

- (b) **Insurance applied to liability.** Whenever a payment is received by the Trustee under any insurance policy held by the Trustee, the payment will be applied:
- (i) in the case of Benefit Payment Insurance, towards satisfaction of the Fund's liability to pay any one or more of a Member's benefits; or
  - (ii) in the case of Additional Insurance, in addition to the Fund's liability to pay any one or more of a Member's benefits,
- as agreed by the Member and the Trustee.
- (c) **Insurance not designated.** If a policy has been effected under Rule 5.7(a) and the policy is not designated as Benefit Payment Insurance or Additional Insurance, the policy will be deemed to be Benefit Payment Insurance.
- (d) **Treatment of Additional Insurance.** Where the Trustee has effected Additional Insurance and an amount becomes payable to the Trustee under it, the Trustee must add the amount payable, net of any reasonable fees, charges and taxes, to the Member's Benefit Account prior to calculating the amount of the Member's benefits or entitlements payable in accordance with these Rules.
- (e) **Treatment of Benefit Payment Insurance.** Where the Trustee has effected Benefit Payment Insurance and an amount becomes payable to the Trustee under it, the Trustee must first apply that amount towards satisfaction of the Fund's liability to pay the Member's benefits or entitlements in accordance with these Rules and the Trustee will reduce the Member's Benefit Account by the amount applied. Any amount remaining will be dealt with by the Trustee in its discretion as follows:
- (i) where any amounts have been deducted from the Member's Benefit Account to pay any premiums in relation to the insurance, by paying or applying similar amounts to or on behalf of the Member in addition to the Fund's liability to pay benefits or entitlements in accordance with these Rules;
  - (ii) by paying amounts to or on behalf of the Member in addition to the amounts set out in Rule 5.7(b) and in addition to the Fund's liability to pay benefits or entitlements in accordance with these Rules;
  - (iii) by paying any expenses and liabilities of the Fund, whether or not those amounts are in whole or in part related to the Member's benefits and entitlements;
  - (iv) where the Trustee in its absolute discretion decides to pay an Anti-detriment Payment in respect of a deceased Member, by applying amounts towards such a payment; and/or
  - (v) by reallocating any amounts to a reserve to be dealt with as the Trustee sees fit.
- (f) **Self-Insurance.** The Trustee may elect to self-insure and may create a reserve for that purpose. Where the Trustee makes that election, the Trustee may:
- (i) designate the balance of that reserve as Benefit Insurance amounts or Additional Insurance amounts or partly as one and partly another type of insurance amount;
  - (ii) pay or credit to that reserve any amount determined by the Trustee as necessary or desirable for the purposes of self-insurance;

- (iii) pay or deduct from that reserve any amount determined by the Trustee to be payable upon the occurrence of any event against which the Trustee has self-insured; and
- (iv) reallocate or transfer any amount determined by the Trustee to be surplus or no longer required for the purpose of self-insurance to any other reserve or Member's Benefit Account.

## 5.8 HOW TO PAY A PENSION AND HOW TO PAY A LUMP SUM BENEFIT

- (a) **How to pay a Pension.** Any Pension payable under these Rules:
- (i) must conform to Rule 5.9;
  - (ii) must comply with any minimum terms specified in the Act and the Regulations; and
  - (iii) will be payable on other terms decided by the Trustee.
- (b) **Terms to be given to Member.** A copy of the terms and conditions of a Pension is to be given to the Member or Beneficiary of that Pension at or before the Pension Date for that Pension.
- (c) **How to pay a lump sum benefit (or change a Pension to a lump sum).** Any person who is entitled to receive a Pension, Annuity or income stream from the Fund other than a Total and Temporary Disablement Benefit, may direct the Trustee in writing to:
- (i) pay any amount as a lump sum; or
  - (ii) commute any amount to a lump sum,
- but only to the extent permitted by the terms of the Pension, Annuity or income stream. The amount of any lump sum will be equal to the total of the balances of the Member's Benefit Accounts related to the payment less any taxes and other reasonable charges which the Trustee considers are applicable to the payment or commutation.
- (d) **How to reduce a Pension when commuting to a lump sum benefit.** Where a person exercises the right in Rule 5.8(c)(ii), the Trustee must discount the amount to which the person is entitled to the extent which the Trustee considers necessary to take account of the commutation. The Fund and the Trustee will then be discharged and relieved of any further liability in respect of the amount of the discount.
- (e) **How to pay benefits to minors and certain other people.** Where any Beneficiary is under a Legal Disability, the Trustee will be entitled to pay or apply the Beneficiary's benefits or entitlements:
- (i) to the Beneficiary; or
  - (ii) to another person for the sole purpose of that person paying or applying those benefits or entitlements for, or on behalf of, the Beneficiary or the Beneficiary's Dependents; or
  - (iii) to a trust established for the benefit of the Beneficiary or the Beneficiary's Dependents.

That payment or application will constitute an effective discharge to the Fund and the Trustee. The Trustee need not be concerned and is not liable to see to the application of those benefits or entitlements after the time of their payment or application.

- (f) **Effect of Family Law Act.** A reference to a Member in this Rule 5.8 includes a Non-member Spouse. If a Superannuation Interest is created in favour of a Non-member Spouse and the order creating that interest does not require the Non-member Spouse's benefits or entitlements to be paid as a Pension, the Trustee is not required to pay those benefits or entitlements as a Pension.

### 5.9 TYPES OF PENSIONS WHICH MAY BE PAID

The Trustee may pay any Pension allowable under the Act and Regulations. A Pension must be subject to the terms and conditions contained in the Act and Regulations in relation to that type of Pension. The following Pensions, and the descriptions of them in Schedule 1, are specific examples of the Pensions which may be paid:

- (a) Pensions commencing after 30 June 2007:
- (i) **Minimum Only Pensions** described in Part 1 of Schedule 1.
  - (ii) **Transition to Retirement Pensions** described in Part 2 of Schedule 1.
- (b) Pensions commencing before 20 September 2007:
- (i) **Allocated Pensions** described in Part 3 of Schedule 1.
  - (ii) **Pre-20 September 2007 Market Linked Pensions** described in Part 4 of Schedule 1.
  - (iii) **Lifetime Pensions** (included in the definition of Defined Benefit Pension) described in Part 5 of Schedule 1.
  - (iv) **Life Expectancy Pensions** (included in the definition of Defined Benefit Pension) described in Part 6 of Schedule 1.
  - (v) **Lifetime Commutable Pensions** (included in the definition of Defined Benefit Pension) described in Part 7 of Schedule 1.
  - (vi) **Non-Commutable Allocated Pensions** described in Part 8 of Schedule 1.
- (c) Pensions commencing after 19 September 2007, where the amount was purchased with a rollover superannuation benefit that resulted from the commutation of a pension or annuity of the type referred to in Regulation 1.06(1B):
- (i) **Post-19 September 2007 Market Linked Pensions** described in Part 9 of Schedule 1.
- (d) Pensions which commence after the death of a Member, whether they are Reversionary Pensions or Death Benefit Pensions, upon terms and to beneficiaries allowable under the Relevant Law, from time to time.

### 5.10 ONLY SOME FUNDS MAY PAY DEFINED BENEFIT PENSIONS

Subject to the Act and Regulations, if the Fund is a Self Managed Superannuation Fund, the following provisions apply in relation to the Fund paying Defined Benefit Pensions to Members:

- (a) Where a Member was already receiving a Defined Benefit Pension on or before 11 May 2004, that Member may continue to receive that Pension, but any further Defined Benefit Pensions in respect of that or other Members are only payable in the circumstances set out in this Rule 5.10.

- (b) Where the Fund was in existence on 11 May 2004 and the Governing Rules provided for the payment of Defined Benefit Pensions at that time, the Fund may continue to provide that Pension.
- (c) Where the Fund was in existence on 11 May 2004 and the Governing Rules did not provide for the payment of a Defined Benefit Pension, the Fund may pay one or more Defined Benefit Pensions to a Member if:
- (i) the Member was a Member on 11 May 2004;
  - (ii) before 31 December 2005, the Member:
    - A. retired on or after attaining age 55; or
    - B. attained age 65; and
  - (iii) a Defined Benefit Pension was commenced for that Member before 1 July 2005 in respect of which the first payment is made within 12 months after the Pension Date for that Pension.

### 5.11 RESTRICTIONS ON WHEN AND HOW BENEFITS MAY BE PAID

This Rule is subject to any amendments, modifications, re-enactments, or substitutions of the Act and Regulations, from time to time, which may impose any requirement on the payment of benefits and entitlements and must be read and interpreted accordingly.

- (a) **Restrictions on how benefits may be paid.** Subject to the Regulations, a Member's benefits and entitlements in the Fund may only be paid:
- (i) by being cashed in accordance with Rule 5;
  - (ii) by being rolled over or transferred in accordance with these Rules; or
  - (iii) when, and to the extent that, the Fund is required or permitted to pay them in accordance with these Rules.
- (b) **Payment of Unrestricted Non-Preserved Benefits.** Subject to these Rules and subject to compliance with any restrictions or procedures relating to the commutation of part or all of a Pension to a lump sum, the whole or a part of a Member's Unrestricted Non-preserved Benefits may be cashed at any time in any one or any combination of the following ways:
- (i) one or more lump sums;
  - (ii) one or more Pensions; and/or
  - (iii) the purchase of one or more Annuities,
- less administrative, insurance and taxation costs and other direct costs relating to the establishment, operation and termination of the Fund applicable to the Member's Unrestricted Non-preserved Benefits at the relevant time.
- (c) **Payment of Restricted Non-Preserved Benefits.** Subject to these Rules, the whole or a part of a Member's Restricted Non-preserved Benefits:
- (i) may only be cashed on or after the satisfaction of a Condition of Release; and



regulations made under it.

#### 14.2 TRANSFERS FROM UK PENSION SCHEMES

The Trustee will not request a transfer from a UK pension scheme under this Rule until its QROPS status has been confirmed and all other regulatory and administrative guidelines have been complied with.

#### 14.3 RESTRICTIONS ON BENEFITS PAYABLE

The Trustee must in all respects comply with the requirements, from time to time, applicable to the Member's UK Accumulated Credit, including but not limited to:

- (a) requirements to report to Her Majesty's Customs & Revenue all payments or transfers affecting the Member's UK Accumulated Credit; and
- (b) restrictions on the age at which, and circumstances under which, benefits arising from the Member's UK Accumulated Credit may be paid; and
- (c) restrictions on the form in which any such benefits may be paid and on the amount of any lump sums.

#### 14.4 TRANSFERS TO OTHER REGULATED SUPERANNUATION FUND

To the extent that the requirements of the United Kingdom's Finance Act 2004 and any regulations made under it restrict or impose conditions upon the transfer of a Member's UK Accumulated Credit to another Regulated Superannuation Fund, the Trustee must comply with those requirements in respect of any rollovers or transfers of the UK Accumulated Credit, unless such requirements would result in the Trustee breaching the provisions of the Relevant Law.

#### 14.5 LIMITATION ON AMENDMENTS TO THIS RULE

No amendments can be made to the UK Pension Division Provisions if such amendments would mean the rules applying to the Member's UK Accumulated Credit would not comply with the requirements of the United Kingdom Inland Revenue for the transfer of pension entitlements from the United Kingdom to Australia.

#### 14.6 SUPPLEMENTARY DEFINITION FOR THIS RULE

The expression "**UK Accumulated Credit**" means the amount transferred in respect of the Member to this Fund or a previous superannuation arrangement from a UK pension arrangement.

### SCHEDULE 1

#### Description of Pensions

#### Rule 5.9

#### PART 1

#### MINIMUM ONLY PENSION

A Pension which meets the minimum terms and conditions contained in Regulation 1.06(9A)(a), which included the following requirements at the date of these Rules:

- (a) payments are made at least annually;
- (b) the payments in a year (excluding payments by way of commutation but including payments made under a Splitting Order) are not smaller in total than the following amounts:

#### Account Balance x Percentage Factor

Where:

**Account Balance** means:

- (i) the value of the annuity or pension:
  - 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 annuity or pension payments commence - on the commencement day,

being the total amount paid as consideration to purchase the annuity or pension, as increased by returns on investments and as decreased by fees, charges, applicable taxes, payments to the annuitant or pensioner and payments made under a Splitting Order; or
- (ii) if the value of the annuity or pension under paragraph A. is less than the withdrawal benefit to which the beneficiary would be entitled if the annuity were to be fully commuted — the value of the withdrawal benefit.

**Percentage Factor** means the percentage factor specified in Table 1, below, that applies to the beneficiary because of the beneficiary's age on:

- (i) 1 July in the financial year in which the payment is made; or
- (ii) if that is the year in which the annuity or pension payments commence - the commencement day.

Table 1

| Item | Age of Beneficiary | Percentage Factor |
|------|--------------------|-------------------|
| 1    | Under 65           | 4                 |
| 2    | 65 – 74            | 5                 |
| 3    | 75 – 79            | 6                 |
| 4    | 80 – 84            | 7                 |
| 5    | 85 – 89            | 9                 |
| 6    | 90 – 94            | 11                |
| 7    | 95 or more         | 14                |

(c) for the financial year commencing 1 July 2008 and any other year or years permitted under the Act and Regulations, the minimum payment will be not smaller than half the amount determined under the formula in paragraph (b), above;

(d) if the Pension commences or is required to be re-calculated (for example, because it has been partially commuted) on a day other than 1 July of a year, the minimum payment specified in paragraph (b), above, is reduced to the following amount:

$$\text{minimum payment} \times \frac{\text{days remaining in financial year}}{\text{total days in financial year}}$$

(e) if the Pension Date is on or after 1 June in a Year of Income, no payment is required to be made for that year;

(f) the Pension cannot be transferred to a person other than a reversionary beneficiary on the death of the primary beneficiary or of another reversionary beneficiary;

(g) if the primary beneficiary or a reversionary beneficiary dies, the Pension cannot be transferred to a Child of that person (but may be paid as a lump sum), unless the Child:

- (i) is less than 18 years of age; or
- (ii) is greater than 18 years of age, but less than 25 years of age and is financially dependent on the Member; or
- (iii) has a disability of the kind described in subsection 8(1) of the *Disability Services Act 1986*,

and, except in the case of a Child described in (iii) above, such a Pension must cease no later than the Child attaining 25 years of age;

(h) the capital value of the Pension and the income from it, cannot be used as security for any borrowing;

- (i) if the Pension is commuted, at least the minimum amount, calculated in accordance with Regulation 1.07D, has been paid in the year of commutation.

## PART 2

### TRANSITION TO RETIREMENT PENSION

A Pension which meets the minimum terms and conditions contained in Regulation 1.06(9A)(a), which included the following requirements at the date of these Rules:

- (a) payments are made at least annually;
- (b) the payments in a year (excluding payments by way of commutation but including payments made under a Splitting Order) are not smaller in total than the following amount:

$$\text{Account Balance} \times \text{Percentage Factor}$$

Where:

**Account Balance** means:

- (i) the value of the annuity or pension:
  - 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 annuity or pension payments commence - on the commencement day,
 being the total amount paid as consideration to purchase the annuity or pension, as increased by returns on investments and as decreased by fees, charges, applicable taxes, payments to the annuitant or pensioner and payments made under a Splitting Order; or
- (ii) if the value of the annuity or pension under paragraph A. is less than the withdrawal benefit to which the beneficiary would be entitled if the annuity were to be fully commuted — the value of the withdrawal benefit.

**Percentage Factor** means the percentage factor specified in Table 1, below, that applies to the beneficiary because of the beneficiary's age on:

- (i) 1 July in the financial year in which the payment is made; or
- (ii) if that is the year in which the annuity or pension payments commence - the commencement day.

Table 1

| Item | Age of Beneficiary | Percentage Factor |
|------|--------------------|-------------------|
| 1    | Under 65           | 4                 |
| 2    | 65 – 74            | 5                 |
| 3    | 75 – 79            | 6                 |
| 4    | 80 – 84            | 7                 |
| 5    | 85 – 89            | 9                 |
| 6    | 90 – 94            | 11                |
| 7    | 95 or more         | 14                |

- (c) for the financial year commencing 1 July 2008 and any other year or years permitted under the Act and Regulations, the minimum payment will be not smaller than half the amount determined under the formula in paragraph (b), above;
- (d) if the Pension commences or is required to be re-calculated (for example, because it has been partially commuted) on a day other than 1 July of a year, the minimum payment specified in paragraph (b), above, is reduced to the following amount:

$$\text{minimum payment} \times \frac{\text{days remaining in financial year}}{\text{total days in financial year}}$$

- (e) until the primary beneficiary Retires or reaches 65 years of age (whichever comes first), the payments in a year (including payments made under a Splitting Order) are not larger in total than the following amount:
- $$\text{Account Balance} \times 10\%$$
- (f) if the Pension Date is on or after 1 June in a Year of Income, no payment is required to be made for that year;
- (g) the Pension cannot be transferred to a person other than a reversionary beneficiary on the death of the primary beneficiary or of another reversionary beneficiary;
- (h) if the primary beneficiary or a reversionary beneficiary dies, the Pension cannot be transferred to a Child of that person (but may be paid as a lump sum), unless the Child:
- is less than 18 years of age; or
  - is greater than 18 years of age, but less than 25 years of age and is financially dependent on the Member; or
  - has a disability of the kind described in subsection 8(1) of the *Disability Services Act 1986*,

and, except in the case of a Child described in (iii) above, such a Pension must cease no later than the Child attaining 25 years of age;

- the capital value of the Pension and the income from it, cannot be used as security for any borrowing;
- if the pension is commuted, any resulting Superannuation Lump Sum cannot be cashed unless:
  - the purpose of the commutation is:
    - to cash an unrestricted non-preserved benefit;
    - to pay a superannuation contributions surcharge; or
    - to give effect to an entitlement of a non-member spouse under a Splitting Order; or
  - before commutation, the pensioner has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted non-preserved benefits is 'Nil';
- if the Pension is commuted, at least the minimum amount, calculated in accordance with Regulation 1.07D, has been paid in the year of commutation.

### PART 3

#### ALLOCATED PENSION

A Pension which meets the minimum terms and conditions contained in Regulation 1.06(4), which included the following requirements at the date of these Rules:

- payments are made at least annually;
- the Pension cannot be transferred to a person other than a reversionary beneficiary on the death of the primary beneficiary or of another reversionary beneficiary;
- the capital value of the Pension and the income from it, cannot be used as security for any borrowing;
- for a Pension that has a commencement day on or 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 Splitting Order) are not larger or smaller in total than, respectively, the maximum and minimum limits calculated in accordance with Schedule 1A of the Regulations; and
- the payments in a year (excluding payments by way of commutation but including payments made under a Splitting Order) are not larger or smaller in total than the following:
  - 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 one of the following Schedules to the Regulations:
    - Schedule 1A;
    - 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;
- (f) if the Pension Date is on or after 1 June in a Year of Income, no payment is required to be made for that year; and
- (g) if the Pension is commuted, at least the minimum amount, calculated in accordance with Regulation 1.07A, has been paid in the year of commutation.

#### PART 4

##### PRE-20 SEPTEMBER 2007 MARKET LINKED PENSION

A Pension which meets the minimum terms and conditions contained in Regulation 1.06(8), which included the following requirements at the date of these Rules:

- (a) the Pension must not commence before 20 September 2004;
- (b) payments are made to the primary beneficiary or a reversionary beneficiary at least annually throughout the Pension Period;
- (c) the total amount of the payments to be made in a year (excluding payments by way of commutation but including payments made under a Splitting Order) is determined in accordance with Schedule 6 of the Regulations;
- (d) the Pension does not have a residual capital value;
- (e) the Pension cannot be commuted, except as authorised by Regulation 1.06(8);
- (f) if the Pension reverts, it does not have a reversionary component greater than the balance of the Member's Benefit Account immediately before the reversion;
- (g) if the Pension is commuted, the commutation amount cannot exceed the balance of the Member's Benefit Account immediately before the commutation;
- (h) the Pension can be transferred only as authorised by Regulation 1.06(8);
- (i) the capital value of the Pension, and the income from it, cannot be used as security for any borrowing; and
- (j) if the Pension Date is on or after 1 June in a Year of Income, no payment is required to be made for that year.

#### PART 5

##### LIFETIME PENSIONS (INCLUDED IN THE DEFINITION OF "DEFINED BENEFIT PENSION")

A Pension which meets the minimum terms and conditions contained in Regulation 1.06(2), which included the following requirements at the date of these Rules:

- (a) the Pension is paid at least annually throughout the primary beneficiary's life and, if there is a reversionary beneficiary:
  - (i) throughout the reversionary beneficiary's life;
  - (ii) if he or she is a Child of the primary beneficiary or of a former reversionary beneficiary, at least until his or her 16th birthday; or

- (iii) if the person referred to in paragraph (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 first);
- (b) the size of payments of benefit in a year is fixed, allowing for variation only:
  - (i) as specified in the Governing Rules;
  - (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 a Splitting Order;
- (c) unless the Regulator otherwise approves, the sum payable as a benefit in each year to the primary beneficiary or to the reversionary beneficiary, is determined in accordance with the formula contained in Regulation 1.06(2)(c);
- (d) the Pension does not have a residual capital value;
- (e) the Pension cannot be commuted except as authorised by Regulation 1.06(2);
- (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;
- (g) the Pension cannot be transferred to a person other than a reversionary beneficiary on the death of the primary beneficiary or of another reversionary beneficiary;
- (h) the capital value of the Pension and the income from it, cannot be used as security for any borrowing; and
- (i) if the primary beneficiary dies within the period referred to in Regulation 1.06(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
- (j) if the primary beneficiary dies within the period referred to in 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 payable in the period, is payable to the primary beneficiary's estate; and
- (k) if the primary beneficiary dies within the period referred to in Regulation 1.06(2)(e)(ii) and there is a surviving reversionary beneficiary who also dies within that period, an amount is payable to the reversionary beneficiary's estate determined as described in Rule 5.7(b) as if that Rule applied to the reversionary beneficiary.

#### PART 6

##### LIFE EXPECTANCY PENSIONS (INCLUDED IN THE DEFINITION OF "DEFINED BENEFIT PENSION")

A Pension which meets the minimum terms and conditions contained in Regulation 1.06(7), which included the following requirements at the date of these Rules:

- (a) if a Pension has a Pension Date before 20 September 2004 and:

- (i) if the life expectancy of the primary beneficiary on the Pension Date day is less than 15 years, the Pension is paid at least annually to the primary beneficiary or to a reversionary beneficiary throughout the Pension Period provided that the Pension Period must not exceed 15 years; or
- (ii) if the life expectancy of the primary beneficiary on the Pension Date day is 15 years or more, the Pension is paid at least annually to the primary beneficiary or to a reversionary beneficiary throughout the Pension Period provided that the Pension Period must not exceed the primary beneficiary's life expectancy on the Pension Date;
- (b) if a Pension has a Pension Date on or after 20 September 2004 payments are made to the primary beneficiary or a reversionary beneficiary at least annually throughout the Pension Period;
- (c) the total amount of the payment, or payments, to be made in the first year after the Pension Date (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;
- (d) the total amount of the payments to be made in a year other than the first year after the Pension Date (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 by more than the amounts allowable under Regulation 1.06(7)(d)(i) or (ii);
- (e) the total amount of the payments to be made in a year in accordance with (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 a Splitting Order;
- (f) the Pension does not have a residual capital value;
- (g) the Pension cannot be commuted except as authorised by Regulation 1.06(7);
- (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 can be transferred only as authorised by Regulation 1.06(7);
- (k) the capital value of the Pension, and the income from it, cannot be used as security for any borrowing.

## PART 7

### LIFETIME COMMUTABLE PENSIONS (INCLUDED IN THE DEFINITION OF "DEFINED BENEFIT PENSION")

A Pension which meets the minimum terms and conditions contained in Regulation 1.06(6), which included the following requirements at the date of these Rules:

- (a) 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;
- (b) 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;
- (c) the capital value of the Pension and the income from it, cannot be used as security for any borrowing;
- (d) the size of the payments of benefit in a year is fixed, allowing for variation only as specified in these Rules or as advised by or to allow payments to be made under a Splitting Order;
- (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 consumer price index published by the Australian Bureau of Statistics in the preceding 3 years;
- (f) payments in accordance with the contracted size are made at least annually; and
- (g) where the Pension is 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 Regulations to the Pension as if the Pension Date was the day on which the commutation occurs.

## PART 8

### NON-COMMUTABLE ALLOCATED PENSIONS

A Pension which meets the minimum terms and conditions contained in Regulations 1.06(4) and 6.01(2), which included the following requirements at the date of these Rules:

- (a) payments are made at least annually;
- (b) the Pension cannot be transferred to a person other than a reversionary beneficiary on the death of the primary beneficiary or of another reversionary beneficiary;
- (c) the capital value of the Pension and the income from it, cannot be used as security for any borrowing;
- (d) for a Pension that has a commencement day on or 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 Splitting Order) are not larger or smaller in total than, respectively, the maximum and minimum limits calculated in accordance with Schedule 1A of the Regulations;
- (e) the payments in a year (excluding payments by way of commutation but including payments made under a Splitting Order) 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 one of the following Schedules to the Regulations:

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;
- (f) if the pension is commuted, the resulting Superannuation Lump Sum cannot be cashed unless:
  - (i) the purpose of the commutation is:
    - A. to cash an unrestricted non-preserved benefit;
    - B. to pay a superannuation contributions surcharge; or
    - C. to give effect to an entitlement of a non-member spouse under a Splitting Order; or
  - (ii) before commutation, the pensioner has satisfied a condition of release in respect of which the cashing restriction for preserved benefits and restricted non-preserved benefits is 'Nil'; and
- (g) if the Pension Date is on or after 1 June in a Year of Income, no payment is required to be made for that year.

## PART 9

### POST-19 SEPTEMBER 2007 MARKET LINKED PENSION

A Pension which meets the minimum terms and conditions contained in Regulation 1.06(8), which included the following requirements at the date of these Rules:

- (a) payments are made to the primary beneficiary or a reversionary beneficiary at least annually throughout the Pension Period;
- (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 Splitting Order) is determined in accordance with Schedule 6 of the Regulations;
- (c) the Pension does not have a residual capital value;
- (d) the Pension cannot be commuted, except as authorised by Regulation 1.06(8);
- (e) if the Pension reverts, it does not have a reversionary component greater than the balance of the Member's Benefit Account immediately before the reversion;
- (f) if the Pension is commuted, the commutation amount cannot exceed the balance of the Member's Benefit Account immediately before the commutation;
- (g) the Pension can be transferred only as authorised by Regulation 1.06(8);
- (h) the capital value of the Pension, and the income from it, cannot be used as security for any borrowing; and
- (i) if the Pension Date is on or after 1 June in a Year of Income, no payment is required to be made for that year.

## SCHEDULE 2

### Dictionary

Many of the terms you will encounter in these Rules are specifically defined in the Superannuation Industry (Supervision) Act 1993 (Cth) or any one of a number of other pieces of Commonwealth legislation. Due to the complex nature of superannuation, the definitions used by the legislation and by the documents establishing your Fund can be difficult to read and / or understand.

Please seek professional advice if you are unsure about any matter concerning your Superannuation Fund.

The Dictionary uses plain English versions of some definitions. These must be used as a guide to interpreting these Rules. **PLEASE NOTE** that the definitions set out in the Relevant Law will apply to these Rules regardless of the terms provided in the Dictionary.

Not all of the definitions in the legislation are included in this Dictionary. If you require clarification of any defined term or have any questions about these Rules or about anything you do not understand you should immediately contact your accountant or legal advisor.

### PART 1

#### REFERENCES TO THE ACT

- (a) Unless otherwise stated, references to sections or regulations appearing after defined terms refer to sections of the Act or regulations made under the Act.
- (b) Any terms or expressions used in these Rules which are not defined in these Rules have the meanings given to them by the Act or the Regulations as the case requires.

### PART 2

#### DEFINITIONS

In these Rules, unless the context or subject matter requires otherwise:

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

**Actuary** means a person who is a Fellow or an Accredited Member of the Institute of Actuaries of Australia; **section 10**

**Additional Insurance** means insurance effected by the Trustee to provide benefits in addition to the Trustee's liability to pay Total and Temporary Disablement Benefits, Total and Permanent Disablement Benefits or Death Benefits in accordance with Rule 5.7(b)(ii);

**Adopted Child** means a person adopted by another person under any law of (or recognised in) any state or territory of Australia relating to the adoption of children; **section 10**

**Allocated Pension** means a Pension which meets the standards of Regulation 1.06(4); **Reg 1.03 and 1.06**

**Annuity** means a benefit which meets the standards of Regulation 1.05; **Reg 1.05**

**Anti-detriment Payment**, means a payment made pursuant to Section 295-485 of the Tax Act;

**Approved Auditor** means a person included in a class of persons specified in the Regulations, but