declared Rate”** means the rate of investment earnings (which may be positive or negative) determined by the Trustee, having regard to the income of the Fund or of any particular investment portfolio within the Fund, in respect of any period for the purposes of the whole or any particular provision of this division I and, without limiting the preceding words but subject to any conditions determined by the Trustee, for the purposes of the whole or any particular provision of this division I:

- (a) Declared Rate may be prospectively determined on an interim basis in respect of a particular period; and
- (b) a Declared Rate may be subsequently determined on a final or declared basis in respect of that period.

**“Eligible Person”** means a natural person who is:

- (a) eligible to become a Member of the Fund in accordance with the Relevant Law and the Trustee’s policies as determined from time to time; or
- (b) a Member whose category of membership has been changed to this division I from another division.

**“Insurance”** means term or temporary insurance, whether on a group or individual basis, effected by the Trustee with an Insurer.

**“Nominated Beneficiary”** means with respect to a Member one or more Dependants or the legal personal representative nominated on that Member’s last effective Valid Nomination Form to receive any death benefit that becomes payable from the Fund.

**“Part”** means a part of this division I.

**“Section”** means a Section of this division I.

“**Section 2 Member**” means a person who is a Member of Section 2 of this division I.

“**Section 3 Member**” means a person who is a Member of Section 3 of this division I.

“**Section 4 Member**” means a person who is a Member of Section 4 of this division I.

“**Valid Nomination Form**” means a nomination form which has been signed by the Member in accordance with procedures determined by the Trustee and which is valid under the Relevant Law.

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## **Part I.1.2**

### **Insurance Restrictions and Adjustments**

#### **I.1.2.1 Benefits: restrictions and adjustments.**

- (a) **Limitations imposed by Insurer.** Unless otherwise determined by the Trustee, any benefit payable from the Fund to a Beneficiary in respect of which the Trustee seeks to effect, or effects, Insurance must be reduced to the extent to which:
- (1) for any reason the Insurer fails to provide Insurance on the Insurer’s standard terms for standard lives; or
  - (2) for any reason the Insurer:
    - (i) fails to provide or to increase the level of Insurance;
    - (ii) reduces or terminates Insurance;
    - (iii) limits or restricts Insurance or the circumstances in which Insurance proceeds will become payable; or
    - (iv) refuses to consider, defers or denies a claim in whole or in part.
- The Trustee will adjust that benefit, and any other benefit which the Trustee may consider to be affected, in the manner and to the extent the Trustee considers necessary in order to effect and take account of that reduction.
- (b) **Alternative insurance.** If an event provided for in clause I.1.2.1(a) occurs in relation to Insurance sought or effected, the Trustee is not bound to seek alternative insurance with the same or another Insurer. If the Trustee decides to seek alternative insurance, the Trustee may limit that search to the Insurer or Insurers determined by the Trustee.
- (c) **Conditions of payment of Insurance proceeds.** In any case, unless otherwise determined by the Trustee, the amount, time for and basis of payment of all or part of a benefit in respect of which Insurance has been effected must be adjusted in the manner and to the extent necessary to take account of the terms and conditions upon which insurance proceeds are payable.

#### **I.1.2.2 Insurance options.**

The Trustee may establish options in respect of levels of Insurance and may invite a Member to elect a particular option.

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### **Part I.1.3**

#### **Member Voluntary Contributions**

Subject to Part A.2 of Division A, voluntary contributions to the Fund may be made by or in respect of a Member, subject to any terms and conditions determined by the Trustee.

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### **Part I.1.4**

#### **Employer Contributions**

Subject to Part A.2 of Division A, an Employer may make contributions to the Fund in respect of a Member, subject to any terms and conditions determined by the Trustee.

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### **Part I.1.5**

#### **Payment of Death Benefits**

- (a) **Basis of payment.** Subject to clauses I.1.5(b), I.1.5(c) and Section 3, any benefit payable from the Fund on or after the death of a Member must be paid or applied by the Trustee to or for the benefit of one or more of:
- (1) the Member's Dependants; and
  - (2) the Member's legal personal representatives,
- to the exclusion of the other or others of them and in the form, manner, proportions and subject to the conditions determined by the Trustee.
- (b) **No Dependants or legal personal representative.** If, after such inquiries and such period as the Trustee considers appropriate, the Trustee is unable to identify a Dependant or legal personal representative of a deceased Member to its satisfaction, the Trustee may pay or apply the benefit otherwise payable in any other manner permissible under the Relevant Law.
- (c) **Binding death benefit nominations.** Any benefit payable from the Fund on or after the death of a Member is payable:
- (1) to the Member's Nominated Beneficiary (if applicable); or
  - (2) in accordance with clause I.1.5(a) if there is no Valid Nomination Form in respect of the Member or if payment in accordance with clause I.1.5(c)(1) cannot otherwise be made.

## Section 2 – ACCUMULATION ACCOUNTS

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### Part I.2.1 Application and Interpretation

#### I.2.1.1 Application of Section 2.

- (a) This Section 2 is always subject to Section 1 of division I, and Section 1 of division I prevails over this Section 2 to the extent of any conflict.
- (b) This Section 2 only applies to and in respect of an Eligible Person who is a member of the Fund and who is for the time being categorised as a Section 2 Member.

#### I.2.1.2 Definitions.

In this Section 2, unless the contrary intention appears or the context requires otherwise:

**“Eligible Spouse”** means a person who is, at the time contributions in respect of the person are made, the Spouse of another person who is a member of the Fund or a member of any other Approved Benefit Arrangement permitted by the Relevant Law.

**“Section 2 Account”** means in relation to a Section 2 Member the account of that name maintained in respect of the Member in accordance with clause I.2.3.1.

**“Section 2 Account Balance”** means in relation to a Section 2 Member as at any particular date the credit balance (if any) in the Member’s Section 2 Account, after all relevant credits and debits have been made to that account.

**“Temporarily Totally Disabled”** and **“Temporary Disability”** in relation to a Member have the same meaning as is given to those words (or similar words) for the purposes of any policy of Insurance effected by the Trustee pursuant to division I and under which insurance is or may become payable in the event of the temporary disablement of that Member.

**“Total and Permanent Disablement”** and **“Totally and Permanently Disabled”** in relation to a Member has the same meaning as is given to those words (or similar words) for the purposes of any policy of insurance effected by the Trustee pursuant to the Deed and under which insurance is or may become payable in the event of the permanent disablement of that Member.

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### Part I.2.2 Admission and Membership

An Eligible Person will become a Section 2 Member if the Trustee has admitted that person to the Fund and has categorised the person as a Section 2 Member.

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## **Part I.2.3**

### **Section 2 Account**

#### **I.2.3.1 Establishment.**

The Trustee must cause to be maintained in respect of each Section 2 Member in accordance with this Part I.2.3 an account to be called the Section 2 Account.

#### **I.2.3.2 Credits and debits.**

Each Section 2 Member's Section 2 Account shall be credited with:

- (a) any contributions by or in respect of the Section 2 Member in accordance with Part I.1.3;
- (b) any contributions by an Employer in accordance with Part I.1.4;
- (c) any contributions made in respect of the Section 2 Member as an Eligible Spouse;
- (d) any amount transferred from an Approved Benefit Arrangement in respect of the Section 2 Member which the Trustee determines to credit to the Section 2 Account;
- (e) any amounts transferred from another Section of this division I or from another division of the Fund;
- (f) any lump sum Insurance proceeds;
- (g) any amounts the Trustee may determine to credit because of a valid family law arrangement or a valid contributions splitting arrangement;
- (h) investment earnings at the Declared Rate (if positive); and
- (i) any other amounts which this Deed or this division I may require to be credited to the Section 2 Account or which the Trustee may determine to credit to the Section 2 Account,

and each Section 2 Member's Section 2 Account shall be debited with:

- (j) any amounts which the Trustee may determine to debit in respect of Tax, Fund Expenses and Insurance premiums;
- (k) any amount transferred to an Approved Benefit Arrangement in respect of the Section 2 Member which the Trustee determines to debit to the Section 2 Account;
- (l) any amounts transferred to another Section of this division I or to another division of the Fund;
- (m) any benefit attributable to the Section 2 Account;
- (n) any amounts the Trustee may determine to debit because of a valid family law arrangement or a valid contributions splitting arrangement;
- (o) investment earnings at the Declared Rate (if negative); and
- (p) any other amounts which this Deed or this division I may require to be debited to the Section 2 Account or which the Trustee may determine to debit to the Section 2 Account.

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## **Part I.2.4 Benefits**

### **I.2.4.1 General.**

- (a) If any part of the Section 2 Member's Section 2 Account Balance is not subject to preservation under the Relevant Law, the Section 2 Member may request at any time that any or all of the non-preserved Section 2 Account Balance be paid to the Section 2 Member. However, any request for a partial payment must not be less than the minimum amount determined by the Trustee either generally or in any particular case.
- (b) The Trustee must make payments from a Section 2 Member's Section 2 Account subject to and in accordance with any Relevant Law.
- (c) The Trustee may pay to or in respect of a Section 2 Member all or any part of the Section 2 Member's Section 2 Account Balance in any other circumstances permitted under the Relevant Law, except that the Trustee shall not be required to consider the exercise of its powers under this clause I.2.4.1(c) in any particular case and shall not be required to give any person any reason for failing to do so.

### **I.2.4.2 Death benefits.**

If a Section 2 Member dies, there is payable in respect of the Section 2 Member in accordance with Part I.1.5 a lump sum benefit of an amount equal to the Section 2 Member's Section 2 Account Balance.

### **I.2.4.3 Salary continuance benefits.**

If:

- (a) a Section 2 Member becomes Temporarily Totally Disabled while a Section 2 Member; and
- (b) there is a current policy of Insurance effected with an Insurer in respect of that Section 2 Member's Temporary Disability,

there is payable to the Section 2 Member, subject to the policy, a benefit to be determined in accordance with the policy.

## Section 3 – PENSIONS

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### Part I.3 Market Linked Pension and Account Based Pension

#### I.3.1.1 Application of Part I.3.

- (a) This Part I.3 is always subject to Section 1 of this division I, and Section 1 of division I prevails over this Part I.3 to the extent of any conflict.
- (b) This Part I.3 only applies to and in respect of an Eligible Person who is a member of the Fund and who is for the time being categorised by the Trustee as a Member of this Part I.3.

#### I.3.1.2 Definitions.

In this Part I.3, unless the contrary intention appears or the context requires otherwise:

**“Account Based Pension”** means a pension which complies with the standards for an account based pension set out in the Relevant Law, including an account based pension paid as a “transition to retirement income stream”, as defined in the Superannuation Industry (Supervision) Regulations 1994 (Cth).

**“Account Based Pensioner”** means a Member who is receiving an Account Based Pension under this Part I.3.

**“Initial Credit”** means in relation to a Member the amount first transferred to Part I.3 by the Member to open the Pension Account for that Member.

**“Market Linked Pension”** means a pension which commenced to be paid before 20 September 2007 and complies with the standards for a market linked pension set out in the Relevant Law and, in particular, regulation 1.06(8) of the Superannuation Industry (Supervision) Regulations 1994 (Cth.).

**“Market Linked Pensioner”** means a Member who is receiving a Market Linked Pension under this Part I.3.

**“Member”** means a Member of this Part I.3, being a person who is eligible to be a Member under the Relevant Law and who is approved by the Trustee to become a Market Linked Pensioner or an Account Based Pensioner.

**“Part I.3 Pensioner”** means either a Market Linked Pensioner or an Account Based Pensioner (as applicable).

**“Pension Account”** means in relation to a Member the account of that name maintained in respect of the Member in accordance with clause I.3.1.3.

**“Pension Account Balance”** means in relation to a Member as at any particular date the credit balance (if any) in the Member’s Pension Account, after all relevant credits and debits have been made to the Account.

**“Reversionary Beneficiary”** means in relation to a Part I.3 Pensioner who has made a binding nomination in accordance with clause I.3.1.7, a person who is the subject of the nomination and who is, at the time of the Part I.3 Pensioner’s death, a Dependant of the Part I.3 Pensioner and eligible under the Relevant Law to receive an income stream on the death of the Part I.3 Pensioner.

### **I.3.1.3 Pension Account.**

(a) **Establishment.**

The Trustee must cause to be maintained in respect of each Part I.3 Pensioner in accordance with this Part I.3 an account to be called the Pension Account.

(b) **Credits and debits.**

Each Pension Account shall be credited with:

- (1) the Initial Credit;
- (2) investment earnings at the Declared Rate (if positive); and
- (3) any other amounts which this division I or this Deed may require to be credited to the Pension Account or which the Trustee may determine to credit to the Pension Account,

and each Pension Account shall be debited with:

- (4) any amounts which the Trustee may determine to debit in respect of Fund Expenses;
- (5) any amount transferred to an Approved Benefit Arrangement in respect of the Member which the Trustee determines to debit to the Pension Account;
- (6) any amounts transferred in respect of the Member to another Section of this division I or to another division of the Fund;
- (7) any benefit paid to or in respect of the Member from the Pension Account;
- (8) any benefit by way of commutation;
- (9) investment earnings at the Declared Rate (if negative); and
- (10) any other amounts which this division I or this Deed may require to be debited to the Pension Account or which the Trustee may determine to debit to the Pension Account.

### **I.3.1.4 Pension payments.**

Payments from the Pension Account must be made in accordance with the Relevant Law.

### **I.3.1.5 Contributions.**

Subject to Part A.2 of Division A, no contributions to the Fund are accepted under this Part I.3 after the commencement of the Market Linked Pension or Account Based Pension (as applicable).

### **I.3.1.6 Death of Part I.3 Pensioner.**

On the death of a Part I.3 Pensioner, the Trustee must pay the Part I.3 Pensioner's Pension Account Balance in accordance with:

- (a) if applicable, clause I.3.1.7; or
- (b) Part I.1.5 (excluding clause I.1.5(c)),

and may, in its discretion, establish a Market Linked Pension or an Account Based Pension for a person who is an eligible Dependant of the Part I.3 Pensioner and eligible under the Relevant Law to receive an income stream on the death of the Part I.3 Pensioner.



#### **I.3.1.7 Reversionary Beneficiary – binding nomination.**

On and from a date determined by the Trustee, a Part I.3 Pensioner may, with the consent of the Trustee and before the Market Linked Pension or Account Based Pension (as applicable) has commenced to be paid, nominate a Reversionary Beneficiary to receive the Market Linked Pension or Account Based Pension payments after the death of the Part I.3 Pensioner, provided that the nomination occurs in accordance with:

- (a) any procedures determined by the Trustee; and
- (b) the Relevant Law.

#### **I.3.1.8 Variations to enable compliance with Relevant Law.**

The Relevant Law contains specific provisions governing the payment of Market Linked Pensions and Account Based Pensions. Accordingly, the Trustee may vary any of the provisions of this Part I.3 or impose additional conditions in order to ensure that the Fund does not breach, or fail to comply with, the Relevant Law.

## **Section 4 – EMPLOYER-SPONSORED ACCUMULATION/DEFINED BENEFIT ARRANGEMENTS**

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### **I.4.1 Application of Section 4.**

- (a) This Section 4 is always subject to Section 1 of this division I, and Section 1 of division I prevails over this Section 4 to the extent of any conflict.
- (b) This Section 4 only applies to and in respect of an Eligible Person who is a member of the Fund and who is for the time being categorised as a Section 4 Member.
- (c) A person who is a member of an Approved Benefit Arrangement in relation to which there has been a Successor Fund Transfer is an Eligible Person who may be admitted as a Section 4 Member of the Fund subject to the Relevant Law and to the approval of, and any conditions imposed by, the Trustee.

### **I.4.2 Definitions.**

In this Section 4, unless the contrary intention appears or the context requires otherwise:

**“Participation Agreement”** means an agreement between the Trustee and an Employer under Part A.12.

**“Participation Schedule”** means any schedule to a Participation Agreement which sets out the particulars of participation for any Employer that participates in Section 4 and the benefits of the Employer’s Employees to be provided from the Fund.

**“Successor Fund Transfer”** means a transfer of members and benefits from an Approved Benefit Arrangement to the Fund in accordance with the standards imposed under the Relevant Law in relation to transfers of members between funds without consent.

### **I.4.3 Benefits.**

A Section 4 Member is entitled to benefits calculated and payable on the terms and conditions provided in the Participation Schedule.

**Executed as a deed.**

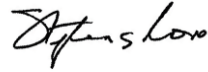
**EXECUTED** by **VISION SUPER PTY LTD, ABN 50 082 924 561** by being signed by its duly authorised representatives:



~~Director~~/Secretary

Noelle Kelleher

Name (please print)



~~Director~~/CEO

Stephen Rowe

Name (please print)

## ACTUARY'S CERTIFICATE

I, \_\_\_\_\_, being a Fellow of the Institute of Actuaries of Australia, **HEREBY CERTIFY** that the alterations and additions to and the repeal of the provisions of the Trust Deed of the Local Authorities Superannuation Fund made by the Amending Deed to which this certificate is annexed will not adversely alter a Beneficiary's right or claim to accrued benefits or the amount of those accrued benefits as at the date of the amendment in any manner prohibited by the *Superannuation Industry (Supervision) Act 1993*.

.....  
Name

.....  
Date