

Complying Pensions

16.1 Interpretation:

- (a) The Trustees may by resolution determine to pay the following types of pensions and in accordance with the following provisions however they are subject to the Superannuation Conditions and to the SIS Act.
- (b) The Trustees are not bound to pay the pensions referred to in this rule however if they do so resolve then the Trustees must comply with the applicable provisions and those provisions apply despite the provisions of any other rule, unless the Trustees otherwise determine.
- (c) Where a provision of the following rules refers to "rules" and where these governing rules do not specify or do not sufficiently specify the matter to which the provision refers, the Trustees may, subject to the SIS Act, determine that matter by resolution, whether or not the matter refers to the size of the payments of a benefit in a year being fixed, variations to allow payments under a payment split, the amount of any reversionary benefit or determination as to who is entitled to a reversionary benefit or reversionary pension or the amount of same or anything else. Any such resolution of Trustees shall be deemed to be part of and included in these rules.
- (d) If the SIS Act prohibits the payment of a particular pension (for example, some defined benefit pensions cannot be paid in some circumstances by funds with less than 50 members) then the following provisions do not permit the payment of any such prohibited pension unless permitted by the SIS Act.
- (e) To the extent that the provisions in this rule are inconsistent with the SIS Act, they are varied and are deemed to be included in these rules. Subject to the SIS Act the Trustees may pay any other pension that is not prohibited by the SIS Act and the Superannuation Conditions.
- (f) The Trustees may declare in writing a rule specifying the terms of a pension paid or to be paid in accordance with the SIS Regulations and such rule shall apply to that pension and the recipient's consent must be obtained if required by the SIS Act or the Superannuation Conditions. Without limiting the form of writing such writing may include a deed signed by the Trustees and the Member or other applicable recipient.

16.2 Pensions:

- (1) A benefit may be paid as a pension if:
 - (a) it meets the standards of SIS Regulation 1.06(9A) (see paragraph 16.2(9A)) of these Rules; and
 - (b) in the case of rules to which SIS Regulation 1.06(9A)(a) applies (see paragraph 16.2(9A)(a) of these Rules) — the rules also meet the standards of SIS Regulation 1.07D (see paragraph 16.3D of these Rules); and
 - (c) in the case to which SIS Regulation 1.06(9A)(b) applies — the rules also meet the standards of SIS Regulation 1.07B (see paragraph 16.3B of these Rules).
- (1A) A benefit that is commenced to be paid before 20 September 2007 may be paid as a pension if:
 - (a) it is provided under these rules in accordance with Regulation 1.06 (2), (4), (6), (7) or (8) (see paragraph 16.2(2), (4), (6), (7) and (8) of these Rules); and

- (b) where the primary beneficiary became entitled to the benefit on or after 20 September 1998 under these rules that meets the provisions of SIS Regulation 1.06(7) (see paragraph 16.2(7)), the commencement day is to be the day when the primary beneficiary became entitled to the pension; and;
- (c) for a benefit that is provided under these rules that meet the provisions of SIS Regulation 1.06(4) — the rules also meet the standards of regulation 1.07A (see paragraph 16.3A of these Rules); and
- (d) for a benefit that is provided under these rules that meet the provisions of Regulation 1.06 (2), (6) or (7) (see paragraphs 16.2(2) (6) and (7)) — the rules also meet the provisions of regulation 1.07B (see paragraph 16.3(B) of these Rules); and
- (e) for a benefit that is provided under the rules that meet the provisions of Regulation 10.6 (8), and has a commencement day on or after 20 September 2004 — the rules also meet the provisions of regulation 1.07C (see paragraph 16.3C of these Rules).

(1B) A benefit may be paid as a pension if it commenced to be paid on or after 20 September 2007 and:

- (a) the benefit meets the standards of:
 - (i) Regulation 1.06(7) or (8) (see paragraph 16.2(7) and (8)); and
 - (ii) Regulation 1.06(9A) (see paragraph 16.2 (9A)); and
- (b) the benefit was purchased with a rollover superannuation benefit that resulted from the commutation of:
 - (i) an annuity provided under a contract that meets the standards of SIS Regulation 1.05(2), (9) or (10); or
 - (ii) a pension provided under rules that meet the standards of SIS Regulation 1.06 (2), (7) or (8) (see paragraph 16.2 (2), (7) and (8)); or
 - (iii) a pension provided under terms and conditions that meet the standards of SIS Regulation 1.07(3A) of the RSA Regulations; and
- (c) for a benefit that arises under rules that meet the standards of SIS Regulation 1.06(7) — the rules also meet the standards of Regulation 1.07B (see paragraph 16.3(B)); and
- (d) for a benefit that arises under rules that meet the standards of SIS Regulation 1.06(8) — the rules also meet the standards of Regulation 1.07C (see paragraph 16.3(C)).

Lifetime Pensions

- (2) This type of pension is called a lifetime pension:
 - (a) the pension must be paid at least annually throughout the life of the primary beneficiary in accordance with paragraphs (b) and (c) and, if there is a reversionary beneficiary:
 - (i) throughout the reversionary beneficiary's life; or
 - (ii) if he or she is a child of the primary beneficiary or of a former reversionary beneficiary under the pension — at least until his or her 16th birthday; or

- (iii) if the person referred to in subparagraph (ii) is a full-time student at age 16 — at least until the end of his or her full-time studies or until his or her 25th birthday (whichever occurs sooner); and
- (b) the size of payments of benefit in a year is fixed by the Trustees, allowing for variation only:
 - (i) as the Trustee determines in its discretion; or
 - (ii) to allow commutation to pay a superannuation contributions surcharge; or
 - (iii) to allow an amount to be paid under a payment split and reasonable fees in respect of the payment split to be charged; and
- (c) unless the Regulator otherwise approves, the sum payable as benefit in each year to the primary beneficiary or to the reversionary beneficiary, as the case may be, is:
 - (i) if CPI_c is not less than CPI_p — not less than SP_p ; or
 - (ii) if CPI_c is less than CPI_p — not less than:

$$\frac{CPI_c}{CPI_p} \times SP_p$$

where:

CPI_c means the quarterly CPI first published by the Australian Statistician for the second-last quarter before the day on which payment is to be made.

CPI_p means the quarterly CPI first published by the Australian Statistician for the same quarter in the immediately preceding year.

SP_p means the sum payable in the immediately preceding year; and

- (d) the pension does not have a residual capital value; and
 - (e) the pension cannot be commuted except:
 - (i) if the pension is not funded from the commutation of:
 - (A) an annuity that meets the standards of subregulation 1.05(2), (3), (9) or (10) of the SIS Regulations; or
 - (B) another pension that meets the standards of this subregulation or subregulation (3), (7) or (8); or
 - (C) a pension that meets the standards of subregulation 1.07(3A) of the RSA Regulations
- and the commutation is made within 6 months after the commencement day of the pension; or
- (ii) if the commutation is made to the benefit of a reversionary beneficiary on the death of the primary beneficiary — within one of the following periods after the commencement day of the pension:
 - (A) if the primary beneficiary's life expectancy on the commencement day, rounded up to the next whole number, is a period less than 20 years — that period;
 - (B) in any other case — 20 years; or

- (iii) if the Superannuation lump sum resulting from the commutation is transferred directly for the purpose of purchasing another benefit provided under:
 - (A) rules that meet the provisions of this subregulation or subregulation (3), (7) or (8); or
 - (B) a contract that meets the provisions of subregulation 1.05 (2), (3), (9) or (10) of the SIS Regulations; or
 - (C) terms and conditions that meet the standards of subregulation 1.07(3A) of the RSA Regulations; or
 - (iv) to pay a superannuation contributions surcharge; or
 - (v) to give effect to an entitlement of a non-member spouse under a payment split; or
 - (vi) to pay an amount to give effect to a release authority under S292-415 or S292-80C of the Tax Act (1997), in respect of the primary beneficiary; and
 - (f) if the pension reverts or is commuted, it does not have a reversionary component greater than 100% of the benefit that was payable before the reversion or the commutation; and
 - (g) the pension is not able to be transferred to a person other than a reversionary beneficiary on the death of the primary beneficiary or of another reversionary beneficiary; and
 - (h) the capital value of the pension and the income from it, cannot be used as security for a borrowing.
- (3) For the purpose of determining whether rules meet the provisions in SIS Regulation 1.06(2) (see paragraph 16.2(2)), it is immaterial that:
- (a) if the primary beneficiary dies within the period used for SIS Regulation 1.06(2)(e)(ii) (see paragraph 16.2(e)(ii)), a surviving reversionary beneficiary may obtain a payment equal to the total payments that the primary beneficiary would have received, if the primary beneficiary had not died, from the day of the death until the end of the period; and
 - (b) if the primary beneficiary dies within the period used for SIS Regulation 1.06(2)(e)(ii) and there is no surviving reversionary beneficiary, an amount, not exceeding the difference between the sum of the amounts paid to the primary beneficiary and the sum of the amounts that would have been so payable in the period, is payable to the primary beneficiary's estate; and
 - (c) if the primary beneficiary dies within the period used for SIS Regulation 1.06(2)(e)(ii) and there is a surviving reversionary beneficiary who also dies within that period, there is payable to the reversionary beneficiary's estate an amount determined as described in paragraph (b) as if that paragraph applied to the reversionary beneficiary.

Allocated Pensions

- (4) (a) This type of pension is called an allocated pension:
- (b) the size of payment of benefits in a year is not fixed;
- (c) the provisions of SIS Regulation 1.06(2)(g) & (h) (see paragraphs 16.2(2)(g) and (h)) are met; and
- (d) payments must be made at least annually; and

- (e) for a pension that has a commencement day on and after 22 December 1992 and before 1 January 2006 — the payments in a year (excluding payments by way of commutation but including payments made under a payment split) are not larger or smaller in total than, respectively, the maximum and minimum limits calculated in accordance with Schedule 1A of the SIS Regulations; and
 - (f) for a pension that has a commencement day on or after 1 January 2006 — the payments in a year (excluding payments by way of commutation but including payments made under a payment split) are not larger or smaller in total than the following:
 - (i) for payments made during the period starting on 1 January 2006 and ending on 30 June 2006 — the respective maximum and minimum limits for the year calculated in accordance with 1 of the following Schedules:
 - (A) Schedule 1A;
 - (B) Schedule 1AAB;
 - (ii) for payments made on or after 1 July 2006 — the respective maximum and minimum limits for the year calculated in accordance with Schedule 1AAB.
- (5) For the purpose of determining whether rules meet the provisions of SIS Regulation 1.06(4) (see paragraph 16.2(4)), it is immaterial that:
- (a) (i) the commencement day of the pension occurs on or after 1 June in a financial year; and
 - (ii) these rules do not provide for the payment of an amount in that financial year that meets the standard for the minimum amount in that subregulation; or
 - (b) these rules do not ensure that the payments in the year in which the pension is to end meet the standard for the minimum amount in that subregulation.

Defined Pensions

- (6) (a) This type of pension is called a defined pension:
- (b) the size of the payments of benefit in a year is fixed, allowing for variation only as specified in the rules or to allow payments to be made under a payment split; and
- (c) the commencement day is on or after 1 July 1994;
- (d) the provisions of SIS Regulation 1.06(2)(f), (g) and (h) (see paragraphs 16.2(2)(f), (g) and (h)) must be met; and
- (e) except in relation to payments, by way of commutation for superannuation contributions surcharge, variation in payments from year to year does not exceed, in any year, the average rate of increase of the CPI in the preceding 3 years; and
- (f) payments in accordance with the contracted size are to be made at least annually; and
- (g) the pension can be commuted — except if conversion is in relation to a commutation to pay a superannuation contributions surcharge, the conversion to a lump sum is limited to a sum that is not greater than the sum determined by applying the appropriate pension valuation factor under Schedule 1B of the SIS Regulations to the pension as if the commencement day were the day on which the commutation occurs.

Life Expectancy Pensions:

- (7) This type of pension is called a life expectancy pension:
 - (a) for a pension that has a commencement day before 20 September 2004:
 - (i) if the life expectancy of the primary beneficiary on the commencement day is less than 15 years — the pension is to be paid at least annually to the primary beneficiary or to a reversionary beneficiary throughout a period equal to the primary beneficiary's life expectancy on the commencement day, rounded up, at the primary beneficiary's option, to the next whole number if the primary beneficiary's life expectancy does not consist of a whole number of years; or
 - (ii) if the life expectancy of the primary beneficiary on the commencement day is 15 years or more — the pension is to be paid at least annually to the primary beneficiary or to a reversionary beneficiary throughout a period that is not less than 15 years but not more than the primary beneficiary's life expectancy on the commencement day, rounded up, at the primary beneficiary's option, to the next whole number if the primary beneficiary's life expectancy does not consist of a whole number of years; and
 - (b) for a pension that has a commencement day on or after 20 September 2004:
 - (i) the pension is to be paid at least annually to the primary beneficiary or to a reversionary beneficiary throughout a period equal to the primary beneficiary's life expectancy on the commencement day, rounded up to the next whole number if the primary beneficiary's life expectancy does not consist of a whole number of years; or
 - (ii) the pension is to be paid at least annually to the primary beneficiary or to a reversionary beneficiary throughout a period equal to the primary beneficiary's life expectancy mentioned in subparagraph (i) calculated, at the option of the primary beneficiary, as if the primary beneficiary were up to 5 years younger on the commencement day; or
 - (iia) if the pension has a commencement day on or after 1 January 2006 — the pension is paid at least annually to the primary beneficiary or reversionary beneficiary throughout a period that is not less than the period available under subparagraph 16.2 (7)(b)(ii), and not more than the greater of the following periods:
 - (A) the maximum period available under subparagraph 16.2 (7)(b)(ii);
 - (B) the period of years equal to the number that is the difference between the age attained by the primary beneficiary at his or her most recent birthday before the commencement day, and 100; or
 - (iii) if:
 - (A) the pension is a pension that reverts to a surviving spouse on the death of the primary beneficiary; and
 - (B) the life expectancy of the primary beneficiary's spouse is greater than the life expectancy of the primary beneficiary; and
 - (C) the primary beneficiary has not chosen to make an arrangement mentioned in subparagraph (i), (ii) or (iia) for the pension;

the pension is paid at least annually to the primary beneficiary or to a reversionary beneficiary throughout a period equal to:

- (D) the life expectancy of the spouse on the commencement day; or
- (E) the life expectancy of the spouse calculated, at the option of the primary beneficiary, as if the spouse were up to 5 years younger on the commencement day;
- (F) if the pension has a commencement day on or after 1 January 2006 – a period not less than the period available under sub-subparagraph 16.2 (7)(b)(iii)(D), and not more than the greater of the following periods:
 - (I) the maximum period available under sub-subparagraph 16.2 (7)(b)(iii)(E);
 - (II) the period of years equal to the number that is the difference between the age attained by the spouse at his or her most recent birthday before the commencement day, and 100;

at the option of the primary beneficiary, and rounded up to the next whole number if the life expectancy of the spouse does not consist of a whole number of years; and
- (c) the total amount of the payment, or payments, to be made in the first year after the commencement day (not taking commuted amounts into account) is fixed and that payment, or the first of those payments, relates to the period commencing on the day the primary beneficiary became entitled to the pension; and
- (d) the total amount of the payments to be made in a year other than the first year after the commencement day (not taking commuted amounts into account) does not fall below the total amount of the payments made in the immediately preceding year (the *previous total*), and does not exceed the previous total:
 - (i) if CPI_c is less than or equal to 4% — by more than 5% of the previous total; or
 - (ii) if CPI_c is more than 4% — by more than $CPI_c + 1\%$;

where:

CPI_c is the change (if any), expressed as a percentage, determined by comparing the quarterly CPI first published by the Australian Statistician for the second-last quarter before the day on which the first of those payments is to be made and the quarterly CPI first published by the Australian Statistician for the same quarter in the immediately preceding year;

and
- (e) the total amount of the payments to be made in a year in accordance with paragraph (c) or (d) may be varied only:
 - (i) to allow commutation to pay a superannuation contributions surcharge; or
 - (ii) to allow an amount to be paid under a payment split and reasonable fees in respect of the payment split to be charged; and
- (f) the pension does not have a residual capital value; and
- (g) the pension cannot be commuted except:
 - (i) if the pension is not funded from the commutation of:
 - (A) an annuity that meets the standards of subregulation 1.05(2), (3), (9) or (10) of the SIS Regulations; or

- (B) a pension that meets the standards of this subregulation or subregulation (2), (3) or (8); or
- (C) a pension that meets the standards of subregulation 1.07(3A) of the RSA Regulations;
 - and the commutation is made within 6 months after the commencement day of the pension; or
- (ii) subject to subparagraph (iv), by payment, on the death of the primary beneficiary, to the benefit of a reversionary beneficiary or, if there is no reversionary beneficiary, to the estate of the primary beneficiary; or
- (iii) subject to subparagraph (iv), by payment, on the death of a reversionary beneficiary, to the benefit of another reversionary beneficiary, or, if there is no other reversionary beneficiary, to the estate of the reversionary beneficiary; or
- (iv) for subparagraphs (ii) and (iii), if the primary beneficiary has opted, under subparagraph (b) (iii), for a period worked out in relation to the life expectancy of the primary beneficiary's spouse — the pension cannot be commuted until the death of both the primary beneficiary and the spouse; or
- (v) if the Superannuation lump sum resulting from the commutation is transferred directly to the purchase of another benefit that is:
 - (A) an annuity provided under a contract that meets the provisions of subregulation (2), (3) (9) or (10); or
 - (B) a pension that is provided under rules that meet the provisions of subregulation 16.2 (2), (3) or (8) or this subregulation; or
 - (C) a pension that is provided under terms and conditions that meet the provisions of subregulation 1.07 (3A) of the RSA Regulations; or
- (vi) to pay a superannuation contributions surcharge; or
- (vii) to give effect to an entitlement of a non-member spouse under a payment split; or
- (viii) to pay an amount to give effect to a release authority under S292-415 or S292-80C of the Tax Act (1997), in respect of the primary beneficiary; and
- (h) if the pension reverts, it does not have a reversionary component greater than 100% of the benefit that was payable before the reversion; and
- (i) if the pension is commuted, the commuted amount cannot exceed the benefit that was payable immediately before the commutation; and
- (j) the pension cannot be transferred to a person except:
 - (i) on the death of the primary beneficiary, to a reversionary beneficiary or, if there is no reversionary beneficiary, to the estate of the primary beneficiary; or
 - (ii) on the death of a reversionary beneficiary, to another reversionary beneficiary or, if there is no other reversionary beneficiary, to the estate of the reversionary beneficiary; and
- (k) the capital value of the pension, and the income from it, cannot be used as security for a borrowing.

Market Linked Pensions

(8) (a) This type of pension is called a market linked pension:

(i) it is to be paid at least annually to the primary beneficiary or to a reversionary beneficiary throughout a period equal to the primary beneficiary's life expectancy on the commencement day of the pension, rounded up to the next whole number if the primary beneficiary's life expectancy does not consist of a whole number of years; or

(ii) it is to be paid at least annually to the primary beneficiary or to a reversionary beneficiary throughout a period equal to the primary beneficiary's life expectancy mentioned in subparagraph (i) calculated, at the option of the primary beneficiary, as if the primary beneficiary were up to 5 years younger on the commencement day; or

(iii) if the pension has a commencement day on or after 1 January 2006 – the pension is paid at least annually to the primary beneficiary or reversionary beneficiary throughout a period that is not less than the period available under subparagraph 16.2 (8)(a)(i), and not more than the greater of the following periods:

(A) the maximum period available under subparagraph 16.2 (8)(a)(ii);

(B) the period of years equal to the number that is the difference between the age attained by the primary beneficiary at his or her most recent birthday before the commencement day, and 100; or

(iii) if:

(A) the pension reverts to a surviving spouse on the death of the primary beneficiary; and

(B) the life expectancy of the primary beneficiary's spouse is greater than the life expectancy of the primary beneficiary; and

(C) the primary beneficiary has not chosen to make an arrangement mentioned in subparagraph (i), (ii) or (iii) for the pension;

the pension is to be paid at least annually to the primary beneficiary or to a reversionary beneficiary throughout a period equal to:

(D) the life expectancy of the spouse on the commencement day; or

(E) the life expectancy of the spouse calculated, at the option of the primary beneficiary, as if the spouse were up to 5 years younger on the commencement day;

(F) if the pension has a commencement day on or after 1 January 2006 – a period not less than the period available under sub-subparagraph 16.2 (8)(a)(iii)(D), and not more than the greater of the following periods:

(I) the maximum period available under sub-subparagraph 16.2 (8)(a)(iii)(E);

(II) the period of years equal to the number that is the difference between the age attained by the spouse at his or her most recent birthday before the commencement day, and 100;

at the option of the primary beneficiary, and rounded up to the next whole number if the life expectancy of the spouse does not consist of a whole number of years; and

(b) the total amount of the payments to be made in a year (excluding payments by way of commutation but including payments made under a payment split) is determined in accordance with Schedule 6 of the SIS Regulations; and

(c) the market linked pension does not have a residual capital value; and

(d) the market linked pension cannot be commuted except:

(i) if the pension:

(A) is not funded from the commutation of:

(I) an annuity that is provided under a contract that meets the standards of subregulation 1.05 (2), (3), (9) or (10) of the SIS Regulations; or

(II) another pension that is provided under rules that meet the standards of this subregulation, or subregulation 16.2 (2), (3) or (7); or

(III) another pension that is provided under terms and conditions that meet the standards of subregulation 1.07 (3A) of the RSA Regulations; and

(B) the commutation is made within 6 months after the commencement day of the pension; or

(ii) subject to subparagraph (iii), on the death of the primary beneficiary or reversionary beneficiary, by payment of:

(A) a lump sum or a new pension to one or more dependants of either the primary beneficiary or reversionary beneficiary; or

(B) a lump sum to the legal personal representative of either the primary beneficiary or reversionary beneficiary; or

(C) if, after making reasonable enquiries, the provider of the pension is unable to find a person mentioned in sub-subparagraph (A) or (B) — a lump sum to another individual; or

(iii) for subparagraph (ii), if the primary beneficiary has opted, under subparagraph (a) (iii), for a period worked out in relation to the life expectancy of the primary beneficiary's spouse — the market linked pension cannot be commuted until the death of both the primary beneficiary and the spouse; or

(iv) if the Superannuation lump sum resulting from the commutation is transferred directly to the purchase of another benefit that is:

(A) an annuity provided under a contract that meets the standards of subregulation 1.05 (2), (3), (9) or (10) of the SIS Regulations; or

(B) a pension that is provided under rules that meet the standards of this subregulation, or subregulation 16.2 (2), (3) or (7); or

(C) a pension that is provided under terms and conditions that meet the standards of subregulation 1.07 (3A) of the RSA Regulations; or

(v) to pay a superannuation contributions surcharge; or

(vi) to give effect to an entitlement of a non-member spouse under a payment split; or

(vii) to pay an amount to give effect to a release authority under S292-415 or S292-80C of the Tax Act (1997), in respect of the primary beneficiary; and

- (e) if the market linked pension reverts — it does not have a reversionary component greater than 100% of the account balance immediately before the reversion; and
 - (f) if the market linked pension is commuted — the commutation amount cannot exceed the account balance immediately before the commutation; and
 - (g) the market linked pension can be transferred only:
 - (i) on the death of the primary beneficiary:
 - (A) to 1 of the Dependants of the primary beneficiary; or
 - (B) to the legal personal representative of the primary beneficiary; or
 - (ii) on the death of the reversionary beneficiary:
 - (A) to 1 of the Dependants of the reversionary beneficiary; or
 - (B) to the legal personal representative of the reversionary beneficiary; and
 - (h) the capital value of the market linked pension, and the income from it, cannot be used as security for a borrowing.
- (9) Rules mentioned in subregulation (8) of regulation 1.06 are not prevented from meeting the standards of that subregulation by reason only that the rules provide that, if the commencement day of the pension is on or after 1 June in a financial year, no payment is required to be made for that financial year.

Simple Super Pensions – with effect from 1 July 2007

- (9A) This pension (*the pension*) meets the standards of SIS Regulation 1.06(9A) if it is paid at least annually, and that:
- (a) for a pension in relation to which there is an account balance attributable to the beneficiary — the total of payments in any year (including under a splitting order) is at least the amount calculated under clause 1 of Schedule 7 of the SIS Regulations; and
 - (b) for a pension that is not described in paragraph (a):
 - (i) both of the following apply:
 - (A) the pension cannot have a residual capital value, commutation value or withdrawal benefit greater than 100% of the purchase price of the pension; and
 - (B) the total of payments in any year (including under a splitting order) is at least the amount calculated under clause 2 of Schedule 7 of the SIS Regulation; or
 - (ii) each of the following applies:
 - (A) the pension is payable throughout the life or for a fixed term of years that is no greater than the difference between the beneficiary's age on the commencement day and the age of 100;
 - (B) there is no arrangement for an amount (or percentage of the purchase price) to be returned to the recipient when the payment of the pension ends;
 - (C) the total payments from the pension in the first year (including under a payment split) is at least the amount calculated under clause 2 of Schedule 7 of the SIS Regulations;
 - (D) the total of payments from the pension in a subsequent year cannot vary from the total of payments in the previous year unless the variation is as a result of an indexation arrangement or the transfer of the pension to another person;

- (E) if the pension is commuted, the commutation amount cannot exceed the benefit that was payable immediately before the commutation; or
 - (iii) the rules meet the standards of regulation 1.06(2); and
 - (c) the pension is transferable to another person only on the death of the beneficiary (primary or reversionary, as the case may be); and
 - (d) the capital value of the pension and the income from it cannot be used as a security for a borrowing.
- (9B) Rules for the provision of a benefit do not meet the standards of any of Regulations 1.06(2) to (9A) (see paragraphs 16.2(2) to 16.2(9A)) if, in relation to the death of the beneficiary on or after 1 July 2007, the pension is transferred to a person who would not be eligible to be paid a benefit in the form of a pension under SIS Regulation 6.21(2A) or (2B).
- (10) Despite subregulation 9 of the *Income Tax Regulations 1936*, for a pension that has a commencement day on or after 20 September 2004 and on or before 31 December 2004, one of the following life tables are to be used in ascertaining the life expectancy of a person under this regulation:
- (a) the most recently published Australian Life Tables;
 - (b) the *1995-97 Australian Life Tables*.
- (11) In this regulation:
- indexation arrangement*, in relation to a pension, means an arrangement specified in the rules for the provision of the pension that:
- (a) either:
 - (i) results in the total amount of pension payments in each year increasing by the same percentage factor; or
 - (ii) results in the total amount of pension payments in each year being adjusted in line with movements in:
 - (A) the Consumer Price Index; or
 - (B) an index of average weekly earnings published by the Australian Statistician; and
 - (b) ensures that, unless APRA otherwise approves, an adjustment is made at least annually to the amount of the pension payments.

Non-Commutable pensions

- (12) (a) This type of pension is called a non-commutable pension:
- (i) it meets the standards of regulation 1.06(2), (7) or (8) (see paragraph 16.2(2), (7) and (8) of these Rules); and
 - (ii) if the pension is commuted under paragraph 1.06(2)(e)(i), (7)(g)(i) or (8)(d)(i) (see paragraphs 16.2(e)(i), (7)(g)(i) and (8)(d)(i) of these Rules), the resulting superannuation lump sum cannot be cashed unless:
 - (A) the purpose of the commutation is to cash an unrestricted non-preserved benefit; or

- (B) before commutation, the pensioner has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted preserved benefits is "Nil".

Non-Commutable allocated pensions

- (b) This type of pension is called a non-commutable allocated pension where:
- (i) the provisions of regulation 1.06 (4) are met (see paragraph 16.2(4) of these Rules); and
 - (ii) if the pension is commuted, the resulting superannuation lump sum cannot be cashed unless:
 - (A) the purpose of the commutation is:
 - (I) to cash an unrestricted non-preserved benefit; or
 - (II) to pay a superannuation contributions surcharge; or
 - (III) to give effect to an entitlement of a non-member spouse under a payment split; or
 - (IV) to ensure that a payment may be made to give effect to a release authority under S292-14 or S292-80C Tax Act (1997); or

- (B) before commutation, the pensioner has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted preserved benefits is "Nil".

16.2B Transition to Retirement Income Streams

This is a pension the rules of which:

- (i) are rules
 - (A) to which regulation 1.06 (9A) applies (see paragraph 16.2(9A) of these Rules); and
 - (B) that meet the standards of regulation 1.06 (9A); and
- (ii) allow total payments (including payments under a payment split) made in any financial year to amount to no more than 10% of the pension account balance.
 - (A) on 1 July in the financial year in which the payment is made; or
 - (B) if that year is the year in which the pension commences – on the commencement day; and
- (iii) comply with paragraph (b) of the definition of *non-commutable allocated pension* in SIS Regulation 6.01 (see paragraph 16.2(12)(b) of these Rules), as if it were such a pension.

16.3 Periods when beneficiary may not receive benefits

A benefit is not taken not to meet the provisions of SIS Regulation 1.06 (see paragraph 16.2 of these rules) by reason only that payments of benefit to the beneficiary have been properly suspended during a period when the beneficiary is the holder of a paid public office.

16.3A Commutation of allocated annuities and pensions

- (1) This provision applies in relation to the rules in paragraph 16.2(1)(c) for a benefit (in this regulation called the *pension*).

- (2) The pension cannot be commuted, in whole or in part, unless:
- (a) the commutation results from the death of an annuitant or pensioner or a reversionary annuitant or reversionary pensioner; or
 - (b) the sole purpose of the commutation is:
 - (i) to pay a superannuation contributions surcharge; or
 - (ii) to give effect to an entitlement of a non-member spouse under a payment split; or
 - (iii) to meet the rights of a client to return a financial product under Division 5 of Part 7.9 of the *Corporations Act 2001*; or
 - (ba) for a commutation in part – the account balance of the pension immediately after the commutation in part, would be equal to or would exceed the minimum limit under Schedule 1AAB, whichever is applicable to the pension under SIS Regulation 1.06(4) as reduced by the amount of payments to the pensioner already made in the financial year in which the commutation in part would occur; or
 - (c) the pension has paid, in the financial year in which the commutation is to take place, at least the minimum amount under subregulation (3) (see next paragraph).
- (3) For paragraph (2)(c) (see next paragraph), the minimum amount is calculated using the formula:

$$\text{Minimum annual amount} \times \frac{\text{Days in payment period}}{\text{Days in financial year}}$$

where:

Days in payment period means the number of days in the period that:

- (a) begins on:
 - (i) if the annuity or pension commenced in the financial year in which the commutation is to take place — the commencement day; or
 - (ii) otherwise — 1 July in that financial year; and
- (b) ends on the day on which the commutation is to take place.

Days in financial year means the number of days in the financial year in which the commutation is to take place (365 or 366).

Minimum annual amount for the financial year means:

- (a) for an annuity mentioned in SIS Regulation 1.07A(1)(b) — the minimum limit worked out in accordance with clause 2 of Schedule 1A or 1AAB of the SIS Regulations as the case may be as if the annuity account balance was the amount of the annuity account that is allocated by the annuity provider to make payments whose size is not fixed, in accordance with subparagraph 1.05 (8) (c) (ii) of the SIS Regulations; and
 - (b) otherwise — the minimum limit worked out in accordance with clause 2 of Schedule 1A or 1AAB as the case may be of the SIS Regulations;
- rounded to the nearest 10 whole dollars.

16.3B Commutation of other annuities and pensions

- (1) This provision applies subject to the SIS Regulations from 1 July 2007 in relation to rules of a superannuation fund mentioned in SIS Regulation 1.06(1)(c) (see paragraph 16.2(1)(c) of these rules) or SIS Regulation 1.06(1A)(d) (see paragraph 16.2(1A)(d)) for a benefit (in this regulation called the *pension*).
- (2) For this provision, other than for SIS Regulation 1.07(B)(5) (see paragraph 16.3B(5)), the *payment year* for an annuity or pension means the period of 12 months that begins on the day after:
- the commencement day; or
 - the anniversary of the commencement day.
- (3) The pension cannot be commuted, in whole or in part, unless:
- the commutation results from the death of an annuitant or pensioner or a reversionary annuitant or reversionary pensioner; or
 - the sole purpose of the commutation is:
 - to pay a superannuation contributions surcharge; or
 - to give effect to an entitlement of a non-member spouse under a payment split; or
 - to meet the rights of a client to return a financial product under Division 5 of Part 7.9 of the *Corporations Act 2001*; or
 - the annuity or pension has paid, in the payment year in which the commutation is to take place, at least the minimum amount under SIS Regulation 1.07B(4) (see next paragraph).
- (4) For paragraph (3)(c) (see previous paragraph), the minimum amount is calculated using the formula:

$$\text{Minimum annual amount} \times \frac{\text{Days in payment period}}{\text{Days in payment year}}$$

where:

Days in payment period means:

- the number of days in the period that:
 - begins on:
 - the day after the anniversary of the commencement day that occurs before the day on which the commutation is to take place; or
 - if the annuity or pension commenced on the day before the start of the payment year in which the commutation is to take place — the day after the commencement day; and
 - ends on the day on which the commutation is to take place; or
- if SIS Regulation 1.07B(5) applies (see next paragraph) — 1 day.

Days in payment year means the number of days in the payment year in which the commutation is to take place (365 or 366).

Minimum annual amount means:

- for an annuity mentioned in SIS Regulation 1.07B(1)(b) — the minimum amount that the annuity would pay as fixed-size payments in the payment year if the annuity were not commuted; and
 - otherwise — the minimum amount that the annuity or pension would pay in the payment year if the annuity or pension were not commuted.
- (5) If the commencement day for an annuity or a pension is the day on which the commutation of the annuity or pension is to take place:
- the payment year is taken to commence on the commencement day and end on the day before the anniversary of the commencement day; and
 - there is taken to be 1 day in the payment period.
- (6) If, to calculate the minimum annual amount, it is necessary to use a future unknown value of the CPI, that value is taken to be equal to the CPI for the last known quarter.

16.3C Commutation of market linked income stream

- (1) This provision applies in relation to the following:
- a contract mentioned in SIS Regulation 1.05(1)(g) of the SIS Regulations for a market linked annuity;
 - rules mentioned in SIS Regulation 1.06(1A)(e) (see paragraph 16.2(1A)(e)) for a market linked pension.
- (2) The pension cannot be commuted, in whole or in part, unless:
- the commutation results from the death of an annuitant or pensioner or a reversionary annuitant or reversionary pensioner; or
 - the sole purpose of the commutation is:
 - to pay a superannuation contributions surcharge; or
 - to give effect to an entitlement of a non-member spouse under a payment split; or
 - to meet the rights of a client to return a financial product under Division 5 of Part 7.9 of the *Corporations Act 2001*; or
 - for a commutation in part — the account balance of the annuity or pension, immediately after the commutation in part, would be equal to or would exceed the total payment amount calculated in accordance with Schedule 6 of the SIS Regulations, as reduced by the amount of income payments already made in the financial year in which the commutation in part would occur; or
 - the annuity or pension has paid, in the financial year in which the commutation is to take place, at least the minimum amount under Regulation 1.07C(3) (see next paragraph).
- (3) For paragraph (2)(c) (see previous paragraph), the minimum amount is calculated using the formula:

$$\text{annual amount} \times \frac{\text{Days in payment period}}{\text{Days in financial year}}$$

where:

annual amount for the financial year means the amount worked out in accordance with Schedule 6 of the SIS Regulations for the annuity or pension, rounded to the nearest 10 whole dollars.

days in payment period means the number of days in the period that:

- (a) starts on:
 - (i) if the annuity or pension commenced in the financial year in which the commutation is to take place — the commencement day; or
 - (ii) in any other case — 1 July in that financial year; and
- (b) ends at the end of the day on which the commutation is to take place.

days in financial year means the number of days in the financial year in which the commutation is to take place.

16.3D Commutation of superannuation income stream

- (1) For Regulation 1.06(1)(b) (see paragraph 16.2(1)(b) of these Rules), a benefit meets the standards of this regulation if, under the applicable rules, the pension cannot be commuted, in whole or in part, except in the following circumstances:
 - (a) the commutation results from the death of the annuitant or pensioner or a reversionary annuitant or reversionary pensioner; or
 - (b) the sole purpose of the commutation is:
 - (i) to pay a superannuation contributions surcharge; or
 - (ii) to give effect to an entitlement of a non-member spouse under a payment split; or
 - (iii) to meet the rights of a client to return a financial product under Division 5 of Part 7.9 of the *Corporations Act 2001*; or
 - (c) for a commutation in part — the account balance of the pension, immediately after the commutation, is equal to or greater than the minimum payment amount calculated in accordance with Schedule 7 of the SIS Regulations, as reduced by the amount of income payments, if any, already made in the financial year in which the commutation occurs; or
 - (d) the pension has paid, in the financial year in which the commutation takes place, at least the minimum amount prescribed by subregulation (2) (see paragraph 16.3D(2) below).
- (2) For paragraph (1)(d), the minimum amount is the amount calculated using the formula:

$$\text{Minimum annual amount} \times \frac{\text{Days in payment period}}{\text{Days in financial year}}$$

where:

Days in payment period means the number of days in the period that:

- (a) begins on:
 - (i) if the pension commenced in the financial year in which the commutation is to take place — the commencement day; or
 - (ii) otherwise — 1 July in that financial year; and
- (b) ends on the day on which the commutation is to take place.

Days in financial year means the number of days in the financial year (365 or 366) in which the commutation takes place.

Minimum annual amount means the minimum amount payable under the annuity or pension, in the financial year, calculated in accordance with Schedule 7 of the SIS Regulations.

17. Pension Reserves

Subject to the Act, where it considers it appropriate the Trustee may:

- (a) obtain the advice of an actuary regarding the amount of pension payments, any variation to the amount of those payments, commutations, the establishment, monitoring or treatment of pension reserves in accordance with this Rule 17, or any other relevant matter;
- (b) establish pension reserves in relation to the funding of pension obligations relating to particular beneficiaries;
- (c) where a pension benefit liability to which a pension reserve relates no longer exists, or the amount of the pension reserve exceeds the expected liability, arrange for any assets or excess assets in the pension reserve to be applied in any manner whatsoever that the Trustee considers fair and reasonable, including for the general purposes of the Fund, but having special regard to the interests of the beneficiary to whom the pension benefit related and that Beneficiary's dependants.

18. Death benefits:

- (a) This Rule applies if the terms of a particular pension do not provide for the consequences for payment of the pension on the death of the pension recipient.
- (b) Where this Rule applies, then unless the Trustee otherwise determines and subject to the Act, if any amount is payable in respect of the pension recipient on the pension recipient's death, it will be dealt with in accordance with any binding nomination or if there is no binding nomination, as the Trustees determine.

Provision of defined benefit pensions

19.1 In this rule 19 and subject to Part 9 Division 9.2B of the SIS Regulations:

Defined benefit pension means a pension under section 10 of the SIS Act, other than:

- (a) a pension wholly determined by reference to policies of life assurance purchased or obtained by the Trustee of a regulated superannuation fund solely for the purposes of providing benefits to Members of that fund; or
- (b) an allocated pension; or
- (c) an account-based pension.

19.2 The fund may provide a defined benefit pension only:

- (a) to a person:
 - (i) who, on 11 May 2004, was a Member of the Fund; and
 - (ii) who, before 31 December 2005:
 - (A) retires (within the meaning of subregulation 6.01 (7) of the SIS Regulations) on or after attaining age 55; or
 - (B) attains age 65; and
 - (iii) who, after 11 May 2004 and before 31 December 2005, becomes entitled to be paid a defined benefit pension pursuant to these rules; and

(b) if the first pension payment is made within 12 months after the day when the person became entitled to the pension, unless the SIS Act otherwise permits the payment of a defined pension (for example under SIS Regulation 9.04F).

Deduction for detrimental payments after Member's Death

20. For the purposes of Section 295-485 of the Income Tax Assessment Act 1997, if a Member dies and a benefit is paid as a consequence, the Trustees may do all such things and make such allowances or payments as may be necessary or desirable to give to the recipient of that benefit, the benefit of any deduction permitted under the Section.

Conversion of Pensions

21. At the request of a Member, Pensioner or Reversionary Beneficiary, or their legal personal representative, as may be applicable and subject to the SIS Act and the Superannuation Conditions, the Trustees may;

- (a) convert any pension whether an allocated pension or any other type of pension to an account based pension or any other pension and any such pension may be so converted with or without commuting the pension that is being converted.
- (b) cease payment of a pension;
- (c) take such other action as may be necessary or desirable as determined by the Trustees to give full effect to this provision.

REFERENCE SCHEDULE

Date of this Deed:- 14/8/02

Prior Governing Rules Dated:-

Amending Power (Clause number):- Clause 8

Name of Fund:-

THE GREEN SUPERANNUATION FUND

Parties:-

(a) Trustee(s):-

Heather Elizabeth GREEN

15 Park Avenue
Alstonville NSW 2477

Russell Clyde GREEN

15 Park Avenue
Alstonville NSW 2477

(b) Member(s):-

Heather Elizabeth GREEN

15 Park Avenue
Alstonville NSW 2477

Russell Clyde GREEN

15 Park Avenue
Alstonville NSW 2477

(c) Principal Employer (if any):-

ALSTONVILLE REAL ESTATE PTY LTD
A.C.N. 001 994 690
7 Carrington Street
Lismore NSW 2480

Parties Who Have

Power to Amend:- Trustees With the consent of Principal Employer, if any.

Executed as a deed on the date appearing in the Reference Schedule.

Signed Sealed and Delivered by
Heather Elizabeth GREEN
in their capacity as Trustee in the presence of:

witness X *He McCreary* *HG* X *HElizabethGreen*

Signed Sealed and Delivered by
Russell Clyde GREEN
in their capacity as Trustee in the presence of:

witness X *He McCreary* *RG* X *RGreen*

Signed Sealed and Delivered by
Heather Elizabeth GREEN
in their capacity as Member in the presence of:

witness X *He McCreary* *HG* X *HElizabethGreen*

Signed Sealed and Delivered by
Russell Clyde GREEN
in their capacity as Member in the presence of:

witness X *He McCreary* *RG* X *RGreen*