



# LawCentral

## Legal Documents

---

### Product Disclosure Statement for

### The Nelson Family Pension Fund

---

## Product Disclosure Statement for The Nelson Family Pension Fund

Dated: Tuesday, 10 August 2004

Member Name	ROBYN NELSON
Postal Address	17 KETCH PLACE WAIKIKI WA

This Product Disclosure Statement is provided to the new member by email, post or facsimile.

### Background

A. New members receive this Product Disclosure Statement together with the Statement to the Member Application form and to any Employer Sponsor Application form.

B. This PDS has been prepared only for The Nelson Family Pension Fund dated 25-October-1996. This PDS has not been prepared for any other Self Managed Superannuation Fund. This PDS will not operate for any other Self Managed Superannuation Fund.

### What is this Product Disclosure Statement?

You have applied for or are a member of The Nelson Family Pension Fund. This Product Disclosure Statement (**PDS**) is a summary of the important provisions of The Nelson Family Pension Fund's deed. The PDS helps to show how The Nelson Family Pension Fund affects you.

### Why do I get this PDS?

The Law requires that you receive The Nelson Family Pension Fund's PDS within 3 months after you become a member of The Nelson Family Pension Fund. If you have any queries or any information that needs clarification at any time, you should refer those to the trustee of The Nelson Family Pension Fund.

You can also gain more knowledge about The Nelson Family Pension Fund by reading the rules of The Nelson Family Pension Fund. This is called the "Trust Deed". More help can also be found from the SIS Legislation.

Terms used in this PDS (written in capital letters) either are defined in the Fund's deed or are contained in the Dictionary of this PDS.

## What are my potential benefits?

### 1. Details of potential lump sum benefits

#### 1.1 Total and Permanent Disability:

'Total and Permanent Disablement' ('**TPD**') is the test commonly used in superannuation funds to determine if a person is entitled to be paid a **TPD** benefit, which may include an insured amount. The definition varies from one superannuation fund to another. It generally requires that the member is **totally and permanently disabled** to such an extent that you are incapable of working in any occupation for which you have the education, training and experience.

You may become entitled to a lump sum benefit from your Accumulation Account if you become totally and permanently disabled.

#### 1.2 Temporary Total Disability:

If you become totally disabled temporarily, you may become entitled to payment of a pension or annuity representing a payout. This is subject to:

- the trustee's decision and on condition that it does not infringe the limit set out in the superannuation law; or
- the trustee receives a payout from the insurance policy from the one that the trustee purchased out of The Nelson Family Pension Fund. The insurance policy should include a clause to cover the range of disabilities you suffer. The trustee usually uses the money from either your Accumulation Account or other Accounts such as the Income Account to pay for the premiums.

#### 1.3 On your Retirement:

You become entitled to a lump sum benefit. This equals the amount in The Nelson Family Pension Fund. Accumulation Account on your Retirement.

You become entitled to payment of a retirement benefit in some circumstances. These are:

- You are still employed; or
- When you retire and have reached the relevant Preservation Age.

Your trustee will be able to advise you about this at the relevant time. (Please refer to the definition of Retirement for details).

#### 1.4 On Death:

On your death, the trustee may pay a lump sum benefit from The Nelson Family Pension Fund Accumulation Account to:

- the persons named in your 'Death Benefit: Beneficiary Nomination' (which is on your Application for Membership) of The Nelson Family Pension Fund; or
- your Dependants.

If your trustee has taken out a life insurance policy for you, then your Dependants, or some other persons who are named as Beneficiaries, may also be entitled to a lump sum benefit.

#### 1.5 Other Insurance Policies:

‘Severe Financial Hardship’

In the case of severe financial hardship, you may be able to apply to have all benefits owing to you from The Nelson Family Pension Fund, paid to you by the trustee. There are certain conditions to be met. These include:

- You must have been receiving a social security pension or benefit for the last 26 weeks.
- You must be "unable to meet reasonable and immediate personal or family expenses".

The benefits can only be paid to you from The Nelson Family Pension Fund to meet your expenses in the nature of treatment of life-threatening illnesses such as acute brain haemorrhage, prevention of foreclosure under a mortgage, medical and associated costs, and palliative care costs for terminal illnesses such as cancer and so forth.

## 2. Details of potential **income benefits**

### 2.1 **Choice of income benefits**

The Trustee of The Nelson Family Pension Fund may allow you to choose how you want to receive your lump sum when you are eligible to collect your **lump sum benefit**. You can opt for a regular monthly income payment like a pension. Under the trust deed of The Nelson Family Pension Fund, you may choose from four different types of pension schemes. It varies from one scheme to another under the trust deed and it will have different impact on you. You are advised to discuss these pension schemes in detail with the trustee before you make any selection.

## 2.2 Life Pension

For a life pension, the amount you get paid from The Nelson Family Pension Fund is fixed and other payments may only be made to pay such fees like the Superannuation Contributions Surcharge from The Nelson Family Pension Fund on your behalf.

You may only vary the amount you get paid each year by applying the CPI to the amount you received from the year before. There is no restriction on you to convert your life pension to:

- another new life annuity or pension, or
- a life expectancy annuity or pension

by purchasing any of the above mentioned from a third party (such as a large life assurance company).

## 2.3 Life Expectancy Pension

Similar to life pension, for a life expectancy pension, the amount you get paid from The Nelson Family Pension Fund is fixed and other payments may only be made to pay such costs like the Superannuation Contributions Surcharge on your behalf. You may only vary the amount you get paid each year by applying the CPI to the amount you received from the year before

A life expectancy pension is different to a life pension in that, it:

- is only available after you reach Normal Retirement Age or Service Pension Age; and
- must be payable for your life expectancy if it is less than 15 years **OR** for at least 15 years if it is greater than 15 years.

## 2.4 Allocated Pension

For an allocated pension, the trust deed does not generally contain any specified clause on how much you get paid and how that amount may be varied. However, there are certain minimum rules. These include:

- You will receive a payment at least annually; and
- The amount is restricted to certain maximum and minimum levels payable. These are calculated in accordance with the balance in your pension account and your age.

## 2.5 Flexi Pension

For a Flexi Pension, the amount you get paid from The Nelson Family Pension Fund is generally fixed. The trustees of The Nelson Family Pension Fund may vary that amount in accordance with the Trust Deed. This variation in payments from year to year is usually allowed, provided that the amount must not exceed the average rate of increase of the CPI in the preceding 3 years.

## 2.6 'Non-complying pensions'

A 'non-complying pension' is a pension paid from a non-complying superannuation fund. 'Non-complying pensions' means that, although they are allowed under superannuation law, the RBL (Reasonable Benefit Limit) you are allowed to claim is about half what you would get if you were being paid a 'complying pension' such as a Life Pension or Life Expectancy Pension.

Both the Allocated Pension and the Flexi Pension are 'non-complying pensions'. The income of a resident (a person who resides in Australia) non-complying fund will be taxed at the maximum marginal tax rate.

These issues are quite complex and if required you should seek professional advice.

## What are the potential risks associated with The Nelson Family Pension Fund?

3. Details of risks associated with this The Nelson Family Pension Fund are as followed:

3.1 The trustee works out an appropriate strategy to invest The Nelson Family Pension Fund's assets. The trustee is at liberty to seek the services of a financial advisor. They aim at increasing the value of The Nelson Family Pension Fund. Although the trustee decides on their investment strategy, the resulting value from such investment may vary according to the movements in share, property prices or other asset classes. This may mean the value of the assets held in The Nelson Family Pension Fund for your benefit, or to pay you a pension, may be reduced. In turn, this may affect the trustee's capacity to make payments to you or to sustain the level of payments made to you.

3.2 For a non-complying pension, your benefits and pensions are calculated according to the value of the assets in The Nelson Family Pension Fund. This means that, if the value of the assets decreases, there may be a corresponding decrease in the amount of benefit or pension you receive.

3.3 For a complying pension, the trustee agrees to continue to pay you for a specified period regardless of the performance and value of The Nelson Family Pension Fund's assets. The trustee bears the risk of the assets running short to meet your payment.

3.4 If a benefit payable to you is Commuted so that the trustee may purchase:

- an annuity from a third party (such as a life assurance company), then the third party will bear the associated risks. You will still have a regular income; or
- an allocated pension from a third party (such as a life assurance company), then the situation is the same as for an allocated pension from the trustee. In that case, you bear the risks associated with the variations in the value of the assets that fund the allocated pension.

### **How much do I need to contribute to The Nelson Family Pension Fund?**

4. The amount you need to contribute depends on the following circumstances:

4.1 If you have an employer

Your employer, who sponsors or participates in The Nelson Family Pension Fund, must contribute a certain portion of your income to the Fund. The contributions made personally by you to The Nelson Family Pension Fund are unlikely to be deductible for taxation purposes. However, if you are on a very low wage, you may be qualified for a co-contribution scheme from the Federal Government. This means that the Government will match your payments to set units.

4.2 If you are unemployed or self-employed

You may contribute to The Nelson Family Pension Fund yourself. The first \$5,000 you contribute is tax deductible. After that, you may deduct 75% of contributions over \$5,000 **OR** up to the Aged-Based deduction limit for the year of income. You are required to notify the trustee that you have contributed by lodging a section 82AAT Notice with the Fund. The trustee will provide you with the Notice at the relevant time.

### **How much does the trustee of The Nelson Family Pension Fund deduct from my Fund?**

5. Money deducted from your Accumulation and Pension Accounts

5.1 Your The Nelson Family Pension Fund's trustee can make deductions from your Accumulation or Pension Accounts to meet various expenses, such as to:

- pay taxes on behalf of you (or to set aside for anticipated taxes);
- pay for an insurance policy or Annuity premiums; or
- pay an amount from your Pension Account to your Accumulation Account or vice versa.

### **What accounts does the Trustee of The Nelson Family Pension Fund operate?**

6. The trustee can operate two accounts, namely, the Income Account and the Equalisation Account.

6.1 The trustee of The Nelson Family Pension Fund is responsible for maintaining an Income Account. It is a general account of the Fund and does not relate to a specific member. Money received from the income and profits of the Fund or proceeds of insurance policies (money that is not paid to a member or beneficiary) are paid into this account. The trustee can make payments from this Income Account to your Accumulation Account. They may also make deductions from the Income Account to pay:

- the expenses of The Nelson Family Pension Fund;
  - costs of insurance policies;
  - taxes due and payable, or likely to become due and payable;
- or**
- for losses suffered on disposal of an asset of the Fund.

6.2 The trustee of The Nelson Family Pension Fund may decide to pay a certain amount of income or profits of the Fund into an account called 'An Equalisation Account'. It is also a general account of the Fund. The trustee can use this account to:

- smooth the investment earnings of the Fund. This offsets years of good growth and performance against years of poor growth and performance;
- pay The Nelson Family Pension Fund expenses;
- provide for tax liabilities; or
- provide for contingencies of the Fund.



## **Is the trustee allowed to charge for the services it provides to The Nelson Family Pension Fund?**

7. No. The trustee is not permitted to charge fees for the services it provides to The Nelson Family Pension Fund

## **What other things I need to know about The Nelson Family Pension Fund?**

### **8. Other significant information you need to know about The Nelson Family Pension Fund is the Preservation Age.**

8.1 The Preservation Ages relevant to members of The Nelson Family Pension Fund are as followed. For a person born:

- before 1 July 1960 - 55 years
- during the year 1 July 1960 to 30 June 1961 - 56 years
- during the year 1 July 1961 to 30 June 1962 - 57 years
- during the year 1 July 1962 to 30 June 1963 - 58 years
- during the year 1 July 1963 to 30 June 1964 - 59 years
- after 30 June 1964 - 60 years.

## **How does the trustee invest The Nelson Family Pension Fund Assets?**

### **9. Investment of The Nelson Family Pension Fund Assets**

9.1 Under The Nelson Family Pension Fund, the trustee is given the permission to make a wide range of investments according to their planned investment strategy. The trustee needs to establish an investment strategy or strategies, outlining how the assets of the fund will be invested. The trustee is given the power to change the investment strategy or strategies as long as they remain appropriate. If the trustee offers more than one strategy, you may choose the appropriate strategy. You cannot choose a component of the investments the trustee is to make within the strategy.

9.2 The trustee cannot loan money from The Nelson Family Pension Fund to a member or a member's relative. You cannot borrow money from the assets of the Fund to provide security for borrowing.

## What does the ATO get from The Nelson Family Pension Fund?

### 10. Taxation

#### 10.1 Income of The Nelson Family Pension Fund

For tax purposes, the Fund's income is divided into two components:

- **Standard Component** is the total of all Fund income, minus the Special Component. It is taxed at the concession rate of 15% in the hands of the trustee.
- **Special Component:** includes the Fund's special income such as private company distributions, non arms-length income, and trust distributions. The Special component is taxed at the rate of 47%.

#### 10.2 Contributions to The Nelson Family Pension Fund

Contributions made by your employer, yourself, your spouse or others are generally excluded from the Fund's income. They are treated as contributions of capital. The contribution will usually be treated as Fund Income if the person contributing is eligible for a tax deduction in relation to that contribution. Various tax rates applied as outlined above in paragraph 10.1.

#### 10.3 Surcharge on High Income Earners

You need to pay a Superannuation Contributions Surcharge on your contributions to The Nelson Family Pension Fund if your adjusted taxable income is greater than the relevant surcharge threshold. The relevant thresholds are as follows:

Year	Lower Income Amount	Higher Income Amount	Maximum Surcharge Rate
2001/02	\$85,242	\$103,507	15%
2002/03	\$90,527	\$109,924	15%
2003/04	\$94,691	\$114,981	14.5%
2004/05	\$99,710	\$121,075	13.5%
2005/06	\$99,710	\$121,075*	12.5%

Note: The asterisk to the thresholds denotes that the indexation increase for the year has to be added to this amount in order to arrive at the lower or higher threshold amount for 2005/ 06. The indexation increase reflects movements in the full-time adult average weekly ordinary time earnings which are determined by the Commissioner in accordance with *Superannuation Contributions Tax (Assessment and Collection) Act 1997*. These figures will be available only in June 2005.

**Maximum Surcharge Rate**

The maximum surcharge rates shown above are the current rates. The Govt. has introduced the *Superannuation Budget Measures Bill 2004* which will amend the *Superannuation Contributions Tax Imposition Act 1997* (and the *Termination Payments Tax Imposition Act 1997*) to effect a reduction to the maximum rates shown above. The rates reduction was announced in the year 2004 Federal Budget. When the amending Bill is passed, and assented to, the maximum rates will be as follows:

- for the 2003/ 04 financial year – 14.5% (i.e. unchanged);
- for the 2004/ 05 financial year – 12.5%;
- for the 2005/ 06 financial year – 10.0%;
- for the 2006/ 07 financial year and later years – 7.5%.

You pay the surcharge only when you exceed the Lower Income Amount. The surcharge increases from 0.01% once your assessable income reaches the Lower Income Amount, up to the Maximum Surcharge Rate when your assessable income reaches the Higher Income Amount.

For example, the relevant Surcharge Rate for your 2003/04 Year assessable income will be scaled according to your income. This is done by calculating the Surcharge Rate as a percentage, based on your assessable income and the Lower and Higher Income Amounts for that Year. Once your assessable income reaches the Higher Income amount, the Maximum Surcharge Rate of 14.5% applies. The amount of the surcharge payable is then calculated by multiplying the Surcharge Rate by the difference between your income and the Surcharge Threshold.

**10.4 Low Income Spouse Rebate**

If a person contributes to The Nelson Family Pension Fund on behalf of a Member who is their low income (or no income) spouse, the person contributing may be entitled to a tax rebate.

<b>Spouse's Assessable Income (AI)</b>	<b>Maximum Rebatable Contributions (MRC)</b>	<b>Maximum Rebate (18% of the lesser of)</b>
\$0 - \$10,800	\$3,000	MRC or actual contributions
\$10,801 to \$13,799	\$3,000 - (AI - \$10,800)	MRC or actual contributions
\$13,800	\$0	\$0

For example, if the spouse's assessable income is \$5,000, the maximum amount of contributions, which are rebatable, is \$3,000. If actual contributions were \$2,700, then the rebate would be  $18\% \times \$2,700 = \$486$ .

#### 10.5 Contributions to The Nelson Family Pension Fund for Children

Since 1 July 2002, parents, grandparents, relations and friends can contribute to The Nelson Family Pension Fund of up to \$3,000 in each three year period for a member who is a child. These contributions are not taxable in the hands of the trustee. It is not tax deductible.

### **Is The Nelson Family Pension Fund Deed easy to understand?**

11. The Fund Deed is written in plain English. Whether the trustees of The Nelson Family Pension Fund are individuals or a company that is later appointed as trustee, the provisions in The Nelson Family Pension Fund are applicable to this Fund Deed.

### **What does the trustee need to take into consideration in relation to the investments made by The Nelson Family Pension Fund?**

12. The trustee needs to take into consideration, from time to time, the investments made by The Nelson Family Pension Fund meet social or ethical considerations, environmental protection policies or labour standards, when they select, retain or realises an investments. The trustee is free to incorporate these considerations into its investment strategy if they think it is appropriate.

### **Where can I get more information regarding The Nelson Family Pension Fund in the future?**

13. If at any time you require further information including information concerning The Nelson Family Pension Fund, the Fund Deed, the Fund's performance or your rights as a Member, you can contact the trustee using the contact details at the beginning of this PDS.

This PDS is of general nature. Each person's position is different. You should also independent advice from your professional advisors.

### **Only the Trustees are responsible for this PDS**

14. Notwithstanding that they may have been instructed by the trustees of the Self Managed Superannuation Fund to assist in the giving of advice in the preparation of this PDS, no lawyer, accountant, financial planner, administration service provider or other person ("Advisers") has been involved in the preparation of any part of this Product Disclosure Statement. Further, no Advisers have authorised or caused the issue of any other part of this Product Disclosure

Statement. The Advisors have not provided legal advice in respect of the proposed activities of the Self Managed Superannuation Fund and in particular whether they comply with the relevant legislation. To put the matter beyond doubt, it is the Trustees of the Self Managed Superannuation Fund, alone, that have authorised and are responsible for all matters relating to the preparation, updating and distribution of this PDS.

## Dictionary

### 15. Definitions

Where a term is written in capital letters in this PDS, the meaning is either explained below or is explained in the trust deed:

**15.1 Accumulation Account** the account established for you by the trustee. Each member of the Fund has an Accumulation Account. That member's contributions or contributions made on behalf of that member, as well as other amounts specific to that member (such as the proceeds of an insurance policy taken out by the trustee for that member's benefit) are paid into that account.

**15.2 Age-Based Limit** threshold of the tax deductible on the contributions made to the Fund in respect of a member being:

Age of employee	Deduction Limits						
	1997/98	1998/99	1999/00	2000/01	2001/02	2002/03	2003/04
<b>Under 35</b>	\$10,232	\$10,600	\$10,929	\$11,388	\$11,912	\$12,651	\$13,233
<b>35 to 49</b>	\$28,420	\$29,443	\$30,356	\$31,631	\$33,087	\$35,138	\$36,754
<b>50 and over</b>	\$70,482	\$73,019	\$75,283	\$78,445	\$82,054	\$87,141	\$91,149

**15.3 Annuity** refers to a financial product that is purchased by providing a lump sum (capital) to the financial product supplier. The supplier pays you an income for a specified time. You receive a contractual right to receive income and the capital disappears when you buy an annuity.

**15.4 Commute** refers to the conversion of the right to receive a **lump sum payment** from a right to receive regular payment such as pension or annuity payments.

**15.5 Life Expectancy** the period that a person is expected to live in addition to their current age. For instance, a 40 year old Australian male would have a life expectancy of approximately 35 years. The Australian Government Actuary publishes a Life Expectancy Table. The trustee uses the Table to calculate a member's Life Expectancy.

**15.6 Normal Retirement Age** is as set out:

**A. When is Normal Retirement Age reached - in years?**

- Male at 65
- Female born before 1 July 1935 at 60
- Female born from 1 July 1935 to 31 December 1936 at 60 years and 6 months
- Female born between 1 January 1937 to 30 June 1938 at 61
- Female born between 1 July 1938 to 31 December 1939 at 61 years and 6 months
- Female born between 1 January 1940 to 30 June 1941 at 62 years
- Female born between 1 July 1941 to 31 December 1942 at 62 years and 6 months
- Female born between 1 January 1943 to 30 June 1944 at 63 years
- Female born between 1 July 1944 to 31 December 1945 at 63 years and 6 months
- Female born between 1 January 1946 to 30 June 1947 at 64 years
- Female born between 1 July 1947 to 31 December 1948 at 64 years and 6 months
- Female born on or after 1 January 1949 at 65

**B. When is the Service Pension Age reached - in years?**

- Male at 60
- Female born before 1 July 1940 at 55
- Female born between 1 July 1940 to 31 December 1941 55 years and 6 months
- Female born between 1 January 1942 to 30 June 1943 at 56 years
- Female born between 1 July 1943 to 31 December 1944 at 56 years and 6 months
- Female born between 1 January 1945 to 30 June 1946 at 57 years
- Female born between 1 July 1946 to 31 December 1947 at 57 years and 6 months
- Female born between 1 January 1948 to 30 June 1949 at 58 years
- Female born between 1 July 1949 to 31 December 1950 at 58 years and 6 months
- Female born between 1 January 1951 to 30 June 1952 at 59 years
- Female born between 1 July 1952 to 31 December 1953 at 59 years and 6 months
- Female born on or after 1 January 1954 at 60 years

**15.7 Pension** refers to a financial product that is purchased by providing a lump sum (capital) to the financial product supplier, who invests the lump sum, manages that investment, and pays you a regular income from the proceeds of those investments. As well as paying you the proceeds of the investments, the financial product supplier may include in your payments part of the initial capital you contributed.

**15.8 Preservation Age** the minimum age after which the Preserved Benefits from The Nelson Family Pension Fund may be paid to you.

**15.9 Preserved Benefits** those benefits that can only be paid to you upon your Retirement.

**15.10 Reasonable Benefits Limit (RBL)** refers to the amount that you receive as pension or annuity over your lifetime. The amount payable is assessed at a reduced rate of tax. Amounts paid to you above the RBL are taxed at the top marginal rate.

**15.11 Retirement** occurs:

- if you have reached a Preservation Age less than 60, and
  - (i) an arrangement under which you were gainfully employed comes to an end; and
  - (ii) the trustee is reasonably satisfied that you never intend to become gainfully employed (either full time or part time); or
- if you have reached age 60 and an arrangement under which you were gainfully employed has come to an end on or after you attained that age; or
- when you reach your Normal Retirement Age and;
  - (i) an arrangement under which you were gainfully employed comes to an end; or
  - (ii) Superannuation Law provides that you have retired despite still being gainfully employed.

**15.12 Service Pension Age** is as defined in this PDS.

**15.13 "SIS Legislation"** includes the following Acts:

- (a) the *Superannuation Industry (Supervision) Act 1993*
- (b) the *Superannuation (Financial Assistance Funding) Levy Act 1993*
- (c) the *Superannuation (Resolution of Complaints) Act 1993*
- (d) the *Superannuation (Rolled-Over Benefits) Levy Act 1993*
- (e) the *Superannuation Industry (Supervision) Consequential Amendments Act 1993*

(f) the *Superannuation Supervisory Levy Amendment Act 1993*

(g) the *Occupational Superannuation Standards Amendment Act 1993*

(h) and any regulations made under the above Acts

(i) and all other requirements whether legislative or administrative including:

A. any administrative guidelines issued by the Responsible Authority; or

B. statements by government advising changes and any proposed changes to the SIS Legislation,

with which The Nelson Family Pension Fund must comply or in the opinion of the Trustees ought to comply in order to be a Complying Superannuation Fund or not to be in contravention or breach of the SIS Legislation

15.14 **Superannuation Contributions Surcharge** an amount that you may be liable to pay if your taxable income is greater than the relevant superannuation surcharge level for a year of income.

