

GOVERNING RULES UPDATE – VERSION 02/22

TRUSTEE ACKNOWLEDGEMENT RESOLUTION

Instructions

1. This resolution can be used by both corporate and individual trustees.
2. To be effective all trustees/directors must sign the resolution.
3. Once signed the resolution must be kept as part of the Trustee's records of the Superannuation Fund.
4. Variables are in red text.

Background notes

1. The SUPERCentral Governing Rules are periodically amended by way of complete replacement of the current version of the Governing Rules with an updated version of the Governing Rules.
2. The proposed amendment is effected by Super Governing Rules Pty Ltd exercising the power of amendment conferred on that company by the SUPERCentral Establishment Deed/Amendment Deed which has been signed by the Trustee.
3. Fourteen clear days' notice is given of the proposed amendment and the Trustee, if it so wishes, may decline to accept the proposed amendment by notifying SUPERCentral within that notice period. If the Trustee does not opt out of the proposed amendment, then the new version of the SUPERCentral Governing Rules will apply to the Fund after the end of the update period.
4. The formal notice of the proposed amendment was issued on **2 February 2022** and the 14 day notice period expires on **16 February 2022**. Consequently, the new version of the SUPERCentral Governing Rules will apply on and from **17 February 2022**. With the formal notice, an information sheet was provided which detailed the changes and the implications of the changes.
5. As the updating system operates on an "opt out" basis, the Trustee does not need to notify SUPERCentral of their decision to accept the proposed amendment.
6. Despite Point 5, the Trustee may wish to record the decision to not to opt out of the proposed amendment of the SUPERCentral Governing Rules for internal management purposes.
7. This template is provided for a Trustee which wishes to formally record for internal management purposes the Trustee's acknowledgement of the proposed amendment and its decision not to "opt out".

Written Resolutions in respect of the Trustee of the Hatfield Superannuation Fund (“the Fund”)

Purpose of resolution

The purpose of this resolution is to formally confirm and record the decision by the Trustee not to opt out of the SUPERCentral Governing Rules Update – Version 02/22 which was notified to the Trustee (or its information agent) and which will apply (if the update is not rejected by the Trustee within the notice period) on and from **17 February 2022**.

Notice of update and information received

Noted that the Trustee (or its information agent for this purpose) had received:

- (a) a notice issued by Super Governing Rules Pty Ltd of the replacement of the current version of the SUPERCentral Governing Rules Version 02/21 with the updated Version 02/22;
- (b) an electronic link to the SUPERCentral Governing Rules Version 02/22;
- (c) an electronic link to a marked up version of the SUPERCentral Governing Rules Version 02/22; and
- (d) a link to an information sheet on the changes made to the SUPERCentral Governing Rules.

Consideration of changes made to the SUPERCentral Governing Rules as set out in Version 02/22

Noted that the information sheet identified, amongst other changes, the principal changes which have been made to the SUPERCentral Governing Rules which are listed below:

Restructure of Legacy Pensions Change

What is the change all about?

The Government has proposed significant simplification of legacy pensions – which are lifetime, life expectancy or market linked pensions which prevent access to pension capital and generally have little flexibility as to pension payments. The proposal is that from 1 July 2022, there will be a 2-year window during which these pensions can be restructured into account-based pensions.

The restructuring of a legacy pension will permit access to the reserves supporting these pensions. Currently, if the reserve is released, the reserve will be subject to tax at up to 47%. The proposal is to tax the released reserve at 15% and permit the relevant member to use the after tax amount of the reserve to be cashed out, held in accumulation phase for the member or used (subject to the transfer balance account rules) to commence an account-based pension.

There is no obligation to restructure legacy pensions. There could be good reasons not to restructure: such as the asset test exempt status of the legacy pension which will be lost upon restructure.

What is the impact of the change on the members?

There will be no negative impact on the members who have legacy pensions. They can restructure the legacy pension if the restructure would be beneficial compared to the continuation of the current position. There is no obligation to restructure. However, if restructuring the legacy pension is not beneficial or if the

reserves supporting the legacy pension can be managed by other means, the legacy pension simply continues.

How has the change been implemented?

Rule 24 has been extensively redrafted in anticipation of the proposal being implemented. Once the legislation to implement this proposal has been released, any necessary additional changes to Rule 24 will then be made

The Extension of the Minimum Pension Payment Relief Change

What is the change all about?

As part of the economic response to Covid-19, the Government reduced the minimum pension payment amount which must be paid from account-based, transition-to-retirement and market-linked pensions. In short, the Government halved the minimum pension amount. This reduction applied to the 2019-20 and to the 2020-21 financial years.

The Government then subsequently extended the halving of the minimum pension amount to the 2021-22 financial year. This change simply ensures that the Governing Rules do not impose a higher minimum pension amount than that required by relevant regulations.

What is the impact of the change on the members?

There is a beneficial impact on the members who are receiving or will be receiving account-based, transition-to-retirement and market-linked pensions during 2021-22 financial year.

How has the change been implemented?

Rules 28.1 and 28.2 have been amended to include a reference to "2021-22" financial year.

The change relating to a new type of non-concessional contribution - Covid-19 refund contribution.

What is the change all about?

Another element of the economic response to Covid-19: the Government permitted up to \$20,000 over the 2019-20 and 2020-21 financial years (maximum release amount per financial year being \$10,000) to be withdrawn from super under the Covid-19 Early Release Scheme.

While the Scheme ceased on 31 December 2020, the Government has altered the superannuation contribution rules to permit individuals who had previously withdrawn part of their super balance under the Scheme to make non-concessional contributions ("refund contributions") up to the previously released amount.

What is the impact of the change on the members?

The change is beneficial to members who accessed their super under the Covid-19 Early Release Scheme. There is no obligation to make refund contributions. The refund contribution need not be made to the same super fund which paid the released amount. The refund contribution is not required to be sourced from the previously released amount – the only requirement is that the refund contribution amount cannot exceed the previously released amount. Further, no part of the refund contribution will be treated as an excess contribution under the non-concessional contribution caps.

How has the change been implemented?

Rule 14.2 has been amended to expressly list, as paragraph (t), Covid-19 re-contributions as a permitted contribution.

Binding Death Benefit Nomination & divorcing spouses change

What is the change all about?

Currently, a Binding Death Benefit Nomination in respect of a Member which nominates their Spouse as a beneficiary of the death benefit will not, to the extent the Spouse is nominated as the beneficiary, be invalid merely because the Member and their Spouse commence divorce proceedings or property proceedings after the nomination is made.

What is the impact of the change on the members?

The change means that to the extent a Spouse is nominated as a beneficiary, the nomination will be invalid if and when legal proceedings relating to a matrimonial cause (eg divorce or property settlement) are commenced (whether by the Spouse or the Member). For this change to apply, the Nomination must have been made before the legal proceedings are commenced.

This change is beneficial as it protects the presumed intention of the Member that commencement of such proceedings is to invalidate the previously made binding death benefit nomination to the extent the nomination is in favour of the Spouse of the Member.

How has the change been implemented?

This change has been implemented by adding a new sub-paragraph (vii), into Rule 15.19(a).

The Crypto-Asset change

What is the change all about?

Crypto-Assets are a digital representation of value or contractual rights that can be transferred, stored or traded electronically where the ownership of the value or rights is either determined by or substantially affected by cryptographic proof such as distributed ledger technology (such as blockchain). Crypto-Assets are a new form of intangible assets – such as bitcoin, tokens (both fungible and non-fungible) and stablecoins – where both the existence, ownership, uniqueness (if applicable) and provenance of the thing is and can only be established by distributed ledger technology and cryptographic proof.

It is possible that crypto-assets may become a sought-after investment in the manner of art works (without the inconvenience of being a tangible thing and capable of natural deterioration or being damaged or destroyed).

What is the impact of the change on the members?

There is no adverse impact on members. The change merely permits investments in crypto-assets if desired (and in accordance with the fund's investment strategy and satisfying the other superannuation investment rules).

How has the change been implemented?

Rule 3.2 has been amended to include a new paragraph (ga) which refers to Crypto-Assets and exchanged traded funds where the underlying assets are Crypto-Assets. Additionally, a definition of "Crypto-Asset" has been included in Rule 1.2.

The Pre-SUPERCentral Governing Rules pensions change

What is the change all about?

As some funds may have been established using their own governing rules and only subsequently adopting the SUPERCentral Governing Rules, it may be problematic whether the terms of those governing rules permitted the reversionary status of the pension which commenced under those rules to be varied. The change is intended to remove this problem by expressly providing such pension can be varied pursuant to the SUPERCentral Governing Rules.

What is the impact of the change on the members?

This change is beneficial to members with Pre-Existing Pensions which commenced before 1 January 2015. It allows the Trustee (with the consent of the relevant member) to change the reversionary status of the pension which commenced before the SUPERCentral Governing Rules applied to the Fund, by varying the terms of the pension rather than commuting the pension and restarting the pension with the varied terms.

A variation of a pension (as against stopping a pension and restarting a new pension) may assist in the retention of "pre 1 January 2015" status of a pension for the purposes of determining eligibility to the age pension or the Commonwealth Health Care Card.

How has the change been implemented?

This change has been implemented by new Rule 24.3.

Other changes

Some other changes of a more minor nature are:

1. The powers of the trustee dealing with payment splits have been updated given the extension of the Family Law Act superannuation splitting powers to Western Australian de facto couples.
2. The definition of Spouse has been updated in light of the recent change in the definition of marriage as used in the *Marriage Act 1961*.
3. The limit on the maximum number of members the Fund can have, at any one time, has been expressed, for readability purposes, to be six rather than referring to the number specified by the *Superannuation Industry (Supervision) Act 1993*.
4. Express power has been conferred on the Trustee to pay amounts to the Commissioner of Taxation under Part 3D of the *Superannuation (Unclaimed Money and Lost Members) Act 1999*.
5. Schedule A (Account-based and allocated pension rules) has been changed to remove references to superseded provisions relating to minimum payment rules.
6. Schedule C (Transition to retirement pension rules) has been changed to remove references to

superseded provisions relating to minimum payment rules.

7. Schedule D (Non-commutable market linked pensions) has been deleted as these types of pre-retirement pensions have less favourable terms than transition to retirement pensions.

Additionally, other amendments of a formatting, minor or housekeeping nature have been made.

Noted that Version 02/22 automatically applies to the Superannuation Fund.

Resolved that the proposed amendment of the SUPERCentral Governing Rules by the replacement of the current Version 02/21 with Version 02/22 is in the best interests of the members of the Fund and, consequently, no objection should be made to the proposed amendment as it applies to the Superannuation Fund.

Resolved that a copy of the information sheet issued in respect of the proposed amendment be provided to each member of the Fund.

Signing & Dating – Trustees/Directors

For the purposes of this Part "Trustee" means the company which acts as trustee or the group of individuals which constitute the trustee (as the case may be).

Signed as a Written Resolution of as Trustee of the Superannuation Fund



Carol Sherlock
Trustee / Director



Nicholas Sherlock
Trustee / Director

Dated: 11 / 2 / 2022