

This document incorporates the following amendments

- Amendment No. 1 dated 27 April 1998
- Amendment 2 dated 20 October 2000
- Amendment 4 dated 30 June 1999
- Amendment 5 dated 30 June 1999
- Amendment 7 dated 4 May 2000
- Amendment 8 dated 14 August 2000
- Amendment 9 dated 28 March 2001
- Amendment 12 dated 30 April 2001
- Amendment 14 dated 11 October 2002
- Amendment 20 dated 19 November 2003
- Amendment 21 dated 19 November 2003
- Amendment 22 dated 30 June 2004
- Amendment 23 dated 17 September 2004
- Amendment 24 dated 23 February 2005
- Amendment 25 dated 15 September 2005
- Amendment 28 dated 27 February 2008
- Amendment 29 dated 30 April 2008
- Amendment 31 dated 1 July 2011
- Amendment 34 dated 14 December 2011
- Amendment 35 dated 28 March 2012
- Amendment 38 dated 5 June 2013 (*amended Deed and Schedules 1 – 7, either on 5 June 2013 or termination of Division E (1 July 2013)*)
- Amendment 39 dated 3 July 2013 (*amended Schedules 2 and 3 only, commencing on 1 July 2013*)
- Amendment 40 dated 3 September 2013 (*amended Deed and Schedules 2, 6 and 7*)
- Amendment 44 dated 11 March 2015 (*amended Schedule 2 only*)
- Amendment 46 dated 4 May 2016 (*amended Deed and Schedules, effective 30 June 2016*)
- Amendment 47 dated 1 June 2016 (*amended Schedules 2, 3 and 4 only*)
- Amendment 49 dated 7 December 2016 (*amended Schedule 2 and 4*)
- Amendment 50 dated 2 May 2018 (*amended Schedule 2*)
- Amendment 52 dated 5 November 2020 (*amended Deed and Schedules 2, 3, 4 and 7*)
- Amendment 53 dated 12 November 2020 (*amended Schedules 2 and 4*)

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## **SCHEDULE 2 DIVISION B – (SASS)**

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## SCHEDULE 2

### DIVISION B - (SASS)

These are the Rules governing Division B of the Fund. At the Transfer Day, the Rules of Division B are intended to reflect the rights, benefits and entitlements of members under the State Authorities Superannuation Scheme established under the *State Authorities Superannuation Act 1987* and insofar as they apply to a transferred member the provisions of the following Acts or Regulations:

- (a) New South Wales Retirements Benefits Act 1972;
- (b) Local Government & Other Authorities (Superannuation) Act 1927;
- (c) Public Authorities Superannuation Act 1985;
- (d) Transport Employees Retirement Benefits Act 1967; and
- (e) Parts 2, 3 and 6 of the *State Authorities Superannuation (Transitional Provisions) Regulation 1988*,

as at the time immediately before the Transfer Day.

#### 1. INTERPRETATION

##### 1.1 Definitions

In these Rules:

**180 Point Member** means a Division B Member who has 180 benefit points;  
*[inserted by Deed of Amendment No.[39] operative 01/07/13]*

**Additional Benefit** has the meaning given by rule 5.1;

**Annual Leave** has the same meaning as that term is used in:

- a) the Local Government (State) Award (2017);
- b) any enterprise bargaining agreement governing a Contributor's entitlement to paid annual leave; or
- c) any other agreement or legislation governing a Contributor's entitlement to paid annual leave.

*[inserted by Deed of Amendment No.52 operative 5/11/20]*

**Applicable Benefit Levy** means the levy that, in order to attract the Additional Benefit for a Contributor, is paid to this Division by transfer from the Benefit Account under subrule 3.4.2(b);

**Applicable Contribution Period** has the meaning given by rule 5.1;

**Asset Portfolio** means an Asset Portfolio established in accordance with rule 2A;  
*[inserted by Deed of Amendment No.[23] operative 01/07/05; operative date amended to date as determined by Trustee by Deed of Amendment [24]- 01/10/05]*

**Attributed Salary**, in relation to a Contributor at any time, means:

- (a) where the Contributor is a Full-Time Employee at that time, the Salary of the Contributor at that time; or
- (b) where the Contributor is a Part-Time Employee at that time, the Salary that would be payable to the Contributor at that time if employed as a Full-Time Employee;

**Chief Executive Officer** has the same meaning as in Division A;

*[amended by Deed of Amendment No.[38] operative on 05/06/13]*

**Contribution Period** means a named month or such other period as may be determined by the Trustee;

**Contributor** means an Employee whose election to contribute to this Division has taken effect;

**Contributor-Financed Benefit**, in relation to a Benefit payable to, or in relation to, a Contributor, means the balance at credit in the Contributor's Benefit Account at the time the Benefit is paid;

**Contributor's Benefit Account** means the Benefit Account established and maintained under rule 2.2 in respect of the Contributor;

**Deferred Benefit**, in relation to a Contributor, means a Benefit for which the Contributor has made provision under rule 5.9, 5.10, 5.11 or deferred under the Superannuation Guarantee Charge Acts;

*[amended by Deed of Amendment No.4 operative 01/07/99]*

**Discharge**, in relation to a Contributor, means the cessation of the Contributor's employment expressed by the Employer to be on the ground that the period, or successive periods, for which the Contributor was employed has or have ended;

**Dismissal** means the termination by an Employer of the employment of a Contributor with the Employer, but does not include Retrenchment or Discharge or a Retirement on the grounds of incapacity in circumstances which entitle the Employee to a Benefit;

**Early Retirement Age** means the age of 58 years;

**Eligible Salary Sacrifice Contributor** means a Contributor whose Employer has agreed to pay contributions by way of salary sacrifice to this Division;

*[inserted by Deed of Amendment No.[23] operative 01/07/05]*

**Employer-Financed Benefit** in relation to a Benefit payable to, or in relation to, a Contributor, means so much of the Benefit as is paid from the Employer reserve;

*[amended by Deed of Amendment No.[24] operative 30/06/97]*

**Employer Reserve** means the reserve referred to in rule 2.4;

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*[inserted by Deed of Amendment No.[19] operative 07/12/2016]*

**Entry Date**, in relation to a Contributor, means the date as at which the Contributor's election to contribute to the Fund established under the *State Authorities Superannuation Act 1987* took effect, that election being:

- (a) the only such election made by the Contributor; or
- (b) where the Contributor has made more than one such election, the later or latest of those elections;

**Executive Officer** means a contributor who is:

*[(d) inserted by Deed of Amendment No.[1] operative 27/04/98; amended by Deed of Amendment No.[38] operative on 05/06/13]*

- (a) a chief executive officer;
- (b) a senior executive officer;
- (c) an office holder nominated for the purposes of section 11A of the *Statutory and Other Offices Remuneration Act 1975*; or
- (d) such other person as is nominated by the Employer in accordance with clause 10.5A.

**Exit Date**, in relation to a Contributor, means the date on which the Contributor ceases employment with an Employer, that cessation of employment being:

- (a) the only such cessation of employment of the Contributor; or
- (b) where there has been more than one such cessation of employment of the Contributor the later or latest of those cessations of employment;

**Full-Time Employee** means an Employee whose Salary Ratio is equal to 1;

**Leave Payments** means:

- a) payments in excess of full pay for Long Service Leave;
- b) payments in exchange for giving up or reducing Long Service Leave entitlements; and
- c) payments in exchange for giving up or reducing Sick Leave entitlements; and
- d) payments in exchange for giving up or reducing Annual Leave entitlements.

*[inserted by Deed of Amendment No.[47] operative 1/6/16; amended by Deed of Amendment No.52 operative 5/11/20]*

**Long Service Leave** has the same meaning as that term is used in:

- a) the *Local Government (State) Award (2017)*;
- b) any enterprise bargaining agreement governing a Contributor's entitlement to long service leave; or
- c) any other agreement governing a Contributor's entitlement to long service leave.

[inserted by Deed of Amendment No.[47] operative 01/06/16 ; amended by Deed of Amendment No.52 operative 5/11/20]

**Maximum Benefit Points** has the meaning given by rule 5.1;

**Part-Time Employee** means an Employee whose Salary Ratio is less than 1 but at least 0.1;

**Prospective Benefit Points** has the meaning given by rule 5.1;

**Public Sector Executives Superannuation Scheme**

[deleted by Deed of Amendment No.[38] operative on 05/06/13]

**Reserve** means an Account;

**Resign** means cease to be employed by an Employer, but does not include:

- (a) Retrenchment, Discharge or Dismissal; or
- (b) ceasing to be employed because of death; or
- (c) ceasing to be employed on the privatisation of an Employer; or
- (d) ceasing to be employed on the grounds of incapacity in circumstances which entitle the Employee to a Benefit;

**Retire** means cease (otherwise than by reason of death) in any manner to be employed by an Employer on or after reaching the Early Retirement Age;

**Retrenchment**, in relation to a Contributor, means the termination of the employment of the Contributor with an Employer where the employment is expressed by the Employer to be:

- (a) compulsorily terminated by the Employer on the ground that:
  - (i) the Employer no longer requires the Contributor's services and, on termination of the Contributor's employment, does not propose to fill the Contributor's position;
  - (ii) the work that the Contributor was engaged to perform has been completed; or

- (iii) the amount of work that the Employer requires to be performed has diminished and, due to that fact, it has become necessary to reduce the number of Employees employed by the Employer; or
- (b) terminated as a result of the acceptance by the Contributor of an offer by the Employer of terms of Retrenchment made on a ground specified in paragraph (a);

**Salary**, in relation to a Contributor, means Salary of the Contributor, determined in accordance with rule 1.2 or 1.4 and expressed as an annual rate;

**Salary Ratio**, in relation to a Contributor at any time during a Contribution Period, means the number ascertained by dividing the Salary of the Contributor at the commencement of the Contribution Period by the Attributed Salary of the Contributor at that commencement;

**Salary Sacrifice Amount** means an amount in lieu of Contributions due by an Eligible Salary Sacrifice Contributor from the Contributor's remuneration to the Fund;

*[inserted by Deed of Amendment No.[23] operative 01/07/05]*

**Same-sex Partner**

*[inserted by Deed of Amendment No.12 operative 01/07/01; deleted by Deed of Amendment No. [31] operative 01/07/11]*

**Senior Executive Officer** has the same meaning as in Division A;

*[amended by Deed of Amendment No.[38] operative on 05/06/13]*

**Sick Leave** has the same meaning as that term is used in:

- a) the *Local Government (State) Award (2014)*;
- b) any enterprise bargaining agreement governing a Contributor's entitlement to sick leave; or
- c) any other agreement governing a Contributor's entitlement to sick leave.

*[inserted by Deed of Amendment No.[47] operative 01/06/16]*

**Spouse**

*[inserted by Deed of Amendment No.12 operative 01/07/01; deleted by Deed of Amendment No. [31] operative 01/07/11]*

**Superannuation Year** means the year commencing on 1 April 1988 and each subsequent year commencing on 1 April.

## 1.2 Definition of Salary

*[1.2.1 to 1.2.5 inclusive replaced with new 1.2.1 and 1.2.2 by Deed of Amendment [21] operative 19/11/03]*

### 1.2.1 Contributors employed under an award or industrial agreement

For the purposes of these Rules, Salary, in relation to a Contributor (other than an Executive Officer or a Contributor on an individual contract (including an

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individual on an award regulated contract)) who is a Contributor employed under an award or registered industrial agreement means the sum of:

- (a) the monetary remuneration payable to the Contributor in the Contributor's capacity as Contributor, as reported to the Trustee from time to time by the Contributor's Employer (excluding any allowances or Leave Payments); plus
- (b) the amount of any allowances (including shift allowances) actually paid during the 12 months immediately preceding the date on which the Salary is calculated and which are taken to be 'ordinary time earnings' for the purposes of the Superannuation Guarantee Charge Acts; plus
- (c) the amount of any weekly workers' compensation payments which are to be taken as 'ordinary time earnings' for the purposes of the Superannuation Guarantee Charge Acts; plus
- (d) the value of the 'private use' component of a motor vehicle provided by the Contributor's Employer (if any); plus
- (e) the value of any child care facilities provided by the Contributor's Employer; plus
- (f) the amount of any voluntary employer (salary sacrifice) superannuation contributions; plus
- (g) the value of any other salary sacrifice arrangements and any associated fringe benefits tax payable on such other arrangements.

*[(a) amended by Deed of Amendment No.[47] operative 01/06/16]*

1.2.2 Contributors employed on individual contracts (including those on award regulated contracts)

For the purposes of these Rules, Salary, in relation to a Contributor (other than an Executive Officer or a Contributor to whom rule 1.2.1 applies) who is a Contributor employed on an individual contract basis (including an individual on an award regulated contract) means:

- (a) the Contributor's total salary package; less
- (b) the assessed annual cost to the Employer for providing benefits under the Fund as determined by the Trustee.

1.2.3 If a Contributor is on secondment to another Employer, the Salary of the Contributor for the purposes of these Rules is the Salary paid or payable to the Contributor by the other Employer.

1.2.4 The Employer may, by notice in writing to the Trustee, declare unconditionally, or subject to conditions, that subrule 1.2.5 applies:

- (a) to a Contributor specified in the order who is on secondment but not to another Employer; and
- (b) generally during the period of that secondment, or during such period as is specified in the order, being, in either case, a period commencing before, on or after the date of the order.

1.2.5 During the period in which this subrule 1.2.5 is declared pursuant to subrule 1.2.4 to apply to a Contributor on secondment, the Contributor's Salary shall, for the purposes of this Act, be that paid or payable in respect of the employment to which he or she is seconded.

1.2.6 In this rule:

*[amended by Deed of Amendment No.[21] operative 19/11/03]*

**shift allowance** means an allowance paid to an Employee in respect of shift work performed by the Employee, and includes amounts paid as penalty rates;

**value** or **amount** means the amount or value specified by the Employer as forming part of the Contributor's total remuneration package, and if not specified by the Employer in the case of a benefit that requires a value, the value of the arrangement or contribution referred to for fringe benefits tax purposes

**weekly workers compensation**, in relation to a Contributor, means weekly payments of compensation under the *Workers Compensation Act 1987* (or the provisions of the *Workers Compensation Act 1926* as applied by that Act) payable to the Contributor because the Contributor is partially incapacitated for work through injury.

### 1.3 Determination of loading in respect of shift allowance

*[deleted by Deed of Amendment No.[21] operative 19/11/03]*

### 1.4 Salary of Executive Officers

1.4.1 For the purposes of these Rules, the Salary of an Executive Officer is the Salary as last nominated or changed in accordance with this rule 1.4.

1.4.2 An amount of Salary for the purposes of these Rules must be nominated to an Executive Officer's Employer by the officer, on, or as soon as practicable after, being appointed as an Executive Officer. An amount may also be nominated to the officer's Employer by the officer on, or as soon as practicable after, being reappointed, or appointed to another position, as an Executive Officer.

1.4.3 The amount nominated is to be not less than the monetary remuneration payable to the Executive Officer at the date of nomination and not more than the total value of the remuneration package paid to the officer (less the cost of providing the Employer's Contributions to superannuation and any performance-related incentive payment).

1.4.4 If an Executive Officer fails to nominate an amount of Salary within 28 days of first being appointed as an Executive Officer or within such further period as the

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Trustee may allow, the officer is taken to have nominated an amount of Salary that is equal to the monetary remuneration payable to the officer at the end of the applicable period.

- 1.4.5 An Executive Officer may, from time to time, by notice to the officer's Employer elect to reduce the amount of Salary nominated under this rule 1.4, but not so that the amount is less than the monetary remuneration payable to the officer at the date of the election.
- 1.4.6 An Executive Officer may, from time to time, by notice to the officer's Employer elect to increase the amount of Salary nominated under this rule 1.4, but not so as to increase the amount nominated by a percentage of that amount that is more than the percentage by which the remuneration package of the officer has increased since the amount of Salary was last nominated or changed.
- 1.4.7 An Employer must notify the Trustee of a nomination or election under this rule 1.4. Any such nomination or election takes effect on the date of notification to the Trustee or on such other date as the Trustee may determine with the consent of the Executive Officer concerned.
- 1.4.8 Nothing in this rule 1.4 requires the nominated amount of Salary to be increased if, because of a variation in the remuneration package of an Executive Officer or in the proportions of the remuneration package comprising monetary remuneration and employment benefits of the officer, the amount of Salary as last nominated or changed for the purposes of this rule 1.4 is less than the monetary remuneration of the officer.
- 1.4.9 In this rule, the *monetary remuneration* payable to an Executive Officer is:
- (a) if the officer is a Chief Executive Officer or Senior Executive Officer, within the meaning of Division A, the monetary remuneration payable in accordance with the *Public Sector Employment and Management Act 2002*; or
  - (b) if the officer is an office holder nominated for the purposes of section 11A of the *Statutory and Other Offices Remuneration Act 1975*, the remuneration payable to the officer as reduced under that section by the cost of employment benefits provided to the officer; or
  - (c) if the person is nominated by the Employer in accordance with clause 10.5A, the monetary remuneration payable to the person.
- [amended by Deed of Amendment No.[38] operative on 5 June 2013]*
- 1.4.10 For the purposes these Rules, the monetary remuneration of an Executive Officer excludes any Leave Payments.
- [inserted by Deed of Amendment No.[47] operative 01/06/16]*

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## **1.5 Secondment of Employee otherwise than to Employer**

- 1.5.1 The Employer may, by notice in writing to the Trustee, declare unconditionally or subject to conditions that subrule 1.5.2 applies:
- (a) to a Contributor specified in the order who is on secondment but not to another Employer; and
  - (b) generally during the period of that secondment, or during such period as is specified in the order being, in either case, a period commencing before, on or after the date of the order.
- 1.5.2 During the period in which this subsection is declared under subrule 1.5.1 to apply to a Contributor, the Employer specified in the declaration shall be deemed to be the Employer from whose employment the Contributor is seconded.

## **1.6 Part-Time employment with more than one Employer**

Where a Contributor is in Part-Time Employment with more than one Employer at the same time, these Rules apply to the Contributor separately in relation to each such employment as if, in relation to each such employment, the Contributor were a different person.

## **2. MAINTENANCE AND ADMINISTRATION OF THIS DIVISION**

### **2.1 Payments in and out of this Division**

- 2.1.1 The Trustee shall cause to be held in the Fund in respect of this Division:
- (a) Contributions or payments made by Employers and Employees;  
*[amended by Deed of Amendment No.[1] operative 27/04/98]*
  - (b) income derived from investment of assets held in respect of this Division and any profit made from realisation of any investment of assets held in respect of this Division;
  - (c) money borrowed for the purposes of this Division; and
  - (d) any other amounts payable in respect of this Division.
- 2.1.2 The Trustee shall cause to be paid from the Fund in respect of this Division:
- (a) administration costs incurred by the Trustee under these Rules;
  - (b) any Tax;
  - (c) the Benefits payable under these Rules; and
  - (d) any other amounts payable in respect of this Division.

### **2.2 Contributors' Benefit Accounts**

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- 2.2.1 The Trustee shall establish and maintain within this Division a separate Benefit Account for each Contributor.
- 2.2.2 There shall be credited to a Contributor's Benefit Account:
- (a) contributions made by the Contributor; and
  - (b) earnings being the share of income derived from investment of assets held in respect of this Division, and any profit made from realization of those investments attributable to the particular Asset Portfolio applicable to that Contributor.  
*[replaced by Deed of Amendment No.[23] operative 01/07/05; operative date amended to date as determined by Trustee by Deed of Amendment [24 - 01/10/05]]*
- 2.2.3 There shall be debited to a Contributor's Benefit Account:
- (a) where the Contributor is covered for the Additional Benefit, the amount of the Additional Benefit Levy;
  - (b) such part of the amount of any Benefit paid to the Contributor as comprises the Contributor-Financed Benefit;  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
  - (c) administration costs incurred by the Trustee under this Division in relation to the Contributor;  
*[amended by Deed of Amendment No.[35] operative 28/03/12]*
  - (d) any Tax; and  
*[(d) inserted by Deed of Amendment No.[23] operative 01/07/05; operative date amended to date as determined by Trustee by Deed of Amendment [24]- 1/10/05; [amended by Deed of Amendment No.[35] operative 28/03/12]*
  - (e) any amount transferred to Division F.  
*[inserted by Deed of Amendment No.35 operative 28/03/12]*
- 2.2.4 As at the last day of each month, each Contributor Benefit Account is to be adjusted as follows:
- (a) earnings expressed as interest is to be credited (or debited) to each Contributor's Benefit Account on a daily balance pro rata basis at the rate declared by the Trustee, in accordance with rule 2B, to be the investment earning rate for that month for the particular Asset Portfolio applicable to that Contributor;
  - (b) to each Contributor's Benefit Account is to be debited with the monthly unit management charge determined for that month in accordance with rule 2E; the particular to each Contributor's Benefit Account to which that charge is to be debited is to be at the discretion of the Trustee; and
  - (c) any other amounts payable by a Contributor.  
*[2.2.4 inserted by Deed of Amendment No.[23] operative 01/07/05; operative date amended to date as determined by Trustee by Deed of Amendment [24]- 01/10/05]*

## 2.3 Additional Benefit Reserve

- 2.3.1 The Trustee shall establish and maintain an Additional Benefit Reserve.
- 2.3.2 There shall be credited to the Reserve the amounts debited under subrule 2.2.3(a).  
*[deleted by Deed of Amendment No.9 operative 30/6/03; replaced by Deed of Amendment No. [20] operative 01/07/01].*
- 2.3.3 There shall be credited to the Reserve the amounts debited under subrule 2.4.3 (c).  
*[replaced by Deed of Amendment No.9 operative 30/06/03]*
- 2.3.4 There shall be debited to the Reserve the amount of any Additional Benefits paid by the Trustee.  
*[inserted by Deed of Amendment No.9 operative 30/06/03]*

## 2.4 Reserves for Employers

- 2.4.1 The Trustee shall establish and maintain in respect of this Division a separate employer reserve, or separate employer reserves as the case may be.
- 2.4.2 There shall be credited to such an employer reserve:
- (a) the Contributions made by the Employer or Employers to whom the reserve relates; and
  - (b) earnings being the share of income derived from investment of assets held in respect of this Division, and any profit made from realization of those investments attributable to the assets in that reserve.  
*[replaced by Deed of Amendment No.[23] operative 01/07/05; operative date amended to date as determined by Trustee by Deed of Amendment [24]- 01/10/05]*
- 2.4.3 There shall be debited to the employer reserve:  
*[replaced by Deed of Amendment No.9 operative 30/06/03]*
- (a) the amount of the Employer-Financed Benefits (but excluding any part of any Additional Benefit) included in the amount of any Benefit paid to, or in relation to, a Contributor who, immediately before the Benefit became payable, was an Employee of the Employer or an Employer to whom the reserve relates; and  
*[amended by Deed of Amendment No.[24] operative 30/06/97]*
  - (b) administration costs incurred by the Trustee under these Rules in relation to the Employer or an Employer to whom the reserve relates;
  - (c) where the Contributor is covered for the Additional Benefit, an amount determined by the Trustee, after seeking actuarial advice, from time to time in respect of the Employer or an Employer to whom the reserve relates; and
  - (d) any Tax.  
*[(d) inserted by Deed of Amendment No.[23] operative 01/07/05; operative date amended to date as determined by Trustee by Deed of Amendment [24]- 01/10/05]*

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2.4.4 The Trustee may, after obtaining actuarial advice, adjust the amount credited to an employer reserve by crediting or debiting an amount, if it appears to the Trustee appropriate to do so because of a change in the constitution or nature of an Employer.

2.4.5 Subrule 2.4.4 does not apply to a change in the constitution or nature of an Employer because of a Government privatisation initiative.

## **2.5 Salary Sacrifice**

*[inserted by Deed of Amendment No.[23] operative 01/07/05]*

2.5.1 The Trustee will deal with a Salary Sacrifice Amount as follows:

- (a) credit the Salary Sacrifice Amount to the Contributor's Benefit Account.
- (b) the Contributor's Contribution obligation shall be reduced by the amount of the Salary Sacrifice Amount less any Tax attributable to that Salary Sacrifice Amount.

## **2A Other accounts and reserves and Asset Portfolios**

*[inserted by Deed of Amendment No.[23] operative 01/07/05; operative date amended to date as determined by Trustee by Deed of Amendment [24]- 01/10/05]*

2A.1 The Trustee may establish and maintain in respect of this Division such other accounts and reserves as, in the opinion of the Trustee, are necessary or convenient for the administration of this Division and these Rules.

2A.2 Without limiting subrule 2A.1, the Trustee may establish separate Asset Portfolios, comprising assets attributable to Contributor's Benefit Accounts or Deferred Benefits allocated by the Trustee, for the purposes of this Division.

2A.3 The initial Asset Portfolios established by the Trustee are:

- (a) Cash Plus;
- (b) Capital Guarded;
- (c) Balanced;
- (d) Diversified;
- (e) High Growth; and
- (f) Trustee Selection

*[; in (e) inserted by Deed of Amendment No.[24]]*

2A.4 A Contributor may, at any time, elect to have the Contributor's Benefit Account treated, for the purpose only of allocating Fund earnings, as being invested as part of one or more particular Asset Portfolios nominated by the Trustee to the Contributor. The Contributor may elect to vary or revoke any such election.

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- 2A.5 Where no election has been made by a Contributor, the Trustee shall treat the Contributor's Benefit Account or Deferred Benefits as being invested in the Trustee Selection option or such other Asset Portfolio as the Trustee may choose.  
*[replaced by Deed of Amendment No.[24] operative 01/10/05; amended by Deed of Amendment No.[40] operative 01/09/09]*
- 2A.6 An election made in accordance with subrule 2A.4 shall take effect on the date determined by the Trustee from time to time, or if no such date is determined, on the day that is five working days after the day the election is received by the Trustee, or such later date as may be specified in the election. However, where an election is received prior to the day that Contributions are first credited to the account of the Member making the election, the election is to take effect on that later day.  
*[replaced by Deed of Amendment No. [29] operative 25/10/06; replaced by Deed of Amendment No. [34] operative 14/12/11]*
- 2A.7 A fee (determined by the Trustee from time to time) per election shall apply to all elections made in accordance with subrule 2A.4 other than:
- (a) the first election made by a Contributor; and
  - (b) the first subsequent election made by that Contributor in each period of 12 months ended 30 June.
- 2A.8 For the purposes of these Rules, the earnings rate of each particular Asset Portfolio or reserve shall be the rate declared by the Trustee in respect of that Asset Portfolio or reserve for any given period.
- 2A.9 The Trustee is to determine, for the purpose only of allocating earnings under this Division, the assets to be treated as being invested in a particular Asset Portfolio or Portfolios or reserve.
- 2AA Changes in Asset Portfolios**  
*[inserted by Deed of Amendment No.[40] operative 01/09/09]*
- 2AA.1 The Trustee may create new Asset Portfolios and close Asset Portfolios, create new rules or change existing rules as to eligibility for investment in a particular Asset Portfolio.
- 2AA.2 Where an Asset Portfolio is closed or new rules are created or existing rules changed such that one or more Members are no longer eligible to have all or part of their Contributor's Benefit Account or Deferred Benefits treated as being invested in that Asset Portfolio to such other Asset Portfolio or Asset Portfolios as the Trustee determines.
- 2B Adjustment of Accounts and reserves for interest**  
*[inserted by Deed of Amendment No.[23] operative 01/07/05; operative date amended to date as determined by Trustee by Deed of Amendment [24]- 01/10/05]*
- 2B.1 The Trustee may, from time to time, adjust each of the Accounts and reserves established under these Rules at a rate or rates fixed by the Trustee, having regard to the income in respect of this Division and the earnings, as determined by the

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Trustee, of any Asset Portfolio or Portfolios in which the or parts of them are treated as being invested or of any reserves and such other matters as the Trustee considers relevant.

- 2B.2 The Trustee may, for the purpose of adjusting a Contributor's Benefit Account or Deferred Benefits before paying out the balance at credit in the Account, fix a rate for that purpose only.
- 2B.3 In adjusting Accounts or reserves under this rule 2B, the Trustee may fix different rates for Accounts or reserves, or parts of Accounts or reserves, that are treated as being invested differently.
- 2B.4 For the purpose of adjusting Accounts and reserves, the Trustee may allocate any income in respect of this Division, or any losses, as being attributable to a particular Asset Portfolio or Portfolios, or reserve as it thinks fit.

## **2C How Costs may be charged**

*[inserted by Deed of Amendment No.[23] operative 1/7/05; operative date amended to date as determined by Trustee by Deed of Amendment [24]- 1/10/05]*

- 2C.1 Costs incurred by the Trustee in the administration or execution of these Rules, are to be charged to such reserves and accounts as the Trustee may determine.
- 2C.2 Costs incurred in investing an Asset Portfolio and managing any such investment are to be paid from the income from investment from the Asset Portfolio.

## **2D Fees and Charges**

*[inserted by Deed of Amendment No.[23] operative 1/7/05; operative date amended to date as determined by Trustee by Deed of Amendment [24]- 1/10/05]*

- 2D.1 The Trustee is to declare a monthly unit management charge to apply to Contributor Benefit Accounts as from such date as may be specified by the Trustee.

## **3. CONTRIBUTIONS BY EMPLOYEES**

### **3.1 Closure of this Division to new Contributors**

- 3.1.1 Except as provided in subrule 3.1.2 and 3.1.3 an Employee is not entitled to make an election to contribute under this Division.
- 3.1.2 An Employee who resumes employment as an Employee in the circumstances set out in rule 3.12 may make an application under that rule and may resume Contributions.
- 3.1.3 (a) An Employee who has elected under rule 5.11 to make provision for a Deferred Benefit before the commencement of this rule 3.1, or who so elects after the commencement of this rule 3.1, is entitled to elect to contribute under this Division of the Fund.
- (b) An Employee who has elected under Division 3B of Part 4 of the *Superannuation Act 1916* to defer a Benefit before the commencement of this rule 3.1, or who so elects under Part 17 of Division D after the

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commencement of this rule 3.1, is entitled to elect to contribute under this Division.

*[amended by Deed of Amendment No.[22] operative 30/6/97]*

- (c) The election to contribute under this Division must be made when the Employee elects to make provision for a Deferred Benefit or to defer a Benefit.
- (d) Despite paragraph (c), an Employee who elected to make provision for a Deferred Benefit or to defer a Benefit before the commencement of that paragraph may elect to contribute under this Division at any time within 3 months after the commencement of that paragraph.

3.1.4 An election under subrule 3.1.2 or 3.1.3 shall:

- (a) be in a form approved by the Trustee for the purposes of this rule 3.1;
- (b) specify the rate at which the Employee desires, subject to these Rules, to contribute under this Division, being the rate of 1, 2, 3, 4, 5, 6, 7, 8 or 9 per cent of the Employee's Salary; and
- (c) be supported by a certificate by the Employee's Employer that is in a form approved by the Trustee.

3.1.5 The certificate must state:

- (a) the date of birth of the Employee;
- (b) the Salary (and, in the case of a Part-Time Employee, the Attributed Salary) of the Employee;
- (c) that the Employer has no reason to believe that the Employee will not continue to be an Employee within the meaning of these Rules for at least 1 year from the date of the certificate; and
- (d) such other matters as the Trustee considers necessary or convenient for the purposes of this rule 3.1.

3.1.6 A failure to comply with subrule 3.1.4(b) does not invalidate an election and, in the event of such a failure, the form of election shall be deemed to specify a rate of 1%.

3.1.7 An election made by an Employee under subrule 3.1.2 or 3.1.3 is ineffective if, at the time the election would take effect, the Employee would be of or above the age of 70 years.

*[amended by Deed of Amendment No.[1] operative 27/4/98]*

3.1.8 An election made by an Employee under subrule 3.1.2 or 3.1.3 (other than an election referred to in 3.1.7) takes effect not later than the first day of the second Contribution Period after that in which the election is received in the office of the

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Trustee, but, if an Employee makes a subsequent election under rule 3.9, ceases to be in force immediately before the subsequent election takes effect.

- 3.1.9 If the Trustee approves, an Employee may, before an election made under this rule 3.1 takes effect, vary the election.
- 3.1.10 If a Contributor to another superannuation fund would become (but for being such a Contributor) entitled to elect to contribute under this Division by reason of a change of work category or for any other reason:
- (a) the Contributor shall be deemed not to be a Contributor to the other superannuation fund for the purposes of making the election;
  - (b) the Contributor may make the election on condition that the Trustee approves an application made by the person under rule 3.2 to be covered for the Additional Benefit; and
  - (c) the election takes effect as at a date determined by the Trustee.

### **3.2 Additional Benefit**

- 3.2.1 An Employee under the Early Retirement Age may lodge with the Trustee an application to be covered for the Additional Benefit.
- 3.2.2 Such an application may be made:
- (a) by an Employee who is not a Contributor at the time the Employee makes an election under rule 3.1; or
  - (b) except to the extent that rule 3.5 or subrule 3.6.6 otherwise provides at any time by a Contributor.
- 3.2.3 Such an application shall:
- (a) be in a form approved by the Trustee for the purposes of this rule 3.2; and
  - (b) be accompanied by such documents, evidence and information as the Trustee may require for the purposes of this rule 3.2.

### **3.3 Medical examination**

- 3.3.1 This rule 3.3 applies to an application made under rule 3.2 by a person to be covered for the Additional Benefit.
- 3.3.2 The Trustee may require the applicant:
- (a) to submit to such medical examinations as may be required by the Trustee; and
  - (b) to provide such medical reports, evidence and information as are specified by the Trustee.

3.3.3 Where the applicant:

- (a) fails, in the opinion of the Trustee, to pass a medical examination to which the applicant has submitted in accordance with a requirement under this rule 3.3; or
- (b) fails to comply with a requirement under this rule 3.3,
- (c) the Trustee shall refuse the application.

3.3.4 For the purpose of deciding whether or not to approve the application, the Trustee:

- (a) may, under subrule 3.3.2, require the applicant to submit to further medical examinations or provide further medical reports; and
- (b) may obtain such evaluations of medical examinations or medical reports as it thinks fit.

### **3.4 Approval of application**

3.4.1 If the Trustee approves an application made under rule 3.2:

- (a) the Trustee shall appoint the day on and from which the applicant's cover for the Additional Benefit is to commence and shall notify the applicant accordingly; and
- (b) the applicant becomes, and remains, liable for payment of the Additional Benefit Levy in accordance with subrule 3.4.2.

3.4.2 Payment by a Contributor of the Additional Benefit Levy:

- (a) shall commence on a date appointed by the Trustee and shall be made at a rate determined by the Trustee and at times so determined;
- (b) shall be effected by transfer from the Contributor's Benefit Account; and
- (c) shall cease when the Contributor no longer has available to be taken into account any Prospective Benefit Points.

### **3.5 Refusal of application**

If an application made under rule 3.2 is refused, the applicant may not again make such an application before the expiration of:

- (a) the period of 3 years that next succeeds the refusal; or
- (b) in a particular case such shorter period as the Trustee may decide.

### **3.6 Revocation of approval**

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- 3.6.1 If, after approving an application made under rule 3.2, the Trustee forms the opinion that, in relation to the application, or to a medical examination of the applicant, an untrue statement was made and that its approval would not have been given had the untrue statement not been made, the Trustee shall, subject to this rule 3.6, revoke the approval.
- 3.6.2 For the purpose of deciding whether or not, in relation to an application or a medical examination of an applicant, it is of the opinion referred to in subrule 3.6.1, the Trustee may, if it thinks fit, require the applicant, within a time specified by the Trustee or within such further time as the Trustee may allow, to provide information, or to undergo a medical examination, or to provide medical reports, as specified by the Trustee.
- 3.6.3 On the expiration of the time, or further time, referred to in subrule 3.6.2, the Trustee may, whether or not the requirement so referred to is complied with, proceed to decide whether or not it is of the opinion referred to in subrule 3.6.1.
- 3.6.4 If the applicant fails to comply with a requirement under subrule 3.6.2, the Trustee may revoke the approval.
- 3.6.5 An approval may be revoked whether it relates to a Contributor or a former Contributor and the revocation has effect as if the Contributor or former Contributor had never been entitled to the cover.
- 3.6.6 If, under subrule 3.6.1 or 3.6.4, the Trustee revokes its approval of an application:
- (a) the applicant (if a Contributor) ceases to be covered for the Additional Benefit and ceases to be liable to pay the Additional Benefit Levy;
  - (b) the applicant (if a Contributor) is disqualified for 3 years from again applying to be covered for the Additional Benefit; and
  - (c) the amount of any Additional Benefit Levy paid by the applicant (whether a Contributor or a former Contributor) before revocation of the approval is not recoverable.

### **3.7 Liability to contribute**

- 3.7.1 Where an Employee is a Contributor under this Division or where an election under subrule 3.1.2 or 3.1.3 takes effect, the person who made the election becomes, and remains, liable to pay under this Division the Contributions prescribed by this Part 3 and, except as provided by rules 3.9, 3.10, 3.11 and 4.3, to pay those Contributions in respect of successive Contribution Periods:
- (a) commencing with the Contribution Period in which the Contributor's Entry Date occurs; and

- (b) ending with the last complete Contribution Period ending on or before the Contributor's Exit Date.

3.7.2 A Contributor's Contributions under this Division are payable to the Trustee by the Employer by which the Contributor is employed at such times as the Trustee may require. The Employer is entitled to deduct those Contributions from any amount or amounts that may become payable by the Employer to the Contributor, whether as Salary or otherwise.

3.7.3 The Trustee may, in a particular case, charge interest calculated on a daily basis at a rate determined by the Trustee on a Contribution under this Division for any period during which the Contribution remains unpaid after the time allowed for payment and any such interest:

- (a) shall be paid to the Trustee by the Employer in default; and
- (b) is not chargeable against any Employee.

### **3.8 Salary basis for Contributions**

A Contributor's Contributions under this Division during a Superannuation Year shall be based on the Salary paid to the Contributor by his or her Employer at the rate applicable as at:

- (a) 31 December last preceding the commencement of the Superannuation Year; or
- (b) the Contributor's Entry Date,

whichever is the later.

### **3.9 Variations of Contribution rate**

3.9.1 A Contributor may, during the period that commences at the beginning of a Superannuation Year and ends on the next succeeding 31 December or such later date as the Trustee may approve, lodge with the Trustee an election to vary the rate per cent of the Contributor's Salary to be paid under this Division.

3.9.2 An election under subrule 3.9.1:

- (a) shall be in a form approved by the Trustee for the purposes of this rule 3.9;
- (b) shall specify the varied rate per cent (being 1, 2, 3, 4, 5, 6, 7, 8 or 9 per cent) of the Contributor's Salary to be paid under this Division; and
- (c) takes effect on 1 April next succeeding receipt of the election in the office of the Trustee.

3.9.3 Where the nature of the employment of a Contributor changes from Full-Time to Part-Time or from Part-Time to Full-Time, or the amount of time worked Part-Time by a Contributor changes, the amount of the Contributor's Contribution under this

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Division in respect of the Contribution Period during which the change operates, and each succeeding Contribution Period until varied in accordance with these Rules, is the amount calculated by multiplying by the Contributor's Salary Ratio at the commencement of the period the amount of the Contribution that would be payable on the basis of the Contributor's Attributed Salary last applicable for the purpose of calculating Contributions under this Division.

- 3.9.4 Except as provided by subrule 3.9.3 or to the extent that the Trustee upon the application of a Contributor otherwise directs, a reduction in the Salary of the Contributor below that upon which his or her Contributions are based does not, until the beginning of the Superannuation Year that next succeeds the reduction, affect the amount of the Contribution that the Contributor is required to pay under this Division.
- 3.9.5 Except in the case of a Contributor who applies for a direction of the Trustee under subrule 3.9.4, where a Contributor's Attributed Salary is reduced as a consequence of the Contributor's ill-health or in circumstances considered by the Contributor to be special, the Contributor may apply to the Trustee in a form that:
- (a) is approved by the Trustee for the purposes of this subrule 3.9.5; and
  - (b) is accompanied by such evidence of the cause of the reduction in Salary as the Trustee requires,
- for the application of subrule 3.9.6 to the Contributor.
- 3.9.6 Where the Trustee approves an application by a Contributor under subrule 3.9.5, the Attributed Salary of the Contributor shall, for the purposes of these Rules, be deemed to be the same as the Contributor's Attributed Salary immediately before the reduction until:
- (a) the beginning of the Superannuation Year that next succeeds a 31 December as at which the Contributor's Attributed Salary is equal to or greater than his or her Attributed Salary immediately before the reduction; or
  - (b) the Trustee's approval is revoked on the application of the Contributor,
- whichever first occurs.
- 3.9.7 Subject to rule 3.10, an election that takes effect under this rule 3.9 remains in force until a further election made under this rule 3.9 takes effect.

### **3.10 Variations of Contribution rate: hardship**

- 3.10.1 Despite subrule 3.9.1, the Trustee may, if it is satisfied that a continuation of a Contributor's rate of Contribution under this Division would result in financial hardship for the Contributor, accept at any time an election under that subrule 3.9.1 to reduce, as from a date determined by the Trustee having regard to the circumstances of the Contributor, the rate per cent of the Contributor's Salary to be paid under this Division.

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- 3.10.2 Despite subrule 3.9.1, an election referred to in subrule 3.10.1 may specify as the varied rate the rate of 0 per cent.
- 3.10.3 During a period when a rate of 0 per cent is in force, no Contributions are payable by the Contributor.
- 3.10.4 After an election referred to in subrule 3.10.1 is accepted by the Trustee, the Trustee shall refund any resulting excess of Contributions made by the Contributor under this Division after the date determined by the Trustee for commencement of the new rate.
- 3.10.5 The Trustee's acceptance of an election for a rate of 0 per cent shall be given for a limited period or periods.

### **3.11 Contributions during leave without pay and other matters**

- 3.11.1 In this rule 3.11:

*leave without pay* means a period of leave from employment with an Employer (otherwise than on secondment as referred to in rule 1.2.6) during which the Contributor is not entitled to receive payment of Salary from the Employer;

*prescribed leave* means leave without pay during which the Contributor on leave is absent from employment with an Employer:

- (a) pursuant to a grant of sick leave;
  - (b) for a period during which the Contributor receives periodic payments under an Act relating to workers' compensation;
  - (c) pursuant to a grant of maternity leave;
  - (d) pursuant to an agreement with the Employer for the secondment of the Contributor to employment that is not employment with an Employer;
  - (e) to enable the Contributor to perform union duties unless, in a particular case, the Employer certifies that this paragraph is not to apply;
  - (f) to enable the Contributor to perform duties that the Employer certifies to be in the interests of the Employer or the State;
  - (g) on service with the naval, military or air forces of the Commonwealth; or
  - (h) in circumstances approved by the Trustee for the purposes of this rule 3.11.
- 3.11.2 A Contributor who takes leave without pay that is prescribed leave is liable to make Contributions under this Division in respect of the Contribution Periods occurring wholly or partly while on prescribed leave.
- 3.11.3 However, a Contributor who takes a single period of prescribed leave that is sick leave or maternity leave is not liable to make Contributions under this Division in

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respect of any Contribution Periods during the period of leave occurring wholly or partly more than 2 years after the period of leave commences.

3.11.4 A Contributor who takes leave without pay that is not prescribed leave:

- (a) is liable to make Contributions under this Division in respect of:
  - (i) a Contribution Period that begins before but finishes after the start of that leave; and
  - (ii) a Contribution Period that begins before but finishes after the end of that leave; and
- (b) is not liable or entitled to make Contributions under this Division in respect of:
  - (i) a Contribution Period that begins on the first day of that leave and finishes before the end of that leave; or
  - (ii) a Contribution Period that, having begun after the start of that leave, finishes on the last day of that leave; or
  - (iii) a Contribution Period that falls between a Contribution Period referred to in paragraph (a) (i) or subparagraph (i) and a Contribution Period referred to in paragraph (a) (ii) or subparagraph (ii) (whichever is relevant).

3.11.5 For the purposes of these Rules, a Contributor who is employed by an Employer for less than 10 hours a week for a single period of more than 2 years is not liable to make Contributions under this Division in respect of any Contribution Periods occurring wholly or partly more than 2 years after the period commences and while the Contributor is so employed for less than 10 hours a week.

3.11.6 A Contributor liable to make Contributions under subrule 3.11.2 or 3.11.4 shall pay, in accordance with directions given by the Trustee, such Contributions as would have been deducted from the Salary of the Contributor in accordance with rule 3.7 if the Contributor had continued to be paid Salary by the Employer during the Contribution Period or periods concerned at the rate at which the Contributor would have been paid but for being on leave without pay.

3.11.7 A Contribution Period in respect of which a Contributor is not liable to make Contributions under this Division under this rule 3.11 is not an Applicable Contribution Period in relation to the Contributor.

### **3.11A Other Contributions by Contributor**

*[inserted by Deed of Amendment No.[1] operative 27/4/98]*

3.11A.1 A Contributor, who is not required by this Division to contribute to this Division merely because the Contributor is on authorised leave without pay as an employee, is entitled to remain a Contributor to the Division even though the Contributor is not contributing to the Division.

- 3.11A.2 This section applies to a Contributor only if:
- (a) the leave is for the purpose of raising children of whom the Contributor is a parent, or for whom he or she has assumed the responsibility of a parent, and
  - (b) he or she has been on that leave for less than seven years consecutively, and
  - (c) he or she has a statutory or contractual right to resume employment at the end of the leave.

3.11A.3 In this Division **authorised leave** means leave approved by the Contributor's Employer, or leave authorised by an agreement certified, or an award made, by a tribunal or body having the authority to do so under a law of New South Wales or the Commonwealth.

### 3.12 Resumption of Contributions after break in employment

3.12.1 This rule 3.12 applies to a Contributor where the employment of the Contributor with an Employer:

- (a) ceases in circumstances entitling the Contributor to be paid a Benefit under rule 5.2;
- (b) ceases in circumstances entitling the Contributor to be paid a Benefit under rule 5.5;
- (c) ceases in circumstances entitling the Contributor to be paid a Benefit under rule 5.6 but the Contributor does not elect to make provision for a Deferred Benefit; or
- (d) ceases in circumstances entitling the Contributor to be paid a Benefit under rule 5.7,

and the Contributor has not made an application for payment of the Benefit.

*[format amended by Deed of Amendment No.[22] operative 30/6/97; amended by Deed of Amendment No.[44] operative on 11 March 2015]*

3.12.2 If a Contributor to whom this Rule 3.12 applies resumes employment as an Employee (with the same or any other Employer) within three months of the end of the last Contribution Period in which the previous employment ceased, the Contributor may apply to the Trustee to have the Contribution Periods since the last Contribution Period recognised as Applicable Contribution Periods.

*[replaced by Deed of Amendment No.[1] operative 27/4/98; amended by Deed of Amendment No.[24] operative 30/6/97]*

3.12.3 If the Trustee approves an application under subrule 3.12.2, the Contribution Periods approved in the application shall be deemed to be Applicable Contribution Periods in relation to the Contributor as an Employee of the Employer with whom the Contributor resumed employment.

*[amended by Deed of Amendment No.[1] operative 27/4/98]*

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- 3.12.4 If a Contributor to whom this rule 3.12 applies resumes employment as an Employee (with the same or any other Employer) before the end of the Contribution Period in which the previous employment ceased, the Contributor may apply to the Trustee to have the Contribution Period recognised as an Applicable Contribution Period.
- 3.12.5 If the Trustee approves an application under subrule 3.12.4, the Contribution Period shall be deemed to be an Applicable Contribution Period in relation to the Contributor as an Employee of the Employer with whom the Contributor resumed employment.

### **3.13 Contributor eligible for membership or a member of Division A**

*[amended by Deed of Amendment No.[38] operative on 5 June 2013]*

- 3.13.1 When a Contributor who is an Executive Officer becomes eligible to become a member of Division A, the Contributor must:
- (a) elect to continue to contribute to this Division; or
  - (b) elect to make provision for a Benefit provided by subrule 5.10.8.  
*[amended by Deed of Amendment No.[38] operative on 5 June 2013]*
- 3.13.2 If a Contributor fails to make an election under subrule 3.13.1 within 2 months of being required to make that election, the Contributor, for the purposes of this rule 3.13, is to be taken to have elected to continue to contribute under this Division.
- 3.13.3 Nothing in these Rules prevents a Contributor who elects to continue to contribute under this Division from also contributing to Division A or another superannuation fund and such a Contributor is entitled to Benefits in accordance with these Rules despite being a member of that Scheme or another fund.
- 3.13.4 If a Contributor elects to continue to contribute under this Division, the Contributor may, at any time thereafter while being eligible to become a member of Division A or being a member of Division A, elect to make provision for a Benefit provided by subrule 5.10.8.  
*[amended by Deed of Amendment No.[38] operative on 5 June 2013]*
- 3.13.5 A Contributor who elects, under this rule 3.13, to make provision for a Benefit provided by subrule 5.10.8:
- (a) is entitled to make provision for the Benefit even though he or she is not entitled to a Benefit (including any interest paid by the Trustee) of or exceeding the amount prescribed for the purposes of subrule 5.10.1; and
  - (b) is not entitled to a Benefit payable under any other provision of these Rules; and
  - (c) is not entitled to elect to take the Benefit provided by subrule 5.10.10; and

- (d) may elect at any time before the Benefit is paid to have the Benefit paid to the credit of the Contributor in Division A, if the Contributor is a member or is eligible to become a member of that Division.

3.13.6 If a Contributor makes an election under subrule 3.13.5(d):

- (a) the Contributor is entitled to be paid the Benefit provided by subrule 5.10.8, but only in accordance with this subrule 3.13.6; and
- (b) the Trustee must, as soon as practicable thereafter, pay the amount of the Benefit to which the Contributor is entitled to Division A; and
- (c) the Trustee must credit the amount to the account established or to be established for the person in Division A.

3.13.7 If a Contributor makes an election under subrule 3.13.1(b) or 3.13.4 within 12 months after being:

- (a) appointed as a Chief Executive Officer or Senior Executive Officer; or
- (b) nominated as a office holder for the purposes of section 11A of the *Statutory and Other Offices Remuneration Act 1975*,

the Salary of the Contributor, for the purposes of determining the amount of the Benefit to which the election relates, is to be taken to be his or her salary immediately before that appointment or nomination took effect.

### **3.14 Transfer of Contributors under Public Authorities Superannuation Act 1985**

3.14.1 An Employee who, immediately before 1 April 1988 was a Contributor to the Public Authorities Superannuation Fund shall be deemed to have made an election under section 19 of the *State Authorities Superannuation Act 1987* which took effect on 1 May 1988 and to which section 19(2) did not apply.

3.14.2 Where pursuant to subrule 3.14.1, an Employee becomes a Contributor:

- (a) the Employee ceases to be a Contributor to the Public Authorities Superannuation Fund; and
- (b) a Benefit under the *Public Authorities Superannuation Act 1987* is not payable to or in relation to the Contributor.

3.14.3 An application under rule 3.2 may, subject to that rule, be made at any time by an Employee who, pursuant to this rule 3.14, became a Contributor.

### **3.15 Transferred Members - PSESS Election**

*[inserted by Deed of Amendment No.[1] operative 27/4/98]*

3.15.1 A person:

- (a) who was a member of Division E or who is an Executive Officer who is a member of Division A; and

*[amended by Deed of Amendment No.[38] operative on 5 June 2013]*

- (b) who had a benefit transferred under regulation 7(b) of the Transfer Regulation; and

- (c) is employed by an Employer

is entitled to elect at any time to make provision for Benefits provided for by subrule 5.10.8.

- 3.15.2 If the person makes an election under this rule, then subrules 3.13.5 and 3.13.6 apply to that Benefit.

#### **4. CONTRIBUTIONS BY EMPLOYERS**

##### **4.1 Contributions by Employer**

- 4.1.1 If a Contributor is employed by an Employer, the Employer must pay under this Division Contributions at a rate determined by the Trustee on the advice of the Actuary, at such times as the Trustee may require.

- 4.1.2 In determining the Contributions payable by an Employer, the Trustee is to have regard to the amount required to meet the full costs of the liabilities under these Rules of all Employers.

- 4.1.3 The Trustee may require any such Employer to pay under this Division additional Contributions for a specified period if it appears to the Trustee that there is insufficient money in the reserve for Employers to meet the Employers' liabilities under these Rules.

- 4.1.4 The Trustee may request the Actuary to value the Employer contribution cost of 180 Point Members as a separate class of members and determine a percentage contribution rate for a 180 Point Member, at such times as the Trustee may request.

*[clause 4.1.4 inserted by Deed of Amendment No.[39] operative 01/07/13]*

##### **4.1A.1 Employer may be required to make further payments in certain cases**

Whenever it appears to the Trustee that there is insufficient money in the Employer Reserve or there are insufficient assets referable to the Employer:

- (a) to pay the Employer-Financed Benefit that is due or will become due to or in respect of a Contributor or former Contributor under these Rules; or
- (b) to pay any other amounts that are payable from that reserve or those assets,

the Trustee may require the Contributor's Employer or former Employer by notice in writing, to pay under this Division an amount equal to the amount of the insufficiency.

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If an Employer fails to pay an amount required to be paid under clause 4.1A.1 within 14 days after being notified of the requirement, the amount becomes an amount owing under this Division and the Trustee may recover that amount accordingly.

#### **4.1A.2 Power of the Trustee to adjust employer reserves**

Whenever it appears to the Trustee that, because of a change of circumstances, it would be appropriate to adjust the amount that is currently standing to the credit or debit of an Employer Reserve so as to reflect the change of circumstances, the Trustee may adjust that reserve by crediting or debiting that reserve with a specified amount of money and correspondingly debiting or crediting one or more other Employer Reserves."

*[clause 4.1.A inserted by Deed of Amendment No.[49] operative 07/12/2016]*

## **4.2 Transfers of credits between Employers of Transferred Contributors**

4.2.1 In this subrule 4.2:

*transferred contributor* means a Contributor who ceases to be employed by an Employer and becomes employed by another Employer and who does not apply for payment of a Benefit under these Rules in respect of the former employment;

*transfer value* in relation to a transferred contributor, means an amount equal to the Benefit that would have been payable if the transferred contributor, on becoming employed by the new Employer, had elected to make provision for a Deferred Benefit under subrule 5.10.1 and the Benefit provided by subrule 5.10.8(b) had thereupon become payable.

4.2.2 If the Trustee maintains a separate Employer reserve for each Employer, the Trustee shall debit the Employer reserve of the former Employer with the transfer value referable to a transferred contributor and shall credit the employer reserve of the new Employer with that value.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

## **4.3 Acceptance of Contributions**

4.3.1 The Trustee may determine under the Deed, that it must not accept Contributions by or in respect of an Employee. The period during which Contributions may not be made is not an Applicable Contribution Period.

*[renumbered by Deed of Amendment No.[1] operative 27/4/98]*

4.3.2 An Employee is not entitled to contribute to the Division, and the Trustee is not to accept the contribution to the Division by an Employee, unless the Employee is under 70 years of age;

*[inserted by Deed of Amendment No.[1] operative 27/4/98]*

4.3.3 The Contributor is not entitled to accrue Benefit Points after attaining the age of 70 years.

*[inserted by Deed of Amendment No.[1] operative 27/4/98]*

## **5. BENEFITS**

## 5.1 Definitions

For the purposes of these Rules:

**Accrued Benefit Points**, in relation to a Contributor at the Contributor's Exit Date, means:

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

- (a) the Maximum Benefit Points for the Contributor; or
- (b) if the number ascertained by adding together all the contributed points figures for the Contributor is less than the Maximum Benefit Points for the Contributor, that lesser number;

**Additional Benefit**, in relation to a Contributor, means the amount calculated in accordance with the formula:

$$L = S \times P \times 0.04$$

where:

L represents the amount to be ascertained;

S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and  
*[replaced by Deed of Amendment No.[1] operative 27/4/98; amended by Deed of Amendment No.[24] operative 30/6/97]*

P represents the Prospective Benefit Points for the Contributor at the Contributor's Exit Date;

**Applicable Contribution Period**, in relation to a Contributor, means a Contribution Period that occurs during the period that commences on the Contributor's Entry Date and ends on the Contributor's final Contribution date, except where the Contributor was not liable to contribute under this Division in respect of that Contribution Period because it occurred during leave without pay;

**average contribution rate per cent**, in relation to a Contributor at the Contributor's Exit Date, means the lesser of:

- (a) 6 per cent; and
- (b) the rate per cent calculated in accordance with the formula:

$$R = \frac{S}{N}$$

where:

R represents the rate per cent to be ascertained;

S represents the sum of the rates per cent of Salary at which the Contributor was liable to pay a Contribution for each Applicable Contribution Period for the Contributor; and

N represents the number of those Applicable Contribution Periods;

**contributed points figure**, in relation to a Contributor, means the figure that, in relation to each Applicable Contribution Period for the Contributor, is calculated in accordance with the formula:

$$F = \frac{P \times R}{N}$$

where:

F represents the figure to be ascertained;

P represents the rate per cent of Salary at which the Contributor elected to pay the Contribution to this Division for that Contribution Period;

R represents the Salary Ratio applicable to the Contributor on the first day of that Contribution Period; and

N represents the number of Contribution Periods in a year;

**Final Average Salary**, in relation to a Contributor, means the average of the Attributed Salaries paid or payable to the Contributor at the rates applicable:

*[amended by Deed of Amendment No.24 operative 30/6/97]*

(a) on the Contributor's Exit Date;

(b) on 31 December last preceding the Contributor's Exit Date; and

(c) on 31 December last preceding the 31 December referred to in paragraph (b);

**final contribution date**, in relation to a Contributor, means the last day in respect of which the Contributor is liable to contribute under this Division;

**Final Salary**, in relation to a Contributor, means the rate of Attributed Salary paid or payable to the Contributor on the Contributor's Exit Date;

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

**Maximum Benefit Points**, in relation to a Contributor at the Contributor's Exit Date, means:

(a) 180; or

(b) if the number ascertained by the formula:

$$M = \frac{6 \times S}{N}$$

where:

M represents the number to be ascertained;

S represents the sum of the Salary Ratios for the Contributor in respect of each Applicable Contribution Period for the Contributor; and

N represents the number of Contribution Periods in a year,

is less than 180, the number so ascertained; or

- (c) if a Benefit is provided for by subrule 5.10.8, and the number determined by the application of paragraph (a) or (b), whichever is applicable, when added to the Accrued Benefit Points provided for by subrule 5.10.8 (**Total Number**) exceeds 180, the number in paragraph (a) or (b), whichever is applicable, reduces by the number by which the Total Number exceeds 180.

*[(c) inserted by Deed of Amendment No.[50] operative 02/05/2018]*

**Prospective Benefit Points**, in relation to a Contributor at the Contributor's Exit Date, means:

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

- (a) the number calculated in accordance with the formula:

$$P = \frac{C \times R \times S}{N}$$

where:

P represents the number to be ascertained;

C represents the Contributor's average contribution rate per cent;

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

R represents the Salary Ratio applicable to the Contributor's Exit Date;

S represents the number of Applicable Contribution Periods for the Contributor that would occur during the period that commences immediately after the Contributor's final contribution date and ends immediately before the Early Retirement Age; and

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

N represents the number of Contribution Periods in a year; or

- (b) if it is a lesser number than that calculated under paragraph (a), the number of Benefit points that, when added to the number of the Contributor's

Accrued Benefit Points at the Exit Date, would produce a number equal to the Maximum Benefit Points that would have been attributable to the Contributor if Contributions had continued at the average contribution rate per cent, the Salary Ratio had remained constant until the Exit Date and the Exit Date had immediately preceded the Early Retirement Age.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

## **5.2 Benefit at or after early Retirement or on death at or after Early Retirement Age**

5.2.1 The Benefit provided by this rule 5.2 is payable by the Trustee when a Contributor Retires from employment with an Employer on or after reaching the Early Retirement Age or dies during employment with an Employer on or after reaching that age and is so payable:

(a) where the Benefit becomes payable on the Contributor retiring, to the Contributor; or

(b) where the Benefit becomes payable on the death of the Contributor, in accordance with clause 14.17A.

*[amended by Deed of Amendment No.9 operative 27/6/01; amended by Deed of Amendment No.[25] operative 23/12/05]*

(c) *[(c) replaced by Deed of Amendment No.8 operative 1/7/97; amended by Deed of Amendment No.9 operative 27/6/0; deleted by Deed of Amendment No.[25] operative 23/12/05]*

5.2.2 The Benefit provided by this rule 5.2 is an amount equal to the sum of:

(a) the amount of the Contributor-Financed Benefit; and

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

(b) an amount of Employer-Financed Benefits calculated in accordance with the formula:

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

$$E = F \times A \times 0.025$$

where:

E represents the amount to be ascertained;

F represents the Contributor's Final Average Salary; and

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date.

5.2.3 If the Trustee makes a determination under rule 5.13 in relation to a Benefit to be provided by this rule 5.2, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

## **5.3 Benefit on death before Early Retirement Age**

- 5.3.1 The Benefit provided by this rule 5.3 is payable by the Trustee where a Contributor dies before attaining the Early Retirement Age during employment with an Employer and is so payable in accordance with clause 14.17A.  
*[amended by Deed of Amendment No.[25] operative 23/12/05]*

*[(b) replaced by Deed of Amendment No.8 operative 1/7/97; amended by Deed of Amendment No.9 operative 27/6/01; (a) and (b) deleted by Deed of Amendment No. [25] operative 23/12/05]*

- 5.3.2 The Benefit provided by this rule 5.3 in relation to a Contributor is an amount equal to the sum of:

- (a) the amount of the Contributor-Financed Benefit;  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- (b) an amount of Employer-Financed Benefits calculated in accordance with the formula:  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

$$E = S \times A \times 0.025$$

where:

E represents the amount to be ascertained;

S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date; and

- (c) where an approval under rule 3.2 is in force the amount of the Additional Benefit.

- 5.3.3 If the Trustee makes a determination under rule 5.13 in relation to a Benefit to be provided by this rule 5.3, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

#### **5.4 Benefit on total and permanent invalidity before Early Retirement Age**

- 5.4.1 The Benefit provided by this rule 5.4 is payable by the Trustee to a Contributor where, before attaining the Early Retirement Age, the Contributor ceases to be employed by an Employer and the Trustee is satisfied:

- (a) that the Contributor's cessation of employment was due, directly or indirectly, to the permanent physical or mental incapacity of the Contributor (not caused by any act or default of the Contributor intended to produce that incapacity); and
- (b) that the Contributor is, when the Contributor ceases to be employed by the Employer, permanently unable, by reason of that incapacity, to be engaged, or to be employed, in any remunerative occupation in which, in the opinion

of the Trustee, it would otherwise be reasonable to expect the Contributor to engage.

5.4.2 The Benefit provided by this rule 5.4 is an amount equal to the sum of:

- (a) the amount of the Contributor-Financed Benefit;  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- (b) an amount of Employer-Financed Benefits calculated in accordance with the formula:  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

$$E = S \times A \times 0.025$$

where:

E represents the amount to be ascertained;

S S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and  
*[replaced by Deed of Amendment No.[1] operative 27/4/98; amended by Deed of Amendment No.[24] operative 30/6/97]*

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date; and

- (c) where an approval under rule 3.2 is in force, the amount of the Additional Benefit.

5.4.3 The Trustee is entitled to rely on a certificate by an Employer as to any matter mentioned in subrule 5.4.1(a) if it thinks fit.

5.4.4 If the Trustee makes a determination under rule 5.13 in relation to a Benefit to be provided by this rule 5.4, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

## **5.5 Benefit on partial and permanent invalidity before Early Retirement Age**

5.5.1 The Benefit provided by this rule 5.5 is payable by the Trustee to a Contributor where, before attaining the Early Retirement Age, the Contributor ceases to be employed by an Employer and the Trustee is satisfied:

- (a) that the Contributor's cessation of employment was due, directly or indirectly, to the permanent physical or mental incapacity of the Contributor (not caused by any act or default of the Contributor intended to produce that incapacity); and
- (b) that the Contributor is, when the Contributor ceases to be employed by the Employer, permanently unable, by reason of that incapacity, to perform the duties that the Contributor was required to perform before the Contributor suffered the incapacity.

5.5.2 The Benefit provided by this rule 5.5 for a Contributor is an amount equal to the sum of:

- (a) the amount of the Contributor-Financed Benefit; and  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- (b) an amount of Employer-Financed Benefits calculated in accordance with the formula:  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

$$E = S \times A \times 0.025$$

where:

- E represents the amount to be ascertained;
- S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date.

5.5.3 The Trustee is entitled to rely on a certificate by an Employer as to any matter mentioned in subrule 5.5.1 if it thinks fit.

5.5.4 If the Trustee makes a determination under rule 5.13 in relation to a Benefit to be provided by this rule 5.5, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

## **5.6 Benefit on Resignation, Dismissal or Discharge before Early Retirement Age**

5.6.1 The Benefit provided by this rule 5.6 is payable by the Trustee to a Contributor:

- (a) if, before attaining the Early Retirement Age, the Contributor, having Resigned, or having been Dismissed or Discharged, from employment with an Employer elects under subrule 5.10.1 to take that Benefit and no other Benefit is payable under these Rules; or
- (b) if the amount of that Benefit is less than \$200.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

5.6.2 The Benefit provided by this rule 5.6 for a Contributor for whom the period commencing on Entry Date and ending on Exit Date is 10 years or more is an amount equal to the sum of:

- (a) the amount of the Contributor-Financed Benefit; and  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- (b) an amount of Employer-Financed Benefit calculated in accordance with the formula:  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

$$W = V \times R \times \frac{A}{Y} \times 0.025$$

where:

W represents the amount to be ascertained;

V represents the period (expressed in years with any fractional part of a year being calculated on a basis of complete Contribution Periods) that commenced on the Contributor's Entry Date and ended on the Contributor's Exit Date;

R represents the amount of the Contributor-Financed Benefit;  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date; and

Y represents the number ascertained by adding together all the Contributor's contributed points figures calculated in relation to the Contributor for the Applicable Contribution Periods for the Contributor.

5.6.3 If the Trustee makes a determination under rule 5.13 in relation to a Benefit to be provided by this rule 5.6, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

5.6.4 The Benefit provided by this rule 5.6 for a Contributor for whom the period commencing on Entry Date and ending on Exit Date is less than 10 years is the amount of the Contributor-Financed Benefit.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

5.6.5 Notwithstanding anything elsewhere contained in these Rules where, on a Contributor ceasing employment with an Employer, the Benefit calculated by applying Rule 5.6 is greater than the Benefit otherwise payable to the Contributor, the Contributor will be entitled to the Benefit calculated under Rule 5.6 in lieu of the Benefit that would otherwise be payable.  
*[inserted by Deed of Amendment No.14 operative 1/7/02]*

**5.6A Purchase of Transition to Retirement Pension in Division F**  
*[inserted by Deed of Amendment No.35 operative 28/03/12]*

5.6A.1 A Contributor may apply to have an amount transferred to Division F to be applied in purchase of a Transition to Retirement Pension and such amount shall be debited to the Contributor's Benefit Account.

5.6A.2 The Trustee may make rules concerning whom is eligible to apply for a Transition to Retirement Pension, transfer of amounts to Division F including the minimum and maximum amounts that may be transferred, but in any event, the maximum amount that may be transferred to Division F shall not exceed the amount of the Contributor-Financed Benefit.

## 5.7 Benefit on Retrenchment before Early Retirement Age

5.7.1 The Benefit provided by this rule 5.7 is payable by the Trustee to a Contributor if, before attaining the Early Retirement Age:

- (a) the Contributor is retrenched; and
- (b) no other Benefit is payable under these Rules; and
- (c) the Trustee is provided with a certificate from the Contributor's Employer confirming that the Contributor has been retrenched and specifying the ground for the Retrenchment.

5.7.2 The Benefit provided by this rule 5.7 for a Contributor is an amount equal to the sum of:

- (a) the Contributor-Financed Benefit; and  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- (b) an amount of Employer-Financed Benefit calculated in accordance with the formula:  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

$$E = S \times A \times 0.025$$

where:

- E represents the amount to be ascertained;
- S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date.

5.7.3 If the Trustee makes a determination under rule 5.13 or 5.14 in relation to a Benefit to be provided by this rule 5.7, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.

## 5.8 Benefit on attaining 70

5.8.1 A Contributor who attains 70 years of age must be paid any Benefit to which the Contributor would be entitled on Retirement at that age but may elect to defer the whole of the Benefit. A Contributor may within three months of being notified by the Trustee of their entitlements under this subrule, elect that subrule 5.8.2 apply.  
*[amended by Deed of Amendment No.[1] operative 27/4/98; deleted by Deed of Amendment No.[28] operative 01/07/07; inserted by Deed of Amendment No. [31] operative 01/07/11]*

5.8.2 In the case of a Contributor who had attained 70 years of age on or before the date this rule 5.8.2 was introduced, or who elects under subrule 5.8.1 that this subrule

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apply, that Contributor may elect at any time to be paid the Benefit or to make an election to defer the Benefit. *[deleted by Deed of Amendment No.[1] operative 27/4/98; inserted by Deed of Amendment No. [31] operative 01/07/11]*

5.8.3 An Employee may elect, at any time on or after attaining 65 years and before attaining 70 years:

*[amended by Deed of Amendment No.[1] operative 27/4/98; amended by Deed of Amendment No.[28] operative 01/07/07]*

(a) to be paid any Benefit to which the Employee is entitled at the time of the election, or

(b) to defer the whole of the Benefit,

even though the Employee is not Retired.

*[amended by Deed of Amendment No. [31] operative 01/07/11]*

5.8.4 The Trustee is to adjust the amount of a Benefit payable under this rule 5.8, having regard to any adjustment of a Contributor's Account.

5.8.5 If an amount is deferred under this rule 5.8, it is payable in the same way as a Benefit under rule 5.10.

5.8.6 A person paid a Benefit under this rule is not entitled:

*[replaced by Deed of Amendment No.[1] operative 27/4/98]*

(a) to any further Benefit under this Division in respect of the same period of service, or

(b) to contribute to the Division or to accrue any further Benefits under this Division.

## **5.9 Deferral of Benefit on Retrenchment before Early Retirement Age**

5.9.1 A Contributor who becomes entitled to be paid a Benefit under rule 5.7 may elect:

(a) to take the Benefit as provided by that rule 5.7; or

(b) to defer a Benefit calculated in the same way as the Benefit provided by that rule 5.7.

5.9.2 The provisions of rule 5.10 (except subrule 5.10.8) apply in relation to a Benefit deferred under this rule 5.9 in the same way as they apply in relation to a Benefit deferred under rule 5.10.

### **5.9A Compulsory preservation of Benefits**

*[inserted by Deed of Amendment No.4 operative 1/7/99]*

5.9A.1 The Trustee must, when a Benefit becomes payable under these Rules (including a Benefit provided by rule 5.9, 5.10 or 5.11), preserve all or so much of the Benefit as is required to be preserved so as to be consistent with Superannuation Law.

5.9A.2 The amount of a Benefit that must be preserved for the purposes of subrule 5.9A.1 is to be preserved in the Fund and is to be adjusted, having regard to any adjustment of the Contributor's account under clause 2.2 or is to be preserved under rule 5.9C.

**5.9B Payment of compulsorily preserved Benefit**

*[inserted by Deed of Amendment No.4 operative 1/7/99]*

5.9B.1 The whole or part of a Benefit preserved under rule 5.9A is payable by the Trustee in the circumstances in which the whole or part of a Benefit may be paid under Superannuation Law.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

5.9B.2 The whole or part of a Benefit preserved under rule 5.9A must be paid by the Trustee, if it is required to be paid under Superannuation Law.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

5.9B.3 The Benefit is payable:

(a) unless the former Contributor has died, to the former Contributor, or

(b) if the former Contributor has died, in accordance with clause 14.17A.

*[replaced by Deed of Amendment No.[25] operative 23/12/05]*

(c) *[deleted by Deed of Amendment No.[25] operative 23/12/05]*

**5.9C Preserved Benefits**

*[inserted by Deed of Amendment No.4 operative 1/7/99]*

5.9C.1 Any amounts preserved by the Trustee under rule 5.9A may be preserved in such funds, accounts or reserves as the Trustee determines, whether established under these Rules or for the purposes of any other division or superannuation scheme administered by the Trustee.

5.9C.2 Any such preserved amounts payable by the Trustee under rule 5.9A are to be paid from the appropriate fund, account or reserve referred to in this rule 5.9C."

**5.10 Deferred Benefit**

5.10.1 A Contributor who Resigns, or is Dismissed or Discharged, from employment with an Employer before attaining the Early Retirement Age may elect to take the Benefit provided by rule 5.6 or (if that Benefit, including any interest paid by the Trustee, is not less than \$200) to make provision for a Benefit provided by this rule 5.10.

*[amended by Deed of Amendment No.[1] operative 27/4/98]*

5.10.1A.1 A Contributor who becomes entitled to be paid a Benefit under rule 5.5 may elect to take the Benefit provided by rule 5.5 or (if that Benefit, including interest paid by the Trustee, is not less than \$200) elect to defer the whole or a part of that Benefit.

*[inserted by Deed of Amendment No.[22] operative 30/6/97]*

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- 5.10.1A.2 The provisions of rule 5.10 (except sub-rule 5.10.8) apply in relation to a the whole or a part of a Benefit deferred under rule 5.10.1A.1 in the same way as they apply in relation to a Benefit deferred under rule 5.10  
*[inserted by Deed of Amendment No.[22] operative 30/6/97]*
- 5.10.2 A Contributor who is under 65 years of age may, instead of taking the Benefit payable under rule 5.2, elect to make provision for a Benefit provided by this rule 5.10 (but only if that Benefit, including any interest paid by the Trustee, is not less than \$200).  
*[amended by Deed of Amendment No.[1] operative 27/4/98]*
- 5.10.3 Where an election to make provision for a Benefit provided by this rule 5.10 made by a Contributor under subrule 5.10.1 or 5.10.2 takes effect, a Benefit is not payable to, or in relation to, the Contributor under any provision of these Rules other than this rule 5.10.
- 5.10.4 A Contributor who, being entitled to make an election under subrule 5.10.1 or 5.10.2, does not make such an election before the end of a period of 90 days from the date the Benefit becomes payable, or such longer period as the Trustee may allow, is taken to have elected to have made provision for a Benefit provided by this rule 5.10.
- 5.10.5 The Benefit provided by subrule 5.10.8 or rule 5.8 must be paid by the Trustee:
- (a) if the former member:
    - (i) elected under subrule 5.10.1, or is taken under subrule 5.10.4 to have elected, to defer the Benefit; and
    - (ii) attains the Early Retirement Age; and
    - (iii) applies to the Trustee in writing for payment of the Benefit; or
  - (b) if the former member:
    - (i) elected under subrule 5.10.2 or rule 5.8 to defer the Benefit; and
    - (ii) applies to the Trustee in writing for payment of the Benefit; or
  - (c) if the former member dies without making an application for payment of the Benefit; or
  - (d) except in the case of a Benefit provided under subrule 5.10.2 or rule 5.8 - on the Trustee being satisfied that the former Member is incapable, from infirmity of body or mind, of being employed in any remunerative occupation in which, in the opinion of the Trustee, it would otherwise be reasonable to expect the former member to engage; or
  - (e) *[replaced by Deed of Amendment No.[24] operative 1/7/04; deleted by Deed of Amendment No.[28] operative 01/07/07]*

(f) *[amended by Deed of Amendment No.4 operative 30/6/99; amended by Deed of Amendment No.[ 20] operative 1/7/02; replaced by Deed of Amendment No.[24] operative 1/7/04; deleted by Deed of Amendment No.[28] operative 01/07/07]*

(g) on the Trustee being satisfied that the former member has retired from the workforce and the former member applies for the Benefit.

*[amended by Deed of Amendment No.[22] operative 30/6/97; amended by Deed of Amendment No.[28] operative 01/07/07]*

5.10.6 Subject to subrule 5.10.5, the Benefit provided by subrule 5.10.8 is payable:

(a) except where the Contributor has died, to the Contributor; or

(b) if the Contributor has died, in accordance with clause 14.17A.

*[amended by Deed of Amendment No.[25] operative 23/12/05]*

(c) *[(c) replaced by Deed of Amendment No.8 operative 1/7/97; amended by Deed of Amendment No.9 operative 27/6/01; deleted by Deed of Amendment No.[25] operative 23/12/05]*

5.10.7 The Benefit provided by subrule 5.10.10 is payable to a Contributor by the Trustee if:

(a) the Contributor has elected to take that Benefit; and

(b) the election takes effect before the Benefit provided by subrule 5.10.8 becomes payable to or in respect of the Contributor.

5.10.8 Subject to subrule 5.10.9, the Benefit provided by this subrule 5.10.8 is an amount equal to the sum of:

(a) the Contributor-Financed Benefit at Exit Date; and

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

(b) an amount of Employer-Financed Benefits calculated in accordance with the formula:

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

$$E = F \times A \times 0.025 \times K^n$$

where:

E represents the amount to be ascertained;

F represents the Contributor's Final Average Salary;

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date;

K represents a discount factor determined by the Trustee after seeking actuarial advice; and

n represents the period (expressed in years with any fractional part of a year being calculated on the basis of complete Contribution Periods) between the Contributor's age at Exit Date and the Early Retirement Age,

as adjusted under subrule 5.10.12.

- 5.10.9 For the purposes of calculating the Benefit provided under subrule 5.10.8 in the case of a Contributor who has attained the Early Retirement Age, "K" in the formula in subrule 5.10.8 is to equal 1.
- 5.10.10 The Benefit provided by this subrule 5.10.10 is an amount equal to the amount of the Benefit under rule 5.6 or 5.7 that would have been payable to the Contributor at the Contributor's Exit Date if the Contributor had not made the election under subrule 5.10.1, as adjusted under subrule 5.10.12.
- 5.10.11 If the Trustee makes a determination under rule 5.13 in relation to a Benefit to be provided by this rule 5.10, the amount of that Benefit is reduced by the amount specified in the Trustee's determination.
- 5.10.12 The Trustee is to adjust the amount of a Benefit payable under this rule 5.10, having regard to any adjustment of a Contributor's Account under this Deed or these Rules.
- 5.10.13 A Contributor (other than a Contributor who is eligible to become or who is a member of Division A in accordance with rule 3.13) who becomes a Contributor to another superannuation fund while employed by the same Employer:
- (a) is required to make provision for a Benefit provided by this rule 5.10 despite anything to the contrary in subrule 5.10.1;
  - (b) shall be deemed to have elected under subrule 5.10.1 to make provision for that Benefit on becoming a Contributor to that other superannuation fund; and
  - (c) is not entitled to elect to take the Benefit provided by subrule 5.10.10 while employed by that same Employer.
- [amended by Deed of Amendment No.[38] operative on 5 June 2013]*
- 5.10.14 Subrules 5.10.15 - 5.10.17 have effect with respect to Contributors who are transferred as a consequence of a Government initiative (other than a Government privatisation initiative) or who, while remaining with their existing Employer, elect or are required to become Contributors to another superannuation scheme.
- 5.10.15 Transferred Contributors or Contributors electing or required to join another Superannuation Fund
- (a) Subrules 5.10.15-5.10.17 apply:
    - (i) to Contributors:

- 
- (A) who are employed in an area of an Employer's activities that is, or is to be, transferred to another Employer who is not, in respect of the Contributor, an Employer under these Rules; and
  - (B) who have elected or are required to transfer to the employment of that other Employer; and
  - (C) whose transfer of employment is determined by the Trustee to be a transfer of employment to which this subrules 5.10.15 - 5.10.17 apply; and
- (ii) to Contributors:
    - (A) who, while remaining with their existing Employer, have elected or are required to become Contributors to another superannuation fund; and
    - (B) whose transfer to that Fund is determined by the Trustee to be a transfer of superannuation coverage to which subrules 5.10.15 - 5.10.17 apply.
- (b) Subrules 5.10.15 - 5.10.17 do not apply to Contributors transferred as a consequence of a Government privatisation initiative.

**5.10.16 Contributor entitled to Deferred Benefit despite having contributed less than the prescribed amount**

A Contributor to whom subrule 15.10.15 - 15.10.17 apply is entitled to make provision for a Deferred Benefit even though he or she is not entitled to a Benefit of or exceeding the amount prescribed for the purposes of subrule 5.10.1.

**5.10.17 Contributor entitled to immediate payment of Deferred Benefit (including employer-financed component)**

- (a) A Contributor to whom subrules 15.10.15, 15.10.16 or 15.10.17 applies and who elects to make provision for a Deferred Benefit is entitled to be paid the Benefit provided by subrule 5.10.8 on ceasing to be a Contributor, despite anything to the contrary in 5.10.
- (b) A Deferred Benefit is payable under this subrule 5.10.17 if, and only if:
  - (i) the Trustee is satisfied that the Benefit will be applied to the credit of the Contributor in another superannuation fund; and
  - (ii) any requirements specified by the Trustee with respect to the payment of the Benefit are complied with.

**5.11 Deferral of Benefit for Contributors in certain circumstances**

*[heading amended by Deed of Amendment No.2 operative 20/10/00]*

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- 5.11.1 This rule applied to a Contributor:
- (a) who, as a result of a single reduction of Salary, has undergone a reduction of 20% or more in Attributed Salary; and
  - (b) whose Employer certifies the matter referred to in paragraph (a).  
*[replaced by Deed of Amendment No.2 operative 20/10/00]*
- 5.11.2 The fact that a person undergoes more than one Attributed Salary reduction of 20% or more does not mean that the person ceases to be a person to whom this rule 5.11 applies.
- 5.11.3 In this rule 5.11, **Exit Date**, in relation to an Employee to whom this rule 5.11 applies, means the day immediately preceding the day of the reduction in Attributed Salary in relation to which the Employee makes an election under subrule 5.11.4.
- 5.11.4 A Contributor to whom this rule 5.11 applies may elect to make provision for a Benefit under rule 5.10.
- 5.11.5 An Employee may make only one election under rule 5.11 but the election may relate to any single reduction in Attributed Salary of 20% or more (not just the first reduction that occurs).  
*[amended by Deed of Amendment No.2 operative 20/10/00]*
- 5.11.6 The Benefit is deferred from the Exit Date.
- 5.11.7 The initial value of a Deferred Benefit is to be calculated in accordance with rule 5.10 as if the Contributor had ceased employment.
- 5.11.8 If a Contributor has attained the Early Retirement Age before the Exit Date, for the purpose of calculating the value of the Employer-Financed Benefits to be preserved under subrule 5.11.1, "K" in the formula in subrule 5.10.8(b) is to equal one.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- 5.11.9 A Benefit deferred under this rule 5.11 may only be paid in accordance with rule 5.10 and then only if the person in respect of whom the Benefit is payable has ceased employment or has died.

## **5.12 Competing for Spouses' Benefits**

*[deleted by Deed of Amendment No.9 operative 27/6/01]*

## **5.13 Power of the Trustee to reduce Benefits to offset certain Tax liabilities under this Division**

- 5.13.1 Whenever:
- (a) a right to a Benefit under these Rules accrues to or in respect of a Contributor or former Contributor; and
  - (b) the Trustee has paid or is liable to pay Tax in respect of Employers' Contributions under this Division; and

- (c) a portion of that Tax is referable to the Employer-financed portion of that Benefit,

the Trustee must, subject to subrule 5.13.2;

- (d) calculate the amount necessary to offset the Trustee's liability to pay Tax so far as it is referable to the Employer-financed portion of that Benefit; and
- (e) accordingly make a determination reducing the employer-financed portion of that Benefit by the amount so calculated.

5.13.2 Subrule 5.13.1 does not authorise the reduction of a Benefit, unless:

- (a) the Benefit is of a kind set out in subrule 5.13.3; and
- (b) the reduction is calculated in accordance with the method set out in subrule 5.13.4.

5.13.3 (a) Subject to paragraph (b), the kinds of Benefits referred to in rule 5.13 of these Rules are Benefits provided under rule 5.2, 5.4, 5.5, 5.6, 5.7 or 5.10 of these Rules.

- (b) A Benefit arising as the result of the death of a person may be reduced by the Trustee to offset Tax liabilities under this Division only as provided by subrule 5.13.5.

5.13.4 (a) Reduction for rule 5.2:

- (i) If a Benefit, other than a Benefit arising as the result of the death of the Contributor, becomes payable under rule 5.2, the reduction in Benefit is the amount calculated in accordance with the formula set out in paragraph (ii).

- (ii) For the purposes of paragraph (i), the formula is

$$R = A \times \frac{B}{C} \times 0.025 \times F \times 0.15$$

C

where:

R represents the amount of the reduction;

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date

B represents the period in days of continuous contributory service that began on the taxable date

C represents the period in days of continuous contributory service for the Contributor

F represents the Contributor's Final Average Salary.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

(b) Reduction for rules 5.4 and 5.5:

(i) If a Benefit becomes payable under rule 5.4 or 5.5, the reduction in Benefit is the amount calculated in accordance with the formula set out in paragraph (ii).

(ii) For the purposes of paragraph (i), the formula is:

$$R = A \times \frac{B}{C} \times 0.025 \times S \times 0.15$$

where:

R represents the amount of the reduction;

A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date;

B represents the period in days of continuous contributory service that began on the taxable date;

C represents the period in days of continuous contributory service for the Contributor;

S S represents the higher of the Contributor's Final Salary or the Contributor's Final Average Salary; and

*[replaced by Deed of Amendment No.[1] operative 27/4/98; amended by Deed of Amendment No.[24] operative 30/6/97]*

(c) Reduction for rule 5.6:

(i) If:

(A) a Benefit becomes payable under rule 5.6 of these Rules; and

(B) the Contributor's period of continuous contributory service is 10 years or more,

the reduction in Benefit is the amount calculated in accordance with the formula set out in paragraph (ii).

(ii) For the purposes of paragraph (i), the formula is:

$$R = T \times C \times \frac{A}{Y} \times 0.025 \times 0.15$$

where:

R represents the amount of the reduction;

- 
- T represents the period (expressed in years, with any fractional part of a year being calculated on the basis of complete contribution periods) that commenced on the taxable date or the Contributor's entry date (whichever last occurred) and ended on the Contributor's Exit Date;
- C represents the amount of the Contributor-Financed Benefit payable under subrule 5.6.2(a);  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date;
- Y represents the number ascertained by adding together all of the Contributor's contributed points figures calculated in relation to the Contributor for the Applicable Contribution Periods for the Contributor.
- (iii) A benefit payable under rule 5.6 of these Rules is not to be reduced if the Contributor's period of continuous contributory service is less than 10 years.
- (d) Reduction for rule 5.7:
- (i) If a Benefit becomes payable under rule 5.7, the reduction in Benefit is the amount calculated in accordance with the formula set out in paragraph (ii).
- (ii) For the purposes of paragraph (i), the formula is:
- $$R = A \times \frac{B}{C} \times 0.025 \times S \times 0.15$$
- where:
- R represents the amount of the reduction;
- A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date;
- B represents the period in days of continuous contributory service that began on the taxable date;
- C represents the period in days of continuous contributory service for the Contributor;
- S represents the higher of the Contributor's final salary or the Contributor's final average salary; and  
*[replaced by Deed of Amendment No.[1] operative 27/4/98]*

- (e) Reduction for rule 5.10.
- (i) If a Contributor elects to make provision for a Deferred Benefit under rule 5.10, the reduction in Benefit is the amount calculated in accordance with the formula set out in paragraph (ii).

- (ii) For the purposes of paragraph (i), the formula is:

$$R = A \times \frac{B}{C} \times 0.025 \times F \times K^n \times 0.15$$

where:

- R represents the amount of the reduction;
- A represents the Accrued Benefit Points for the Contributor at the Contributor's Exit Date;
- B represents the period in days of continuous contributory service that began on the taxable date;
- C represents the period in days of continuous contributory service for the Contributor;
- F represents the Contributor's final average salary;
- K represents the discount factor determined by the Trustee for the purposes of subrule 5.10.8(b);
- n represents the period between the Contributor's age at his or her Exit Date and the Early Retirement Age, the period being expressed in years with any fractional part of a year being calculated on the basis of complete contribution periods.

#### 5.13.5 Transferred Contributors: Reduction of Benefits

- (a) If a Transferred Contributor referred to in Parts 12-19, or any other person, having a right to do so, elects under rule 17.1, to take a pension Benefit, then, subject to subparagraph (c), the reduction in Benefit referred to in this rule 5.13 is the amount calculated in accordance with the formula set out in paragraph (b).

- (b) For the purposes of paragraph (a), the formula is:

$$R = \frac{B}{C} \times 0.15 \times P$$

where:

- R represents the amount of the reduction;

- 
- B represents the period in days of continuous contributory service that began on the taxable date;
- C represents the period in days of continuous contributory service for the Transferred Contributor concerned;
- P represents:
- (a) the proportion of the pension that is attributable to Accrued Benefit Points and that, but for this subrule 5.13.5, would be payable under rule 17.3, 17.4, 17.5 or 17.6 to that Transferred Contributor; or
  - (b) if that Transferred Contributor has died, the proportion of the pension that is attributable to Accrued Benefit Points and that, but for this clause, would be payable under clause 44 of that Regulation to the Spouse of that Contributor.
- (c) If, in accordance with rule 17.1 the Transferred Contributor or other person referred to in subparagraph (a) elects to convert to a pension Benefit only a portion of the Benefit points of the Transferred Contributor, the Benefit to be derived from the Benefit points remaining after conversion is subject to reduction in accordance with the relevant provisions of this rule 5.13 that apply to that Benefit.
- (d) If the Benefit of a Transferred Contributor within the meaning of the *State Authorities Superannuation (State Public Service Superannuation Scheme Transfer) Regulation 1989* is required to be reduced in accordance with a formula set out in subrule 5.13.4(a), (b), (d) or (e), the multiple "0.025" specified in the formula is, in relation to the Contributor, to be read as the multiple "0.03".

5.13.6 In this rule 5.13:

***continuous contributory service***, in relation to a Contributor, means the period beginning with the Contributor's Entry Date and ending with the Contributor's Exit Date;

***taxable date*** means 1 July 1988.

#### **5.14 Compliance with superannuation guarantee legislation**

- 5.14.1 The Trustee must, after obtaining actuarial advice, determine what the minimum employer-financed benefit would have to be to ensure that there is no Superannuation Guarantee Shortfall.
- 5.14.2 An employer-financed benefit provided by an Employer is, despite any other provision of this Deed or these Rules, not to be less than the minimum Benefit determined under subrule 5.14.1. The Benefit that would otherwise be payable

under these Rules is increased to the extent necessary for the purposes of complying with this rule 5.14.

5.14.3 The amount of any increase in Benefit is to be debited by the Trustee from the appropriate Employer reserve established under the Deed.

5.14.4 In this section, ***employer-financed benefit*** means the sum of the employer-financed benefit under these Rules, any basic Benefit under Division C and any employer-financed benefit of a kind provided by Division C.

### **5.15 Payment or release of benefit on the grounds of severe financial hardship and compassion**

*[inserted by Deed of Amendment No.[1] operative 27/4/98; amended by Deed of Amendment No. 4 operative 30/6/99; replaced by Deed of Amendment No. 7 operative 4/5/00]*

5.15.1 the Trustee may, on the application of a Contributor, or former Contributor who has deferred a benefit in the Division, pay the person a Benefit:

(a) on the grounds of the person's severe financial hardship and the person satisfies guidelines for payment a Benefit established by the Superannuation Law;

*[amended by Deed of Amendment No.[38] operative on 5 June 2013]*

(b) on compassionate grounds and the member has satisfied the requirements established by the Superannuation Law.

*[amended by Deed of Amendment No.[38] operative on 5 June 2013]*

5.15.2 The amount of the Benefit:

(a) is not to exceed the amount permitted to be paid on the applicable ground;

(b) in the case of a former Contributor is not to exceed the amount of the Benefit that would be payable to the former Contributor under subrule 5.10.10 if the former Contributor elected to be paid such a benefit; and

(c) in the case of a Contributor is not to exceed the amount of the Contributor-Financed Benefit accrued at the time of payment.

*[amended by Deed of Amendment No.24 operative 30/6/97]*

5.15.3 If a Benefit is paid to a person under 5.15.1 above, and the person subsequently becomes entitled to another Benefit under this Division, the Trustee must make a determination reducing the amount of the subsequent Benefit to take into account any Benefits previously paid under 5.15.1 above.

### **5.16 Notional account**

*[inserted by Deed of Amendment No.35 operative 28/03/12]*

Whenever an Employer-Financed Benefit is calculated by reference to the Contributor Financed Benefit, the Trustee will cause to be calculated a notional Contributor Financed Benefit equal to the amount debited to the Contributor's Benefit Account that is applied in purchase of a Transition to Retirement Pension in Division F together with earnings that such amount would have earned had it

not been debited to the Contributor's Benefit Account. A Contributor has no right to or entitlement to payment of such amount and such amount is only to be used in the calculation of the Contributor-Financed Benefit to enable the calculation of the Employer-Financed Benefit.

## 5A SUPERANNUATION INTEREST UNDER THE FAMILY LAW ACT

*[inserted by Deed of Amendment No. [20] operative 28/12/02]*

- 5A.1 Where a Family Court Order, a Superannuation Agreement or Flag Lifting Agreement applies, the value of the Non-Member Spouse's entitlement shall be calculated in accordance with the valuation methodology set out by the Actuary from time to time in accordance with the Family Law Act.
- 5A.2 the Contributor's Superannuation Interest is reduced in accordance with the valuation methodology set out by the Actuary from time to time in accordance with the Family Law Act.

## 6. SPECIAL PROVISIONS RELATING TO HUNTER DISTRICT WATER BOARD EMPLOYEES

### 6.1 Definitions

In Part 6:

***Employee*** means an Employee of the Hunter Water Board;

***notional accumulation***, in relation to a Transferred HW Contributor, means an amount equal to the sum of:

- (a) the amount transferred to the State Authorities Superannuation Fund under clause 5(4)(b) of the *State Authorities (Hunter District Water Board Employee's Provident Fund Transfer) Regulation 1990* in respect of the Contributor from sub-Accounts 3 and 4 of the Provident Fund, as specified in clause A8.1a of the Trust Deed; and
- (b) in respect of each Applicable Contribution Period from and including 1 July 1990, an amount equal to whichever is the smaller of the following:  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- (i) 0.85 of 6% of the Salary of that Contributor, multiplied by the Salary Ratio of that Contributor in respect of that period, based on the rate of Salary determined under rule 3.8 in respect of that period; or
- (ii) 0.85 of 1.5 times the Contributions paid or payable by that Contributor in that period under these Rules,

together with interest at a rate or rates determined by the Trustee, but reduced by an amount or amounts calculated in such a manner as the

Trustee determines in respect of the costs of administering this Division and such other charges (if any) as are determined by the Trustee;

*the Trust Deed* means the Hunter District Water Board Employees' Provident Fund Trust Deed;

*Transferred HW Contributor* means an Employee who was deemed to be a Contributor to the *State Authorities Superannuation Act 1987* by reason of clause 5 of the *State Authorities Superannuation (Hunter District Water Board Employees Provident Fund Transfer) Regulation 1990*.

## 6.2 Application of certain definitions to Transferred HW Contributor

- 6.2.1 For the purposes of applying these Rules to a Transferred HW Contributor, the Contributor's Entry Date is to be taken to be the date or, if more than one, the latest date on which the Transferred Contributor commenced employment with the Hunter Water Board.
- 6.2.2 For the purposes of applying rule 5.1 to a Transferred HW Contributor, that Contributor's average contribution rate per cent referred to in the definition of Prospective Benefit Points is to be construed in such a way as to exclude from calculation any period which occurred before 1 July 1990.
- 6.2.3 In relation to a Transferred HW Contributor, the definition *Accrued Benefit Points* in rule 5.1 is to be construed as if the reference in that definition to contributed points figures included a reference to the number of transferred benefit points for the Contributor calculated in accordance with rule 6.3.
- 6.2.4 For the purposes of applying the definition of *Final Average Salary* in rule 5.1 to a Transferred HW Contributor, that definition is to be read as if the Contributor had become a new Contributor on 1 July 1990.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

## 6.3 Benefit points to be credited to a Transferred HW Contributor

- 6.3.1 A Transferred HW Contributor is, in respect of his or her service before 1 July 1990, entitled to the number of transferred benefit points calculated in accordance with the following formula:

$$P = \frac{E}{0.025 \times W}$$

Where:

P represents the initial points credit; and

E represents the amount relating to the Contributor which was credited to the appropriate employer reserve in the State Authorities Superannuation Fund in accordance with clause 5(5)(c) of the *State Authorities Superannuation (Hunter District Water Board Employees' Provident Fund Transfer) (Savings and Transitional) Regulation 1990* from sub-Accounts 3 and 4 of

the Hunter District Water Board Employees' Provident Fund, as specified in clause A8.1a of the Trust Deed; and

W represents the Contributor's annual Salary at 1 July 1990.

6.3.2 The Trustee may round off the number of a Transferred HW Contributor's accrued transferred Benefit points to not less than one decimal place, as it thinks fit.

#### **6.4 Minimum Benefits for Transferred HW Contributors on death or invalidity**

6.4.1 This subrule 6.4.1 applies to a Transferred HW Contributor who:

- (a) is not eligible to apply for the Additional Benefit; or
- (b) does not make an application for Additional Benefit coverage under rule 3.2 of these Rules; or
- (c) makes an application for such Additional Benefit coverage but the application is refused.

6.4.2 If a Benefit under:

- (a) rule 5.3; or
- (b) rule 5.4; or
- (c) rule 5.5,

would have become payable to or in respect of a Transferred HW Contributor to whom this subrule 6.4.2 applies if the words “before attaining the Early Retirement Age” had been omitted from the rule concerned, the employer-financed benefit is to be not less than the amount determined under subrule 6.4.3.

6.4.3 The amount to be determined for the purposes of subrule 6.4.2 is the sum of:

- (a) the notional accumulation; and
- (b) the amount calculated in accordance with the following formula:

$$A = 1.95 \times M \times W$$

where:

A represents the amount to be calculated; and

M represents the number of months of the Transferred HW Contributor's contributory service up to 65 years of age, divided by 12; and

W represents the Transferred HW Contributor's Final Salary divided by 52.2.

6.4.4 If a Transferred HW Contributor to whom rule 6.4 applies has been assigned a medical classification of 1B under clause A10.1c of the Trust Deed, the Benefit payable under subrule 6.4.2 in relation to a Benefit under rule 5.4 or 5.5 is the sum of:

- (a) the notional accumulation; and
- (b) the amount calculated in accordance with the following formula:

$$A = 0.75 \times P$$

where:

A represents the amount to be calculated; and

P represents the amount calculated in accordance with subrule 6.4.3(b).

## **6.5 Benefit for Transferred HW Contributors on Resignation, Dismissal or Discharge before Early Retirement Age**

6.5.1 If a Benefit under rule 5.6 becomes payable to a Transferred HW Contributor, the Employer-Financed Benefit is not to be less than the amount determined under subrule 6.5.2

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

6.5.2 The amount to be determined for the purposes of subrule 6.5.1 is the amount calculated in accordance with the following formula:

$$B = S \times E$$

where:

B represents the amount to be ascertained; and

S represents the lesser of 1.0 and the product of 0.025 times the number of complete years of service; and

E represents the notional accumulation as at the date of Resignation.

## **7. SPECIAL PROVISIONS RELATING TO CONTRIBUTORS TRANSFERRED FROM THE STATE PUBLIC SERVICE SUPERANNUATION FUND**

### **7.1 Application**

7.1.1 This rule 7.1 applies to Employees who were deemed to be a Contributor to the *State Authorities Superannuation Act 1987* by reason of clause 4 of the *State Authorities Superannuation (State Public Service Superannuation Scheme Transfer) Regulation 1989*.

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- 7.1.2 A person to whom subrule 7.1.1 applies is referred to in this rule 7.1 as a ***Transferred SPS Contributor***.

## **7.2 Transferred SPS Contributors**

- 7.2.1 If a Transferred SPS Contributor was, immediately before 1 April 1989, covered for the supplementary benefit in accordance with section 13 of the *State Public Service Superannuation Act 1985* (supplementary benefit), that Contributor:
- (a) is taken to be covered for the Additional Benefit under these Rules; and
  - (b) is required to pay the Additional Benefit Levy as provided by subrule 3.4.2 as if that Contributor had lodged with the Trustee an application under rule 3.2 and that application had been approved by the Trustee.
- 7.2.2 If immediately before 1 April 1989, any allowance or other kinds of remuneration were treated as Salary for the purposes of the *State Public Service Superannuation Act 1985* in relation to a Transferred SPS Contributor, they continue to be treated as Salary for the purposes of these Rules, but only as regards that Contributor.

## **7.3 Application of Definitions**

- 7.3.1 For the purpose of applying the definition of ***Accrued Benefit Points*** in rule 5.1 to a Transferred SPS Contributor, that definition is to be read as if the reference in it to contributed points figures included a reference to the total of the contributed points figures calculated in relation to that Contributor under the *State Public Service Superannuation Act 1985* on 31 March 1989.
- 7.3.2 For the purpose of applying the definition of ***contributed points figure*** in rule 5.1 to a Transferred SPS Contributor, that definition is to be read as if the reference in that definition to Applicable Contribution Periods included a reference to applicable superannuation periods as defined by section 25 of the *State Public Service Superannuation Act 1985*.
- 7.3.3 For the purpose of applying the definition of ***Early Retirement Age*** in rule 1.1 to a Transferred SPS Contributor, the age of 55 years is applicable.
- 7.3.4 For the purpose of applying these Rules to a Transferred SPS Contributor, such a Contributor's Entry Date is, subject to subrule 8.2.5, to be taken to be the date that was regarded as the Entry Date applicable to the Transferred SPS Contributor under the *State Public Superannuation Act 1985*.
- 7.3.5 For the purpose of applying the definition of ***Final Average Salary*** in rule 5.1 to a Transferred SPS Contributor, that definition is to be read as if the Transferred SPS Contributor had become a new Contributor on 1 April 1989.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- 7.3.6 For the purpose of applying the definition of ***Maximum Benefit Points*** in rule 5.1 to a Transferred SPS Contributor, a reference to the number 180 in paragraph (a) of that definition:

- (a) in respect of a Transferred SPS Contributor aged 55 years or less, is to be taken to be a reference to the number 162; and
- (b) in respect of a Transferred SPS Contributor aged more than 55 years but less than 58 years, is to be taken to be a reference to the number calculated in accordance with the following formula:

$$162 + \frac{(6 \times Z)}{N}$$

where:

Z represents the sum of the Salary Ratios for the Transferred SPS Contributor in respect of each Applicable Contribution Period for the Transferred SPS Contributor occurring since reaching 55 years of age; and

N represents the number of contribution periods in a year.

#### **7.4 Employer-Financed Benefits for Transferred SPS Contributors**

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

If:

- (a) in any case an Employer-Financed Benefit is payable to or in respect of a Transferred SPS Contributor; and
- (b) provision-is made in these Rules for that Benefit to be calculated utilising the multiple 0.025,

the multiple 0.03 is to be substituted for that multiple, except in relation to a Benefit provided by rule 5.6.

#### **7.5 Qualifying period for Retrenchment Benefit for Transferred SPS Contributor**

7.5.1 This rule 7.5 applies to a Transferred SPS Contributor who:

- (a) was a Contributor to the State Public Service Superannuation Fund and the Public Authorities Superannuation Fund for a continuous period; and
- (b) was a person required by the *Public Authorities Superannuation Act 1985* to make provision for a preserved benefit under that Act in respect of employment by an Employer within the meaning of that Act on becoming a Contributor to the State Public Service Superannuation Fund.

7.5.2 In ascertaining the entitlement of a Transferred SPS Contributor referred to in subrule 7.5.1 to a Benefit under rule 5.7 which is subject to the Contributors satisfying a requirement as to the duration of the period that has elapsed from the Contributor's Entry Date to his or her date of exit, the period is to be taken to

include any period during which he or she was a contributor to the Public Authorities Superannuation Fund.

## **7.6 Payment on Retrenchment of a Benefit preserved under the Public Authorities Superannuation Act 1985**

- 7.6.1 For the purpose of establishing the entitlement of a Transferred SPS Contributor referred to in rule 7.5 to payment out of a preserved benefit under section 32 of the *Public Authorities Superannuation Act 1985*, a reference in subsection (3) of that section to the Public Service Superannuation Fund is to be read as a reference to the State Authorities Superannuation Fund.

## **8. SPECIAL PROVISIONS FOR INSURANCE POLICY HOLDERS AND FORMER LOCAL GOVERNMENT PROVIDENT FUND CONTRIBUTORS UNDER THE LOCAL GOVERNMENT AND OTHER AUTHORITIES (SUPERANNUATION) ACT 1927**

### **8.1 Interpretation**

- 8.1.1 In this rule 8.1:

*current insurance policy*, in relation to a person, means an insurance policy in force in respect of that person that:

- (a) was effected by or in respect of that person or accepted by the Local Government Superannuation Board or its successor under Part 2 of the earlier Act; and
- (b) is kept in force by the payment of the premiums under section 6 of that Act;

*earlier Act* means the *Local Government and Other Authorities (Superannuation) Act 1927*;

*former fixed rate provident fund contributor* means a person who was, immediately before becoming a Transferred LGI Contributor, a Contributor to the Provident Fund but who did not contribute to that fund as a result of having made a request under section 7C(1) or (3) of the earlier Act;

*former variable provident fund contributor* means a person who was, immediately before becoming a Transferred LGI Contributor, a Contributor to the Provident Fund by virtue of having contributed to the fund as a result of having made a request under section 7C(1) or (3) of the earlier Act;

*Provident Fund* means the Local Government Provident Fund established under section 8 of the earlier Act;

In this Part 8, *transfer day* means 1 May 1990;

*Transferred LGI Contributor* means a person who became a Contributor to the State Authorities Superannuation Fund by virtue of clause 4(1) or 5(1) of the *State Authorities (Closed Local Government Schemes Transfer) Regulation 1990*.

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- 8.1.2 In relation to a Transferred LGI Contributor, the definition of *Accrued Benefit Points* in rule 5.1 is to be construed as if the reference in that definition to contributed points figures included a reference to the number of transferred benefit points for the Contributor calculated in accordance with rule 8.2 or 9.2 as the case requires.
- 8.1.3 For the purpose of applying the definition of *Prospective Benefit Points* in rule 5.1 to a Transferred LGI Contributor, the reference in that definition to *applicable contribution periods* is to be construed in such a way as to exclude from calculation any of the Contributor's service that occurred before the transfer day.
- 8.1.4 For the purposes of Part 8, a Contributor's Entry Date is to be taken to be the date on which the Transferred LGI Contributor last became subject to the provisions of the earlier Act.

## 8.2 Definition of notional accumulation for the purposes of Part 8

- 8.2.1 For the purposes of Part 8:

*notional accumulation* in relation to a Transferred LGI Contributor who is a former holder of a current insurance policy or a former Contributor to the Provident Fund, means an amount equal to the sum of:

- (a) the amounts credited to the appropriate Employer reserve; and
- (b) in respect of each Applicable Contribution Period since the transfer day, the amount determined in accordance with subrule 8.2.2,

together with interest at a rate or rates determined by the Trustee, less:

- (c) an amount or amounts, calculated in such manner as the Trustee may determine, in respect of the costs of administering this Division; and
- (d) such other charges as may be determined by the Trustee.

- 8.2.2 The amount referred to in paragraph (b) of the definition of *notional accumulation* in subrule 8.2.1 is the lesser of the following:

- (a) 0.85 of the Contributions paid or payable by the Transferred LGI Contributor under these Rules; and
- (b) in the case of a Transferred LGI Contributor who is a former holder of a current insurance policy or a former fixed rate Provident Fund Contributor, an amount calculated in accordance with the formula set out in subrule 8.2.3, or, in the case of a Transferred LGI Contributor who is a former variable rate Provident Fund Contributor, an amount calculated in accordance with the formula set out in subrule 8.2.4.

- 8.2.3 For the purpose of subrule 8.2.2(b), the formula in relation to a Transferred LGI Contributor who is a former holder of a current insurance policy or a former fixed rate Provident Fund Contributor is:

$$A = \frac{(0.85 \times S)}{100} \times SR$$

A represents the amount to be calculated; and

S represents the Salary of the Transferred LGI Contributor, based on the rate of salary determined under rule 3.8 in respect of the Applicable Contribution Period concerned; and

SR represents the Salary Ratio of that Contributor in respect of that period.

- 8.2.4 For the purpose of subrule 8.2.2(b), the formula in relation to a Transferred LGI Contributor who is a former variable rate Provident Fund Contributor is as follows:

$$A = \frac{(4.25 \times S)}{100} \times SR$$

where:

A represents the amount to be calculated; and

S represents the Salary of the Transferred LGI Contributor, based on the rate of salary determined under rule 3.8 in respect of the Applicable Contribution Period concerned; and

SR represents the Salary Ratio of that Contributor in respect of that period.

### **8.3 Minimum Benefit for Transferred LGI Contributors who were formerly holders of current insurance policies or Provident Fund Contributors**

- 8.3.1 The Employer-Financed Benefit is to be not less than the notional accumulation if any of the Benefits specified in subrule 8.3.2 which becomes payable to a Transferred LGI Contributor who is a former holder of a current insurance policy or a former Contributor to the Provident Fund.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

- 8.3.2 The following Benefits are specified for the purposes of subrule 8.3.1:

- (a) a Benefit under rule 5.2; or
- (b) a Benefit under rule 5.3; or
- (c) a Benefit under rule 5.4; or
- (d) a Benefit under rule 5.5; or
- (e) a Benefit under rule 5.6.

- 8.3.3 However, if the Employer-Financed Benefit payable to or in respect of a Transferred LGI Contributor referred to in subrule 8.3.1 would, but for this subrule 8.3.3, be reduced by the operation of rule 8.4, then that Benefit is to be not less than the notional accumulation.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

#### **8.4 Benefit to be adjusted in certain circumstances**

- 8.4.1 Subrule 8.4.1 applies to a Transferred LGI Contributor who is a former holder of a current insurance policy or a former Contributor to the Provident Fund and who, in the opinion of the Trustee, has received or will receive:

- (a) in the case of a Transferred LGI Contributor whose service was terminated, or who died, before 1 July 1993 - a gratuity under section 97 of the *Local Government Act 1919*; or
- (b) in the case of a Transferred LGI Contributor whose service is terminated, or who dies, on or after that date - a similar gratuity, being a gratuity paid or to be paid by the council as an act of grace on the death or termination of service of an Employee of the council and calculated by reference to the period of the Employee's service with the council.

- 8.4.2 If the Employer-financed Benefit payable in respect of a Transferred LGI Contributor to whom this clause applies is determined without reference to the notional accumulation of that Contributor, the Trustee must deduct from the Employer-Financed Benefit otherwise payable under these Rules the amount determined in accordance with subrule 8.4.3.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

- 8.4.3 For the purpose of subrule 8.4.2, the amount is an amount calculated in accordance with the formula set out in subrule 8.4.4, if greater than 0, otherwise the amount is 0.

- 8.4.4 The formula referred to in subrule 8.4.3 is as follows:

$$A = (G + E) - M$$

A represents the amount to be calculated; and

G represents the amount referred to in subrule 8.4.1 as the gratuity payable to or in respect of the Transferred LGI Contributor;

E represents the Employer-Financed Benefit that would be payable under these Rules but for this subrule 8.4.4; and

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

M represents the Employer-Financed Benefit that would have been payable to the Transferred LGI Contributor concerned if the employer-financed benefit had been based on the Maximum Benefit Points for that Contributor.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

- 8.4.5 An amount payable under subrule 8.4.2 is payable from the appropriate reserve.
- 8.4.6 If the Employer-Financed Benefit payable is reduced by the operation of subrule 8.4.2, the number of Accrued Benefit Points for the Transferred LGI Contributor is to be taken to have been reduced in proportion to the amount by which the Benefit was reduced.  
[amended by Deed of Amendment No.[24] operative 30/6/97]
- 8.4.7 If the Employer-Financed Benefit payable is reduced by the operation of subrule 8.4.2, the number of Accrued Benefit Points for a Transferred LGI Contributor to whom this subrule 8.4.7 applies is to be taken to have been reduced in proportion to the amount by which the Benefit was reduced.  
[amended by Deed of Amendment No.[24] operative 30/6/97]

## 8.5 Debiting of reserves - Transferred LGI Contributors who were formerly holders of current insurance policies or Provident Fund Contributors

Whenever the Trustee pays a Benefit in accordance with rule 8.3 to a Transferred LGI Contributor, the Trustee must debit the appropriate employer reserve with the difference between the amount of the Benefit paid and the amount that, but for that rule 8.3, would have been paid under these Rules.

## 9. SPECIAL PROVISIONS FOR FORMER BENEFITS FUND CONTRIBUTORS UNDER THE LOCAL GOVERNMENT AND OTHER AUTHORITIES (SUPERANNUATION) ACT 1927

### 9.1 Definitions

- 9.1.1 In this Rule 9.1:

**Benefits Fund** means the Superannuation Benefits Fund established under section 15S of the earlier Act;

**earlier Act** means the *Local Government and Other Authorities (Superannuation) Act 1927*;

In this Part 9, **transfer day** means 1 May 1990;

**Transferred LGS Contributor means** a person who became a Contributor to the *State Authorities Superannuation Fund by virtue of clause 6(1) of the State Authorities (Closed Local Government Schemes Transfer) Regulation 1990*.

- 9.1.2 In relation to a Transferred Contributor, the definition of **Accrued Benefit Points** in rule 5.1 is to be construed as if the reference in that definition to contributed points figures included a reference to the number of transferred benefit points for the Contributor calculated in accordance with rule 9.3.
- 9.1.3 For the purpose of applying the definition of **Prospective Benefit Points** in rule 5.1 to a Transferred Contributor, the reference in that definition to Applicable

Contribution Periods is to be construed in such a way as to exclude from calculation any of the Contributor's service that occurred before the transfer day.

- 9.1.4 For the purposes of Part 9, a Contributor's Entry Date is to be taken to be the date on which the Transferred Contributor last became subject to the provisions of the earlier Act.

## 9.2 Definition of notional accumulation for the purposes of Part 9

- 9.2.1 For the purposes of Part 9:

***notional accumulation***, in relation to a Transferred Contributor who is a former Contributor to the Benefits Fund, means an amount equal to the sum of:

- (a) the amounts credited to the appropriate employer reserve; and
- (b) in respect of each Applicable Contribution Period ending on or after the transfer day, the lesser of:
  - (i) an amount calculated in accordance with the formula set out in subrule 9.2.2; and
  - (ii) an amount equal to 1.275 times the Contributions paid or payable by the Contributor under these Rules,

together with interest at a rate or rates determined by the Trustee, but reduced by an amount or amounts calculated in such manner as the Trustee may determine in respect of the costs of administering this Division and such other charges as may be determined by the Trustee.

- 9.2.2 For the purpose of paragraph (b)(i) of the definition of ***notional accumulation*** in subrule 9.2.1, the formula in relation to a Transferred LGS Contributor who is a former Contributor to the Benefits Fund is as follows:

$$A = \frac{(4.4625 \times S)}{100} \times SR$$

where:

- A represents the amount to be calculated; and
- S represents the Salary of the Transferred LGS Contributor, based on the rate of salary determined under rule 3.8 in respect of the Applicable Contribution Period concerned; and
- SR represents the Salary Ratio of that Contributor in respect of that period.

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### **9.3 Minimum Benefit for Transferred LGS Contributors who were formerly Benefits Fund Contributors**

9.3.1 The Employer-Financed Benefit is to be not less than the notional accumulation:

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

(a) if

(i) a Benefit under rule 5.2; or

(ii) a Benefit under rule 5.5,

becomes payable to or in respect of a Transferred LGS Contributor who was formerly a Contributor to the Benefits Fund; or

(b) if a Transferred LGS Contributor who was formerly a Contributor to the Benefits Fund is not qualified for the Additional Benefit and:

(i) a Benefit under rule 5.3; or

(ii) a Benefit under rule 5.4,

becomes payable to or in respect of the Contributor.

9.3.2 However, if the Employer-Financed Benefit payable to or in respect of a Transferred LGS Contributor referred to in subrule 9.3.1 would, but for this subrule 9.3.2, be reduced by the operation of rule 9.5, then that Benefit is to be not less than the notional accumulation.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

### **9.4 Minimum Benefit for certain specially qualified Transferred LGS Contributors who were formerly Benefits Fund Contributors**

9.4.1 The Employer-Financed Benefit is to be not less than the amount determined under subrule 9.4.2, if:

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

(a) a Benefit under rule 5.3; or

(b) a Benefit under rule 5.4,

becomes payable to or in respect of a Transferred LGS Contributor who was formerly a Contributor to the Benefits Fund and who:

(c) becomes covered for the Additional Benefit under rule 3.4; or

(d) by virtue of clause 4(6) or 6(6) of the *Sate Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1990*, was taken at the Transfer Day to be covered for the Additional Benefit.

9.4.2 The amount to be determined for the purposes of subrule 9.4.1 is the sum of:

- (a) the notional accumulation; and
- (b) the amount calculated in accordance with the following formula:

$$A = M \times S$$

where:

A represents the amount to be calculated; and

M represents the number under the heading "Multiplier of Salary" in the table following, opposite the age specified in years in that table that was the age of the Transferred LGS Contributor concerned at that Contributor's Exit Date;

Age in years at Exit Date	Multiplier of Salary	Age in years Exit Date	Multiplier of Salary
20, or under 20	6.0	40	2.50
21	5.8	41	2.35
22	5.6	42	2.20
23	5.4	43	2.05
24	5.2	44	1.90
25	5.0	45	1.75
26	4.8	46	1.60
27	4.6	47	1.45
28	4.4	48	1.30
29	4.2	49	1.15
30	4.0	50	1.00
31	3.85	51	0.9
32	3.70	52	0.8
33	3.55	53	0.7
34	3.40	54	0.6
35	3.25	55	0.5
36	3.10	56	0.4
37	2.95	57	0.3
38	2.80	58	0.2
39	2.65	59	0.1
		60, or over 60	0

S represents:

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

- (a) if the Transferred LGS Contributor concerned contributed to this Division at the rate of 1% of his or her Salary - two-sevenths of his or her Final Salary; or
- (b) if that Contributor contributed to this Division at the rate of 2% of his or her Salary - four-sevenths of his or her Final Salary; or

- (c) if that Contributor contributed to this Division at the rate of 3% of his or her Salary - six-sevenths of his or her Final Salary;
- (d) if that Contributor contributed to this Division at a rate exceeding 3% of his or her Salary - his or her Final Salary.

9.4.3 In subrule 9.4.2, a reference to a rate, in relation to a Transferred LGS Contributor referred to in subrule 9.4.1, is a reference to the rate at which the Contributor last elected to contribute, or is taken to have last elected to contribute, immediately before the Benefit became payable.

## 9.5 Benefit to be adjusted in certain circumstances

9.5.1 This rule 9.5 applies to a Transferred LGS Contributor who is a former Contributor to the Benefits Fund and who, in the opinion of the Board, has received:

- (a) in the case of a Transferred LGI Contributor whose service was terminated, or who died, before 1 July 1993 - a gratuity under section 97 of the *Local Government Act 1919*; or
- (b) in the case of a Transferred LGI Contributor whose service is terminated, or who dies, on or after that date - a similar gratuity, being a gratuity paid or to be paid by the council as an act of grace on the death or termination of service of an Employee of the council and calculated by reference to the period of the Employee's service with the council.

9.5.2 If the employer-financed benefit payable in respect of a Transferred LGS Contributor to whom this rule 9.5 applies is determined without reference to the notional accumulation of the Contributor, the Trustee must deduct from the Employer-Financed Benefit otherwise payable under these Rules the amount determined in accordance with subrule 9.5.3.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

9.5.3 For the purpose of subrule 9.5.2, the amount is an amount calculated in accordance with the formula set out in subrule 9.5.4, if greater than 0, otherwise the amount is 0.

9.5.4 The formula referred to in subrule 9.5.3 is as follows:

$$A = (G + E) - M$$

where:

- A represents the amount to be calculated;
- G represents the amount referred to in subrule 9.5.1 as the gratuity payable to or in respect of the Transferred LGS Contributor;
- E represents the Employer-Financed Benefit that would be payable but for this subrule 9.5.4; and

[amended by Deed of Amendment No.[24] operative 30/6/97]

M represents the employer-financed benefit that would have been payable to or in respect of the Transferred LGS Contributor concerned if the Employer-financed Benefit had been based on the Maximum Benefit Points for that Contributor.

- 9.5.5 If the Employer-Financed Benefit payable is reduced by the operation of subrule 9.5.2, the number of Accrued Benefit Points for a Transferred LGS Contributor to whom this subrule 9.5.5 applies is to be taken to have been received in proportion to the amount by which the Benefit was reduced.

[amended by Deed of Amendment No.[24] operative 30/6/97]

## **9.6 Debiting of reserves - Transferred LGS Contributors who were formerly Benefits Fund Contributors**

- 9.6.1 Whenever the Trustee pays a Benefit in accordance with rule 9.3 to or in respect of a Transferred LGS Contributor who is a former Contributor to the Benefits Fund, the Trustee must debit the appropriate employer reserve with the difference between the amount of the Benefit paid and the amount that, but for rule 9.3, would have been payable to or in respect of the Contributor under these Rules.

- 9.6.2 Whenever the Trustee pays a Benefit in accordance with rule 9.4 in respect of a Transferred LGS Contributor who is a former Contributor to the Benefits Fund, the Trustee must:

- (a) debit the Additional Benefit Reserve with the amount of the Additional Benefit which would have been payable in respect of the Contributor if an Additional Benefit had been paid under these Rules; and
- (b) debit the remainder to the appropriate Employer reserve.

## **10. SPECIAL PROVISIONS FOR CERTAIN FORMER LOCAL GOVERNMENT SCHEME CONTRIBUTORS EMPLOYED UNDER INDUSTRIAL AWARDS ETC.**

### **10.1 Definitions and Application**

- 10.1.1 This rule 10.1 applies to an Employee within the meaning of the earlier Act who, immediately before the transfer day, was a Contributor to the Benefits Fund.

- 10.1.2 For the purposes of Part 10:

*earlier act* means the *Local Government and Others Authorities (Superannuation) Act 1927*;

*relevant award or agreement* means an award or industrial agreement which was in force under the *Industrial Arbitration Act 1940* immediately before 12 April 1990 and which is binding on Employees to whom this Part 10 applies and their respective Employees;

*supplementary benefit* means the amount (if any) by which the refund to an Employer under section 15Y(1)(b) of the earlier Act exceeds the amount of the Employer-Financed Benefit payable under the provisions of these Rules;  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

In this Part 10, *transfer day* means 1 May 1990.

## **10.2 Supplementary payments to Employees to whom Part 10 applies**

10.2.1 If the Trustee is satisfied that an Employee to whom this Part 10 applies is entitled to a Benefit payable under a relevant award or agreement, the Trustee must pay to the Employee the lesser of:

- (a) the amount prescribed by the award or agreement; and
- (b) the amount of the supplementary benefit.

10.2.2 The Trustee must also pay the amount of the supplementary Benefit to an Employee to whom this Part 10 applies if the Employee, having reached 55 but not having reached 58 years of age, has Retired from the service of Energy Australia on or after the date of transfer to this Division, and the Trustee is satisfied that the Employee:

- (a) was employed by the Sydney County Council on 31 March 1977 and continued until Retirement to be employed by that Council and, where appropriate, by Sydney Electricity and Energy Australia; and
- (b) was continuously a Contributor to the Benefits Fund from and including 31 March 1997 to 1 May 1990; and
- (c) was continuously a Contributor to the State Authorities Superannuation Fund from and including 1 May 1990 to and including the date of transfer to this Division; and
- (d) was continuously a Contributor to this Division to and including the date of Retirement.

### 10.3 Additional Benefit for certain Sydney Electricity Employees

10.3.1 A further Additional Benefit, determined in accordance with subrule 10.3.3, is payable to or in respect of an Employee to whom Part 10 applies if:

- (a) the Employee was employed by Sydney County Council on 31 March 1977 and has since continued to be employed by that Council and its successors, Sydney Electricity and Energy Australia; and
- (b) the Employee was continuously a Contributor to the Benefits Fund from and including 31 March 1977 to 1 May 1990 and has continuously been a Contributor to the State Authorities Superannuation Fund from and including that day; and
- (c) the Employee is covered or (because of the *State Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1990* was at the date of Transfer to this Division taken to be covered for an Additional Benefit under the State Authorities Superannuation Act which Benefit now applies under the corresponding provision of these Rules; and
- (d) a relevant Benefit becomes payable to or in respect of the Employee.

10.3.2 A Benefit is a relevant Benefit if:

- (a) it is a Benefit payable under rule 5.3 or rule 5.4 of these Rules; or *[amended by Deed of Amendment No.[24] operative 30/6/97]*
- (b) it is a Benefit payable under rule 5.2 of these Rules and the Trustee is satisfied that a Benefit would have been payable under rule 5.3 or 5.4 had the Early Retirement Age been 60 rather than 55 years of age.

10.3.3 A further Additional Benefit payable under this subrule 10.3.3 is to be calculated as follows:

$$A = (M \times S) - AB$$

where:

A represents the amount to be determined;

M represents the number under the heading "Multiplier of Salary" in the table contained in subrule 9.4.2 opposite the age specified in years in that table that was the age of the Employee at the Employee's Exit Date;

S represents:

- (a) if the Employee contributed to the Division at the rate of 1% of Salary - two-sevenths of the Employee's Final Salary;
- (b) or if the Employee contributed to the Division at the rate of 2% of Salary - four-sevenths of that Employee's Final Salary; or

- (c) if the Employee contributed to the Division at the rate of 3% of Salary - six-sevenths of the Employee's Final Salary; or
- (d) if the Employee contributed to the Division at a rate exceeding 3% of Salary - the Employee's Final Salary; and

AB represents the amount of any Additional Benefit payable to the Employee under rule 5 of these Rules.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

- 10.3.4 In subrule 10.3.3, **rate** means the rate at which the Employee concerned last elected or is taken to have last elected to contribute immediately before the relevant Benefit became payable.
- 10.3.5 Rule 10.3 applies to persons who are Employees to whom Part 10 applies, or were such Employees at any time on or after the Transfer Day.

#### **10.4 Debiting of accounts - payment of supplementary Benefits**

- 10.4.1 Whenever the Board makes a payment in accordance with rule 10.3, the Trustee must debit the appropriate Employer reserve with the amount of the payment.
- 10.4.2 An Additional Benefit paid under rule 10.3 is to be regarded as an **Additional Benefit** for the purposes of these Rules and the Trustee must debit the amount of that Benefit to the Additional Benefits Reserve.  
*[replaced by Deed of Amendment No.9 operative 30/6/03]*

### **11. MISCELLANEOUS PROVISIONS RELATING TO LOCAL GOVERNMENT EMPLOYEES**

#### **11.1 Early Retirement Age - female Contributors and Sydney County Council employees**

- 11.1.1 For the purposes of the definition of **Early Retirement Age** in rule 1.1, the Early Retirement Age is 55 years:
  - (a) in relation to a female Transferred LGS Contributor who, immediately before 1 May 1990, was a Contributor to the Benefits Fund; and
  - (b) in relation to a Transferred LGS Contributor who, immediately before 1 May 1990, was an employee of the Sydney County Council.

- 11.1.2 Subrule 11.1.1 does not have effect in relation to a male Transferred LGS Contributor referred to in subrule 11.1.1(b) unless the Contributor has, at the Contributor's Exit Date, completed 20 years or more service with the Sydney County Council or

its successors, Sydney Electricity and Energy Australia in terms of the industrial award that was applicable to the Contributor immediately before 1 May 1990.

## 12. SPECIAL PROVISIONS FOR TRANSFERRED PAS CONTRIBUTORS

### 12.1 Definitions

12.1.1 In Parts 12-18:

**Board** means the SAS Trustee Corporation established under the Administration Act;

**earlier Act** means the *Public Authorities Superannuation Act 1985*;

**earlier Fund** means the Public Authorities Superannuation Fund established in accordance with the earlier Act;

**new Fund** means the State Authorities Superannuation Fund established by the Board in accordance with the *Superannuation Administration Act 1987* and when referred to in these Rules includes this Division;

**pension** means a pension payable under Parts 12-18;

**Transferred PAS Contributor** means a person who became a Contributor by virtue of clause 3 of Schedule 3 of the Current Act (rule 3.14 of these Rules).

### 12.2 Transferred PAS Contributors

12.2.1 If, immediately before 1 April 1988, a Transferred PAS Contributor was, in accordance with section 12 of the earlier Act, covered for the Additional Benefit, that Contributor:

(a) shall be taken at the date of transfer to this Division to be covered for the Additional Benefit under these Rules; and

(b) shall pay the Additional Benefit Levy as required by rule 3.4.2 as if that Contributor had lodged with the Trustee an application under rule 3.2 which had been approved by the Trustee.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

12.2.2 If, immediately before 1 April 1988, any allowances or other kinds of remuneration were treated as Salary for the purposes of the earlier Act in relation to a Transferred PAS Contributor, they shall continue to be treated as Salary for the purposes of these Rules, but only as regards that Contributor.

### 12.3 \*\*\*\*

### 12.4 Application of certain definitions to Transferred PAS Contributor

12.4.1 For the purpose of applying the definition of **Accrued Benefit Points** in rule 5.1 to a Transferred PAS Contributor, that definition shall be construed as if the reference

in it to contributed points figures included a reference to the total of the contributed points figures calculated in relation to that Contributor under the earlier Act on 31 March 1988 but multiplied by 0.72.

- 12.4.2 For the purposes of applying the *State Authorities Superannuation Act 1987* and these Rules to a Transferred PAS Contributor, such a Contributor's Entry Date shall be taken to be the date that was regarded as the Entry Date applicable to the Transferred PAS Contributor under the earlier Act.
- 12.4.3 For the purpose of applying the definition of **contributed points figure** in rule 5.1 to a Transferred PAS Contributor, that definition shall be construed as if the reference in that definition to Applicable Contribution Periods included a reference to applicable months as defined by section 24 of the earlier Act, but with the result derived from the formula for those months multiplied by 0.72.
- 12.4.4 In applying the calculation of **Prospective Benefit Points** in rule 5.1 to a Transferred PAS Contributor, that calculation shall be subject to a minimum value of 0.7 multiplied by the number of Prospective Benefit Points that would have been calculated under that Act if the Early Retirement Age had been 60 years.

## 12.5 Adjustment of Benefit where broken service recognised

- 12.5.1 This rule 12.5 applies to a Transferred PAS Contributor in respect of whom an order has been in force under the *New South Wales Retirement Benefits Regulation 1983* at any time with respect to one or more periods of employment of that Contributor which occurred before 1 July 1985.
- 12.5.2 If a Transferred PAS Contributor to whom this rule 12.5 applies has received an allowance with respect to a period of employment to which an order under the *New South Wales Retirement Benefits Regulation 1983* has been in force, the Employer-Financed Benefit payable under these Rules to or in respect of the Transferred PAS Contributor shall be reduced by the following amount in respect of each such period:

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

$$J = S \times \frac{A}{W}$$

where:

- J represents the amount by which the Employer-financed Benefit is to be reduced;
- S represents the amount of the Transferred PAS Contributor's Salary, as used in the calculation of the Benefit payable to or in respect of the Transferred PAS Contributor under these Rules;
- A represents the amount of the allowance received by the Transferred PAS Contributor; and

W represents the annual wages of the Transferred PAS Contributor, as determined by the Board, immediately before the allowance became payable to the Transferred PAS Contributor.

- 12.5.3 In this rule, **allowance**, in relation to a Transferred PAS Contributor, means such part of the amount of a Benefit that has been paid to the Transferred PAS Contributor from a superannuation fund as, in the opinion of the Trustee, represents the employer-financed component of the Benefit.

### 13. SPECIAL CONDITIONS FOR FORMER LOCAL GOVERNMENT PENSION FUND CONTRIBUTORS

#### 13.1 Definitions

- 13.1.1 In this Part 13:

**applicable month** has the meaning that that expression had under section 24 of the earlier Act;

**former Act** means the *Local Government and Other Authorities (Superannuation Act) 1927*;

**former Fund** means the Local Government Pension Fund established under the former Act;

**guaranteed pension points**, in relation to a Transferred LGP Contributor, means a number of points which is the greater of 0 and the number determined by the formula:

$$S = (2/3 \times P) + (1/4 \times A) - (1/3 \times B) - R$$

where:

S represents the number of guaranteed pension points to be calculated;

P represents the number of Prospective Benefit Points which would have been calculated under these Rules if the age for early retirement had been 65 years;  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

A represents the number of Accrued Benefit Points calculated as if 1 April 1988 were the Transferred LGP Contributor's Exit Date under these Rules;

B represents the number of Accrued Benefit Points at the Transferred LGP Contributor's Exit Date under these Rules; and

R represents the number of prospective benefit points calculated in respect of the Transferred LGP Contributor in accordance with rule 5.1 as modified by sub-rule 12.4.4;

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***notional accumulation*** in relation to a Transferred LGP Contributor who became a Contributor to the former Fund under section 15AO, 15AP or 15AQ of the former Act, means an amount equal to the sum of:

- (a) the amount credited to the general reserve or the special reserve of the former Fund under section 15AO(3), 15AP(9) or 15AQ(10) of the former Act in respect of that Contributor;
- (b) in respect of each Superannuation Year during the period beginning with the date on which that Contributor became a Contributor to the former Fund and ending with 30 June 1985, an amount equal to:
  - (i) 5.25% of the Salary of that Contributor, based on the rate of Salary determined under section 15AV of the former Act in respect of that superannuation year; or
  - (ii) 1.5 times the Contributions paid or payable by that Contributor in that Superannuation Year under the former Act,

whichever is the less;

- (c) in respect of each applicable month in relation to that Contributor under the earlier Act, an amount equal to:
  - (i) 5.25% of the Salary of that Contributor, multiplied by the Salary Ratio of that Contributor in respect of that month as determined by the Board, based on the rate of Salary determined under section 6 of the earlier Act in respect of that month; or
  - (ii) 1.5 times the Contributions paid or payable by that Contributor in that month under the earlier Act,

whichever is the less; and

- (d) in respect of each Applicable Contribution Period since 1 April 1988, an amount equal to:
  - (i) 5.25% of the Salary of that Contributor, multiplied by the Salary Ratio of that Contributor in respect of that period, based on the rate of Salary determined under rule 3.8 in respect of that period; or
  - (ii) 1.5 times the Contributions paid or payable by that Contributor under the current Act,

whichever is the less, together with interest at a rate or rates determined by the Trustee, but reduced by an amount or amounts calculated in such manner as the Trustee may determine in respect of the costs of administering the scheme and such other charges as may be determined by the Trustee;

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***Transferred LGP Contributor*** means a person who has become a Contributor by virtue of clause 3 of Schedule 3 to the Current Act (rule 3.14) after having become a Contributor to the earlier Fund by virtue of the operation of Schedule 6 to the earlier Act (transitional provisions Local Government Pension Fund).

### **13.2 Application of the definition of Prospective Benefit Points to Transferred LGP Contributor**

- 13.2.1 For the purpose of applying rule 5.1 to a Transferred LGP Contributor, that Contributor's average contribution rate per cent referred to in the definition of ***Prospective Benefit Points*** in that rule shall be construed in such a way as to exclude from calculation any period which occurred before the date when the Transferred LGP Contributor last became a Contributor under Part IIID of the former Act.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

### **13.3 Benefit to be adjusted in certain circumstances**

- 13.3.1 This rule 13.3 applies to a Transferred LGP Contributor who, in the opinion of the Board, has received, or will receive:

- (a) in the case of a Transferred LGI Contributor whose service was terminated, or who died, before 1 July 1993 - a gratuity under section 97 of the *Local Government Act 1919*; or
- (b) in the case of a Transferred LGI Contributor whose service is terminated, or who dies, on or after that date - a similar gratuity, being a gratuity paid or to be paid by the council as an act of grace on the death or termination of service of an Employee of the council and calculated by reference to the period of the Employee's service with the council.

- 13.3.2 Where the employer-financed Benefit payable in respect of a Transferred LGP Contributor to whom this rule 13.3 applies is determined without reference to the notional accumulation of that Contributor, the amount determined in accordance with subrule 13.3.3 shall be deducted from the Employer-Financed Benefit otherwise payable under these Rules.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

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13.3.3 For the purposes of subrule 13.3.2, the amount is:

- (a) 0; or
- (b) an amount calculated in accordance with the formula set out in subrule 13.3.4,

whichever is the greater.

13.3.4 The formula referred to in subrule 13.3.3 is as follows:

$$A = (G + E) - M$$

where:

- A represents the amount to be calculated;
- G represents the amount referred to in subrule 13.3.1 as the gratuity payable to or in respect of the Transferred LGP Contributor;
- E represents the Employer-Financed Benefit that would be payable but for this rule 13.3; and  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- M represents the Employer-Financed Benefit that would have been payable to the Transferred LGP Contributor concerned if the Employer-financed Benefit had been based on the Maximum Benefit Points for that Contributor.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

13.3.5 If the Employer-Financed Benefit payable is reduced by the operation of subrule 13.3.2, the number of Accrued Benefit Points for the Transferred LGP Contributor shall be taken to have been reduced in proportion to the amount by which the Benefit was reduced.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

#### **13.4 Additional Benefit for qualified Transferred LGP Contributors**

13.4.1 This rule 13.4 applies to a Transferred LGP Contributor who:

- (a) becomes covered for the Additional Benefit under the current Act or these Rules; or
- (b) by virtue of rule 12.2, is taken at the date of transfer to this Division to be covered for that Additional Benefit.

13.4.2 If:

- (a) a Benefit becomes payable under rule 5.3 or 5.4 to or in respect of a Transferred LGP Contributor to whom this rule 13.4 applies; or

- (b) a Benefit is paid under rule 5.2 and the Trustee is satisfied that a Benefit would have been payable under section rule 5.3 or 5.4 if the Early Retirement Age had been 60 years,

the lump sum Benefit calculated in accordance with the formula specified in subrule 13.4.3 is payable to or in respect of that Contributor.

13.4.3 The formula referred to in subrule 13.4.3 is as follows:

$$L = \frac{S}{100} \times (P - R)$$

where:

- L represents the amount to be calculated;
- S represents the Transferred LGP Contributor's Final Salary;  
*[amended by Deed of Amendment No.[2]4 operative 30/6/97]*
- P represents the number of Prospective Benefit Points which would have been calculated under sub-rule 12.4.4 if the Early Retirement Age had been 65 years; and  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- R represents the number of prospective benefit points which would have been calculated under subrule 12.4.4.

13.4.4 If, in applying the formula specified in subrule 13.4.3, P is not more than R, no lump sum is payable.

### **13.5 Minimum Benefit for qualified Transferred LGP Contributors**

13.5.1 In this rule 13.5, a reference to an Employer-Financed Benefit includes a lump sum Benefit payable under rule 13.4.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

13.5.2 This rule 13.5 applies to a Transferred LGP Contributor who:

- (a) becomes covered for the Additional Benefit under these Rules; or
- (b) by virtue of rule 12.2, is taken to be covered for that Additional Benefit,

and who in either case became a Contributor to the former Fund under section 15AO, 15AP or 15AQ of the former Act.

13.5.3 If:

- (a) a Benefit becomes payable under rule 5.3 or 5.4 to or in respect of a Transferred LGP Contributor to whom this rule 13.5 applies and no election is made under rule 13.9 or 13.10; or
- (b) a Benefit is paid under rule 5.2 and the Board is satisfied that a Benefit would have been payable under rule 5.3 or 5.4 if the Early Retirement Age had been 60 years,

the Employer-Financed Benefit in respect of that Contributor shall be not less than the amount determined in accordance with subrule 13.5.4.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

13.5.4 For the purposes of subrule 13.5.3, the amount referred to in that subrule is the sum of:

- (a) the notional accumulation; and
- (b) the amount calculated in accordance with the following formula:

$$A = MXS$$

where:

A represents the amount to be calculated;

M represents the number under the heading *Multiplier of Salary* in Part 19 opposite the age specified in years in that Part that was the age of the Transferred LGP Contributor at that Contributor's Exit Date; and

S represents:

- (i) if the Transferred LGP Contributor contributed to the new Fund at the rate of 1% of Salary - two-sevenths of that Contributor's Final Salary;
- (ii) if the Transferred LGP Contributor contributed to the new Fund at the rate of 2% of Salary - four-sevenths of that Contributor's Final Salary;
- (iii) if the Transferred LGP Contributor contributed to the new Fund at the rate of 3% of Salary - six-sevenths of that Contributor's Final Salary; or
- (iv) if the Transferred LGP Contributor contributed to the new Fund at a rate exceeding 3% of Salary - that Contributor's Final Salary.

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13.5.5 In subrule 13.5.4, a reference to a rate, in relation to a Transferred LGP Contributor, is a reference to the rate at which the Contributor last elected or is taken to have last elected to contribute immediately before the Benefit became payable.

13.5.6 If a Benefit becomes payable to a Transferred LGP Contributor to whom this rule 13.5 applies under the Employer-Financed Benefit in respect of that Contributor shall be not less than the notional accumulation.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

13.5.7 If:

- (a) a Benefit becomes payable under rule 5.2 to or in respect of a Transferred LGP Contributor to whom this rule applies;
- (b) no election is made under rule 13.8; and
- (c) the Employer-Financed Benefit would, but for the operation of this subrule 13.5.7, be reduced by the operation of rule 13.3,

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

the Employer-Financed Benefit in respect of the person shall be not less than the notional accumulation.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

### **13.6 Minimum Benefit for Transferred LGP Contributors not qualified**

13.6.1 This rule 13.6 applies to a Transferred LGP Contributor other than one who:

- (a) becomes covered for the Additional Benefit under these Rules; or
- (b) is taken, by virtue of rule 12.2, to be covered for that Additional Benefit,

and who in either case became a Contributor to the former Fund under section 15AO, 15AP or 15AQ of the former Act.

13.6.2 If:

- (a) a Benefit becomes payable in respect of a Transferred LGP Contributor to whom this rule 13.6 applies under rule 5.3; and
- (b) no election is made under rule 13.10,

the Employer-Financed Benefit in respect of that Contributor shall be not less than the notional accumulation.

13.6.3 If a Benefit under:

- (a) rule 5.4; or
- (b) rule 5.5,

becomes payable to a Transferred LGP Contributor to whom this rule 13.6 applies, the Employer-Financed Benefit in respect of that Contributor shall be not less than the notional accumulation.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

13.6.4 If:

- (a) a Benefit becomes payable to or in respect of a Transferred LGP Contributor to whom this rule 13.6 applies under rule 5.2;
- (b) no election is made under rule 13.8; and
- (c) the Employer-Financed Benefit would, but for the operation of this subrule 13.6.4, be reduced by the operation of rule 13.3,  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

the Employer-Financed Benefit in respect of that Contributor shall be not less than the notional accumulation.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

### **13.7 Debiting of accounts**

13.7.1 Whenever the Trustee pays a Benefit in accordance with rule 13.4 or rule 13.5, the Trustee shall:

- (a) debit the Additional Benefit Reserve established under these Rules with the amount of the Additional Benefit which would have been payable if an Additional Benefit had been paid under these Rules; and
- (b) debit the remainder to the appropriate Employer reserve.

13.7.2 Whenever the Trustee pays a Benefit in accordance with rule 13.6, the Board shall debit the appropriate Employer reserve with the difference between the amount of the Benefit so paid and the amount that, but for that rule, would have been paid under these Rules.

### **13.8 Pension rights exit after age 60**

13.8.1 A Transferred LGP Contributor who, having attained 60 years of age on or before the Contributor's Exit Date, Retires and thereby becomes entitled to be paid the Benefit provided by rule 5.2 may elect to convert to a pension in accordance with rule 17.4 benefit points to which the Transferred LGP Contributor is entitled.

13.8.2 The benefit points to which the election referred to in subrule 13.8.1 relates are the Transferred LGP Contributor's Accrued Benefit Points.

13.8.3 Those benefit points which the Transferred LGP Contributor does not elect to convert to a pension shall be applied towards payment of a lump sum in accordance with rule 5.2.

### **13.9 Pension rights: total and permanent invalidity**

13.9.1 If:

- (a) a Transferred LGP Contributor becomes entitled to be paid the Benefit provided by rule 5.4; or
- (b) a Transferred LGP Contributor Retires and thereby becomes entitled to be paid the Benefit provided by rule 5.2 and the Trustee is satisfied that that Contributor would have been entitled to be paid the Benefit provided by rule 5.4 if the Early Retirement Age had been 60 years,

that Contributor may elect to convert to a pension in accordance with rule 17.6 benefit points to which that Contributor is entitled.

13.9.2 The benefit points to which the election referred to in subrule 13.9.1 relates are the Transferred LGP Contributor's Accrued Benefit Points, Prospective Benefit Points and guaranteed pension points.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

13.9.3 If the Transferred LGP Contributor does not elect to convert all of the benefit points specified in subrule 13.9.2 into a pension, the proportion of Accrued Benefit Points and Prospective Benefit Points which was not so converted shall be applied to the payment of a lump sum in accordance with rule 5.2 or 5.4, as the case may require.

### **13.10 Pension rights death**

13.10.1 If the Spouse of a deceased Transferred LGP Contributor becomes entitled to be paid:

- (a) the Benefit provided by rule 5.3; or
- (b) the Benefit provided by rule 5.2,

that Spouse may elect to convert to a pension in accordance with rule 17.7 the benefit points to which that Contributor was entitled at death.

13.10.2 The benefit points in respect of which an election under subrule 13.10.1 may be made are the Accrued Benefit Points, Prospective Benefit Points and guaranteed pension points which would have accrued in respect of the Transferred LGP Contributor had the Contributor become entitled to a Benefit under rule 5.4.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

- 13.10.3 If the Spouse of the Transferred LGP Contributor does not elect to convert into a pension all of the benefit points referred to in subrule 13.10.2, the proportion of Accrued Benefit Points and Prospective Benefit Points which has not been so converted shall be applied towards the payment of a lump sum in accordance with rule 5.2 or 5.4, as the case may require.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

### **13.11 Payment of pensions**

- 13.11.1 Subject to subrule 13.11.2, a pension is payable to or in respect of a former Transferred LGP Contributor in accordance with Parts 17 and 18.

- 13.11.2 If a Transferred LGP Contributor or a former Transferred LGP Contributor dies leaving a dependent child, a pension is, subject to rule 17.9, payable in accordance with Part 17.

## **14. SPECIAL CONDITIONS FOR FORMER RETIREMENT FUND CONTRIBUTORS**

### **14.1 Definitions**

- 14.1.1 In this Part 14:

*former Act* means the *New South Wales Retirement Benefits Act 1972*;

*Transferred RF Contributor* means a person who has become a Contributor by virtue of clause 3 of Schedule 3 of the *State Authorities Superannuation Act 1987* (rule 3.14) after having become a Contributor to the earlier Fund by virtue of Schedule 7 of the earlier Act.

### **14.2 Application of certain definitions to Transferred RF Contributor**

- 14.2.1 For the purpose of applying the definition of *Prospective Benefit Points* in rule 5.1 to a Transferred RF Contributor, the reference in that definition to Applicable Contribution Periods shall be construed as including any period occurring before that Contributor's Entry Date where that period would have been taken into account in calculating a Benefit payable to that Contributor under the former Act:

*[amended by Deed of Amendment No[24] operative 30/6/97]*

- (a) if the Benefit had become payable immediately before 1 April 1988; and
- (b) if the former Act had then been in force.

- 14.2.2 For the purpose of applying the definition of *average contribution rate per cent* in rule 5.1 to a Transferred RF Contributor, that definition shall be construed as if a reference in it to the sum of rates per cent of Salary at which a Contributor was liable to pay a Contribution for a Contribution Period were a reference to the sum of Benefit points accrued by the Transferred Contributor.

### 14.3 Contribution rates

- 14.3.1 A Transferred RF Contributor may contribute to this Division at a rate of Contribution which is not 1, 2, 3, 4, 5, 6, 7, 8 or 9 per cent of the Transferred RF Contributor's Salary, but no such Contributor may contribute to that Fund more than 9 per cent of his or her Salary.
- 14.3.2 A Transferred RF Contributor who does not, before 31 December in any year, make an election under rule 3.9 shall be taken to have made such an election specifying, in accordance with subrule 3.9.2(b), a rate equal to the rate which applied in respect of that Contributor on that date.
- 14.3.3 A Transferred RF Contributor referred to in subrule 14.3.1 who wishes to make an election under rule 3.9 may make that election by specifying the number of benefit points to be accrued for a Superannuation Year.
- 14.3.4 An election made in accordance with subrule 14.3.3 shall be taken to specify a rate per cent of the Transferred RF Contributor's Salary sufficient to increase by the number of benefit points specified in the election the Accrued Benefit Points for the Superannuation Year concerned.

### 14.4 Adjustment of points accrual: persons under age 59 and 11 months

- 14.4.1 This rule 14.4 applies to a Transferred RF Contributor who, on 1 April 1986, had not attained the age of 59 years and 11 months and who, on 1 April in any succeeding Superannuation Year, has not attained that age.
- 14.4.2 In this rule 14.4:

*adjusted points limit* means the number calculated in accordance with the following formula:

$$A = \frac{((L \times 1.8) + 0.7) \times 9}{2.5}$$

where:

A represents the adjusted points limit to be determined; and

L represents one ninth of the maximum number of benefit points for which the Transferred RF Contributor could have contributed in accordance with rule 7 of Schedule 7 to the earlier Act in the Superannuation Year which commenced on 1 April 1987.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

- 14.4.3 For the purposes of this rule 14.4, but subject to subrules 14.4.4 and 14.4.5, for each 1% of Salary contributed to the new Fund by a Transferred RF Contributor for the Superannuation Year that commences on 1 April 1988, and each successive Superannuation Year, the number of benefit points accrued is:
- (a) the number of points specified in Schedule 2 of the State *Authorities Superannuation (Transitional Provisions) Regulation 1988*; or
  - (b) the number of points that is equal to one-ninth of the adjusted points limit for the Transferred RF Contributor,

whichever is the greater.

- 14.4.4 The maximum number of Benefit points that may be accrued in any Superannuation Year by the application of subrule 14.4.3(a) is 9.
- 14.4.5 The maximum number of Benefit points that may be accrued in any Superannuation Year by the application of subrule 14.4.3(b) is the adjusted points limit for the Transferred RF Contributor concerned.

#### **14.5 Adjustment of points accrual: persons aged over 59 years and 11 months**

- 14.5.1 This rule 14.5 applies to a Transferred RF Contributor who had attained the age of 59 years and 11 months on 1 April 1986.
- 14.5.2 The adjusted points limit for a Transferred RF Contributor to whom this rule 14.5 applies shall be calculated in accordance with the following formula:

$$L = \frac{(N \times 1-8) + 0.7}{2.5}$$

where:

L represents the adjusted points limit to be calculated; and

N represents the number of benefit points accrued by the Transferred RF Contributor in accordance with rule 7 of Schedule 7 to the earlier Act in the Superannuation Year which commenced on 1 April 1987.

- 14.5.3 A Transferred RF Contributor to whom this rule 14.5 applies is required to contribute the percentage of Salary determined in accordance with subrule 14.5.4 in order to accrue 1 benefit point.
- 14.5.4 The percentage of Salary required to be contributed under subrule 14.5.3 is whichever of the following is the smaller:
- (a) 1; or

(b) the number calculated by the following formula:

$$K = \frac{C}{L}$$

where:

K represents the number to be calculated;

C represents the Transferred RF Contributor's Contribution rate per cent as at 31 March 1988; and

L represents the adjusted points limit calculated in accordance with subrule 14.5.2.

14.5.5 The maximum number of benefit points that may be accrued in any Superannuation Year by the operation of subrule 14.5.4(b) is:

(a) the adjusted points limit for the Transferred RF Contributor; or

(b) 9,

whichever is the greater.

14.5.6 A Transferred RF Contributor to whom this rule applies whose Contribution rate per cent on 31 March 1988 is 0 shall be taken to have a Contribution rate per cent of 1 and the Trustee may make such arrangements as it thinks fit in relation to the deduction of Contributions for such a Contributor.

#### **14.6 Pension rights exit after age 60**

14.6.1 A Transferred RF Contributor who, having attained 60 years of age on or before that Contributor's Exit Date, Retires and thereby becomes entitled to be paid the Benefit provided by rule 5.2 may elect to convert to a pension in accordance with:

(a) rule 17.3; or

(b) rule 17.4,

benefit points to which that Contributor is entitled.

14.6.2 The benefit points to which the election referred to in subrule 14.6.1 relates are the Transferred RF Contributor's Accrued Benefit Points.

14.6.3 Those benefit points which the Transferred RF Contributor does not elect to convert to a pension shall be applied to payment of a lump sum in accordance with rule 5.2.

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## 14.7 Pension rights: total and permanent invalidity

14.7.1 If:

- (a) a Transferred RF Contributor becomes entitled to be paid the Benefit provided by rule 5.4; or
- (b) a Transferred RF Contributor Retires and thereby becomes entitled to be paid the Benefit provided by rule 5.2 and the Trustee is satisfied that that Contributor would have been entitled to be paid the Benefit provided by rule 5.4 if the Early Retirement Age had been 60 years,

that Contributor may elect to convert to a pension in accordance with:

- (c) rule 17.5; or
- (d) rule 17.6,

benefits points to which he or she is entitled.

14.7.2 The benefit points to which the election referred to in subrule 14.7.1 relates are the Transferred RF Contributor's Accrued Benefit Points and Prospective Benefit Points.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

14.7.3 If the Transferred RF Contributor does not elect to convert all of the benefit points specified in subrule 14.7.2 into a pension, the proportion of Accrued Benefit Points and Prospective Benefit Points which was not so converted shall be applied towards the payment of a lump sum benefit in accordance with rule 5.2 or 5.4, as the case may require.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

## 14.8 Pension rights: death

14.8.1 If the Spouse of a deceased Transferred RF Contributor becomes entitled to be paid:

- (a) the Benefit provided by rule 5.3; or
- (b) the Benefit provided by rule 5.2,

that Spouse may elect to convert to a pension in accordance with rule 17.7 the Benefit points to which that Contributor was entitled at death.

14.8.2 The benefit points in respect of which an election under subrule 14.8.1 may be made are the Accrued Benefit Points and Prospective Benefit Points which would have accrued to the Transferred RF Contributor had that Contributor become entitled to a Benefit under rule 5.4.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

14.8.3 If the Spouse of a Transferred RF Contributor does not elect to convert to a pension all of the benefit points referred to in subrule 14.8.2, the proportion of Accrued Benefit Points and Prospective Benefit Points which has not been so converted

shall be applied towards the payment of a lump sum benefit in accordance with rule 5.2 or 5.3, as the case may require.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

#### 14.9 Payment of pensions

14.9.1 A pension is payable to or in respect of a former Transferred RF Contributor in accordance with Parts 17 and 18.

#### 14.10 Minimum Benefit in certain cases

14.10.1 If the amount of a Benefit that would, but for this rule 14.10, be payable under:

- (a) rule 5.3;
- (b) rule 5.4; or
- (c) rule 5.5,

to or in respect of a Transferred RF Contributor would be less than a lump sum benefit calculated in respect of that Contributor in accordance with subrule 14.10.2, the Trustee shall, instead of paying the first-mentioned Benefit, pay that lump sum benefit to that Contributor or, if the case so requires, to such person as would have been entitled under rule 5.3 to the first-mentioned Benefit.

14.10.2 The lump sum Benefit referred to in subrule 14.10.1 shall be calculated in accordance with the following formula:

$$Z = \frac{A}{30} \times \left( 10 + \frac{N}{12} \right)$$

where:

Z represents the lump sum Benefit to be calculated;

A represents the Final Salary for the Transferred RF Contributor concerned;  
and

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

N represents the number of periods for that Contributor which would have been Applicable Contribution Periods for that Contributor if:

- (a) the *State Authorities Superannuation Act 1987* or these Rules had been in force at that Contributor's Entry Date; and
- (b) that Contributor had become a Contributor under the *State Authorities Superannuation Act 1987* or these Rules on that date.

14.10.3 Whenever the Trustee pays a Benefit in accordance with this rule 14.10, it shall:

(a) debit the Additional Benefit Reserve with the amount of the Additional Benefit which would have been payable if an Additional Benefit had been paid under these Rules; and

(b) debit the remainder to the appropriate employer reserve.

## 15. SPECIAL PROVISIONS FOR FORMER TRANSPORT FUND CONTRIBUTORS

### 15.1 Definitions

15.1.1 In this Part:

*former Act* means the *Transport Employees Retirement Benefits Act 1967*;

*Transferred TF Contributor* means a person who has become a Contributor by virtue of clause 3 of Schedule 3 of the *State Authorities Superannuation Act 1987* (rule 3.14) after having become a Contributor to the earlier Fund by virtue of the *Public Authorities Superannuation (Transport Retirement Fund Closure) Regulation 1986*.

### 15.2 Application of certain definitions to Transferred TF Contributors

15.2.1 For the purpose of applying the definition of *Prospective Benefit Points* in rule 5.1 to a Transferred TF Contributor, the reference in that definition to Applicable Contribution Periods shall be construed as including any period occurring before that Contributor's Entry Date where that period would have been taken into account in calculating a Benefit payable to that Contributor under the *New South Wales Retirement Benefits Act 1972* if:

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

(a) the Benefit had become payable immediately before 1 April 1988;

(b) that Contributor had been entitled to a Benefit under *State Authorities Superannuation Act 1987* or these Rules; and

(c) the *State Authorities Superannuation Act 1987* or these Rules had been in force at the relevant time.

15.2.2 For the purpose of applying the definition of *average contribution rate per cent* in rule 5.1 to a Transferred TF Contributor, that definition shall be construed as if a reference in it to the sum of the rates per cent of Salary at which a Contributor was liable to pay a Contribution for a Contribution Period were a reference to the sum of benefit points accrued by the Transferred TF Contributor.

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### 15.3 Pension rights: exit after age 60

- 15.3.1 A Transferred TF Contributor who, having attained 60 years of age on or before the Contributor's Exit Date, Retires and thereby becomes entitled to be paid the Benefit provided by rule 5.2 may elect to convert to a pension in accordance with:
- (a) rule 17.3; or
  - (b) rule 17.4,
- benefit points to which that Contributor is entitled.
- 15.3.2 The benefit points in respect of which an election may be made under subrule 15.3.1 are the Transferred TF Contributor's Accrued Benefit Points.
- 15.3.3 Those benefit points which the Transferred TF Contributor does not elect to convert to a pension shall be applied towards payment of a lump sum benefit in accordance with rule 5.2.

### 15.4 Pension rights: total and permanent invalidity

- 15.4.1 If:
- (a) a Transferred TF Contributor becomes entitled to be paid the Benefit provided by rule 5.4; or
  - (b) a Transferred TF Contributor retires and thereby becomes entitled to be paid the Benefit provided by rule 5.2 and the Trustee is satisfied that a Benefit would have been payable to that Contributor under rule 5.4 if the Early Retirement Age had been 60 years,
- that Contributor may elect to convert to a pension in accordance with:
- (c) rule 17.5; or
  - (d) rule 17.6,
- benefit points to which that Contributor is entitled.
- 15.4.2 The benefit points to which the election referred to in subrule 15.4.1 relates are the Transferred TF Contributor's Accrued Benefit Points and Prospective Benefit Points.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- 15.4.3 If the Transferred TF Contributor concerned does not elect to convert all of the benefit points specified in subrule 15.4.2 into a pension, the proportion of Accrued Benefit Points and Prospective Benefit Points which was not so converted shall be applied towards the payment of a lump sum benefit in accordance with rule 5.2 or 5.4, as the case may require.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

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## 16. SPECIAL PROVISIONS FOR CERTAIN FORMER LOCAL GOVERNMENT SCHEME CONTRIBUTORS

### 16.1 Definitions

#### 16.1.1 In this Part:

***applicable month*** has the meaning that that expression had under section 24 of the earlier Act;

***former Act*** means the *Local Government and Other Authorities (Superannuation) Act 1927*;

***notional accumulation***, in relation to a Transferred LGA Contributor, means an amount equal to the sum of:

- (a) the amounts credited to the appropriate employer reserve established under the former fund in accordance with rule 6 (3) of the *Public Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1986* in respect of that Contributor;
- (b) in respect of each applicable month in relation to that Contributor under the earlier Act, an amount equal to:
  - (i) 5.25% of the Salary of that Contributor, multiplied by the Salary Ratio of that Contributor in respect of that month as determined by the Trustee, based on the rate of Salary determined under section 6 of the earlier Act in respect of that month; or
  - (ii) 1.5 times the Contributions paid or payable by that Contributor in that month under the earlier Act,

whichever is the less; and

- (c) in respect of each Applicable Contribution Period since 1 April 1988, an amount equal to:
  - (i) 5.25% of the Salary of that Contributor, multiplied by the Salary Ratio of that Contributor in respect of that period, based on the rate of salary determined under rule 3.8 in respect of that period; or
  - (ii) 1.5 times the Contributions paid or payable by that Contributor under these Rules,

whichever is the less,

together with interest at a rate or rates determined by the Trustee, but reduced by an amount or amounts calculated in such manner as the Trustee may determine in

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respect of the costs of administering the scheme and such other charges as may be determined by the Trustee;

**Transferred LGA Contributor** means a person who has become a Contributor by virtue of clause 3 of Schedule 3 of the *State Authorities Superannuation* (rule 3.14) after having become a Contributor to the earlier Fund by virtue of the *Public Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1986*.

## 16.2 Application of certain definition to Transferred LGA Contributors

16.2.1 For the purpose of applying the definition of **Prospective Benefit Points** in rule 5.1 to a Transferred LGA Contributor, the reference in that definition to **Applicable Contribution Period** shall be construed in such a way as to exclude from calculation any service which occurred before that Contributor's date of transfer to the earlier Fund under the *Public Authorities Superannuation (Closed Local Government Schemes Transfer) Regulation 1986*.

[amended by Deed of Amendment No.[24] operative 30/6/97]

## 16.3 Benefit to be adjusted in certain circumstances

16.3.1 The provisions of rule 13.3 apply to a Transferred LGA Contributor as if that Contributor were a Transferred LGA Contributor to whom Part 13 applies if the Transferred LGA Contributor, in the opinion of the Trustee, has received or will receive:

- (a) in the case of a Transferred LGA Contributor whose service was terminated, or who died, before 1 July 1993 - a gratuity under section 97 of the *Local Government Act 1919*, or
- (b) in the case of a Transferred LGA Contributor whose service is terminated, or who dies, on or after that date - a similar gratuity, being paid or to be paid by the council as an act of grace on the death or termination of service of an Employee of the council and calculated by reference to the period of the Employee's service with the council.

## 16.4 Minimum Benefit for qualified Transferred LGA Contributors

16.4.1 This rule 16.4 applies to a Transferred LGA Contributor who:

- (a) was, immediately before becoming a Contributor to the earlier Fund, a Contributor to the Superannuation Benefits Fund established under section 15S of the former Act; and
- (b) becomes covered for the Additional Benefit under the *State Authorities Superannuation Act 1987* or these Rules or, by virtue of rule 12.2, is taken to be covered for that Additional Benefit.

16.4.2 If a Benefit under:

- (a) rule 5.3; or

(b) rule 5.4,

becomes payable to or in respect of a Transferred LGA Contributor to whom this rule 16.4 applies, the Employer-Financed Benefit shall be not less than the amount determined under subrule 16.4.3.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

16.4.3 The amount to be determined for the purposes of subrule 16.4.2 is the sum of:

- (a) the notional accumulation; and
- (b) the amount calculated in accordance with the following formula:

$$A = M \times S$$

where:

A represents the amount to be calculated;

M represents the number under the heading "Multiplier of Salary" in Part 19 opposite the age specified in years in that Part 19 that was the age of the Transferred LGA Contributor concerned at that Contributor's Exit Date; and

S represents:

- (i) if the Transferred LGA Contributor contributed to the new Fund at the rate of 1% of Salary - two-sevenths of the Transferred LGA Contributor's Final Salary;  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- (ii) if the Transferred Contributor contributed to the new Fund at the rate of 2% of Salary - four-sevenths of the Transferred LGA Contributor's Final Salary;  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- (iii) if the Transferred LGA Contributor contributed to the new Fund at the rate of 3% of Salary - six-sevenths of the Transferred LGA Contributor's Final Salary; or  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*
- (iv) if the Transferred LGA Contributor contributed to the new fund at a rate exceeding 3% of Salary - the Transferred LGA Contributor's Final Salary.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

16.4.4 In subrule 16.4.3, a reference to a *rate*, in relation to a Transferred LGA Contributor, is a reference to the rate at which the Contributor last elected or is taken to have last elected to contribute immediately before the Benefit became payable.

## 16.5 Debiting of accounts

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16.5.1 Whenever the Trustee pays a Benefit in accordance with rule 16.4, the Trustee shall:

- (a) debit the Additional Benefit Reserve with the amount of the Additional Benefit which would have been payable if an Additional Benefit had been paid under these Rules; and
- (b) debit the remainder to the appropriate employer reserve.

## **17. PENSIONS**

### **17.1 Election by Transferred Contributor to take pension Benefit**

17.1.1 An election by a Transferred Contributor or the Spouse of a Transferred Contributor to take a pension Benefit under Parts 12-19 shall:

- (a) be in a form approved by the Trustee;
- (b) be signed by that Contributor or Spouse, as the case requires;
- (c) specify such matters and be accompanied by such information as the Trustee may require;
- (d) specify the proportion of benefit points to be converted to a pension, the proportion being the same for each class of benefit points which may be so converted; and
- (e) be lodged at the office of the Trustee within the period of 3 months (or such extended period as the Trustee may in special circumstances allow) that immediately follows that Contributor's Exit Date or, if the case requires, the day on which that Contributor died.

17.1.2 The Trustee is entitled to act on the information provided in accordance with subrule 17.1.1.

### **17.2 Payment of pension Benefit**

17.2.1 If a Transferred Contributor has elected to take a pension benefit under Parts 12-19, that Benefit shall be calculated with effect from that Contributor's Exit Date and is payable in equal fortnightly instalments.

17.2.2 If the Spouse of a deceased Transferred Contributor has elected to take a pension Benefit under Parts 12-19, that Benefit shall be calculated with effect from the date of death of that Contributor and is payable in equal fortnightly instalments.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

### **17.3 Employer-financed pension: normal retirement without reversion**

17.3.1 When an election is made by a Transferred Contributor to take the pension Benefit provided by this rule 17.3, the pension shall be calculated in accordance with the following formula:

$$P = S \times C \times 0.002778 \times (1 - 0.025 \times T)$$

where:

- P represents the annual pension payable;
- S represents the Transferred Contributor's Final Average Salary;
- C represents the number of Benefit points to which the election relates; and
- T represents the number of whole years by which that Contributor's Exit Date precedes the date of his or her 65th birthday.

- 17.3.2 For the purposes of symbol "T" in subrule 17.3.1, a fraction of a year which does not form part of a whole year counts as a whole year.

#### **17.4 Employer-financed pension: normal retirement with reversion**

- 17.4.1 When an election is made by a Transferred Contributor to take the pension Benefit provided by this rule 17.4, the pension shall be calculated in accordance with the following formula:

$$P = S \times C \times 0.002223 \times (1 - 0.025 \times T)$$

where:

P, S, C and T have the same meanings as in rule 17.3

#### **17.5 Employer-financed pension: invalidity without reversion**

- 17.5.1 When an election is made by a Transferred Contributor to take the pension Benefit provided by this rule 17.5, the pension shall be calculated in accordance with the following formula:

$$P = S \times C \times 0.002778$$

where:

P and C have the same meanings as in rule 17.3; and

S represents the Transferred Contributor's Final Salary.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

#### **17.6 Employer-financed pension: invalidity with reversion**

- 17.6.1 When an election is made by a Transferred Contributor to take the pension benefit provided by this rule 17.6, the pension shall be calculated in accordance with the following formula:

$$P = S \times C \times 0.002223$$

where:

P and C have the same meanings as in rule 17.3; and

S represents the Transferred Contributor's Final Salary.  
*[amended by Deed of Amendment No.[24] operative 30/6/97]*

### **17.7 Employer-financed pension: Spouse**

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

17.7.1 When an election is made by the Spouse of a deceased Transferred Contributor to take the pension benefit provided by this rule 17.7, the pension shall be calculated in accordance with the following formula:

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

$$P = S \times C \times 0.002223 \times 0.625$$

where:

P and C have the same meanings as in rule 17.3; and

S represents:

(a) the Transferred Contributor's Final Average Salary if that Contributor died after attaining the age of 60 years; or

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

(b) the Transferred Contributor's Final Salary if that Contributor died before attaining that age.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

### **17.8 Duration of pensions**

17.8.1 If a pension under rule 17.4 or 17.6 is payable:

(a) that pension is payable during the lifetime of the Transferred Contributor; and

(b) on the death of that Contributor, a pension is payable to the Spouse of that Contributor for life at an annual rate equal to 62.5% of the annual rate of pension that was payable to that Contributor immediately before that death.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

17.8.2 If a pension under rule 17.3 or 17.5 is payable, that pension is payable only during the lifetime of the Transferred Contributor concerned.

17.8.3 If a pension under rule 17.7 is payable, that pension is payable only during the lifetime of the Spouse of the Transferred Contributor concerned.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

17.8.4 In this rule 17.8:

*spouse*, in relation to a pension payable under rule 17.4, 17.6 or 17.7, means the person who was the Spouse of the Transferred Contributor concerned at the time when the election to take the pension was made.

## 17.9 Pensions in respect of children and orphans

17.9.1 In this rule 17.9:

*dependent child*, in relation to a deceased Transferred LGP Contributor, means:

- (a) a child of that Contributor who has not attained 16 years of age; or
- (b) a child of that Contributor, who has attained 16 years of age but not 25 years of age and who is, in the opinion of the Trustee, receiving full-time education at a school, college or university and not ordinarily employed or engaged in working for remuneration,

and who in either case was, in the opinion of the Trustee, wholly or substantially financially dependent on the Transferred LGP Contributor immediately before that Contributor's death;

*[amended by Deed of Amendment No.[28] operative 01/07/07]*

*notional pension*, in relation to the Spouse of a deceased Transferred LGP Contributor or pensioner, means:

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

- (i) where the Spouse is entitled to receive the pension provided by rule 17.4 or 17.6, the pension that would have been payable to the deceased if he or she had elected to take the pension so provided and had lived; or
- (ii) where the Spouse is entitled to receive the pension provided by rule 17.7, the pension that would have been payable to the deceased if he or she had suffered total and permanent invalidity instead of death and had elected to take the pension provided by rule 17.6;

*pensioner* means a person entitled to receive a pension payable in accordance with rule 13.8, 13.9 or 13.10;

*Transferred LGP Contributor* has the same meaning as in Part 13.

17.9.2 The provisions of this rule 17.9 apply to the spouse of a deceased pensioner in the same way as they apply to the Spouse of a deceased Transferred LGP Contributor.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

17.9.3 If a Transferred LGP Contributor or a pensioner dies leaving a dependent child, the Trustee shall:

- (a) in respect of the child, pay a pension to the Spouse of that deceased Contributor or pensioner or the guardian of the child; or

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

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- (b) if the Trustee thinks fit, expend the pension for the benefit of the child in such manner as it may determine.
- 17.9.4 A pensioner in respect of whom there exists a notional pension is entitled to only so much of the pension or pensions under subrule 17.9.3 as would, when added to the pensioner's actual pension, not exceed that notional pension.
- 17.9.5 A pension payable under subrule 17.9.3 ceases to be payable in respect of a child when the child ceases to be a dependent child.
- 17.9.6 Subject to any periodical adjustment effected as a result of the operation of Part 18, the rate of pension payable under subrule 17.9.3 in respect of a child is:
- (a) if a parent of the child is living, a fortnightly amount of \$58.86; or
- (b) in any other case, a fortnightly amount of \$139.76.

### **17.10 Definitions**

- 17.10.1 In Part 17 (other than rule 17.9) Transferred Contributor means, as the case requires, a Transferred PAS Contributor, a Transferred LGP Contributor, a Transferred RF Contributor, a Transferred TF Contributor or a Transferred LGA Contributor.

## **18. PERIODIC ADJUSTMENT OF PENSIONS**

### **18.1 Definitions**

- 18.1.1 In this Part 18:

*adjustment date*, in relation to an adjustment period, means the first day of the pension pay period that ends on the first pension pay day in the October that next follows that adjustment period;

*adjustment percentage*, in relation to an adjustment period, means, subject to subrule 18.3.2, the percentage for that period calculated in accordance with rule 18.3;

*adjustment period* means:

- (a) the period of 6 months beginning on 1 January 1989; or
- (b) the period of 12 months beginning on 1 July 1989; or
- (c) the period of 12 months beginning on 1 July in any subsequent year,
- as the case requires;

*December quarter* means the quarter commencing on 1 October in each year;

*index number* in relation to a June quarter, means the number for that June quarter appearing in the Consumer Price Index (All Groups Index) for Sydney

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published by the Commonwealth Statistician under the *Census and Statistics Act 1905* of the Commonwealth;

**June quarter** means the quarter commencing on 1 April in each year;

**quarter**, in relation to a year, means the period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in that year.

- 18.1.2 If a pension is to be adjusted under this Part 18 by reference to the adjustment percentage for an adjustment period, a reference (however expressed) in this Part 18 to adjusting the pension is a reference to:
- (a) where the adjustment percentage is calculated in accordance with the formula set out in subrule 18.3.1(a), increasing the pension; or
  - (b) where the adjustment percentage is calculated in accordance with the formula set out in subrule 18.3.1(b), reducing the pension.

## 18.2 Restriction on automatic adjustment of pension

- 18.2.1 If the Trustee is of the opinion that an increase in accordance with this Part 18 in the pension payable to a person would prejudicially affect that person as regards some advantageous situation in which, but for being so affected, that person would be placed, the Trustee may:
- (a) determine not to pay the amount of the increase; or
  - (b) determine to pay a specified increase of a lesser amount; or
  - (c) determine to decrease the pension to a specified amount.
- 18.2.2 A determination made under subrule 18.2.1 has effect according to its tenor, and once the determination has had effect a person is not entitled to be paid or to recover any amount that would have been payable but for the determination.
- 18.2.3 A determination made under subrule 18.2.1 must be disregarded in calculating a pension payable to the Spouse of a deceased pensioner to whom the determination relates but such a determination may be made in relation to the pension so calculated.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

## 18.3 Calculation of adjustment percentage

- 18.3.1 For the purposes of the definition of **adjustment percentage** in rule 18.1, the percentage for an adjustment period is to be calculated:
- (a) if, in relation to the adjustment period beginning on 1 January 1989, the index number for the June quarter in that period was greater than the index number for the immediately preceding December quarter or, if in relation to the adjustment period beginning on 1 July 1989 or 1 July in any subsequent year, the index number for the June quarter was greater than the index

number for the immediately preceding June quarter in accordance with the following formula:

$$P = \frac{100(C - L)}{L}; \text{ or}$$

- (b) if, in relation to the adjustment period beginning on 1 January 1989, the index number for the June quarter in that period was less than the index number for the immediately preceding December quarter or, if in relation to the adjustment period beginning on 1 July 1989 or 1 July in any subsequent year, the index number for the June quarter was less than the index number for the immediately preceding June quarter in accordance with the following formula:

$$P = \frac{100(L - C)}{L}$$

where, in the case of either formula:

P represents the percentage to be obtained; and

C represents the index number for the June quarter in the adjustment period concerned; and

L represents the index number for the immediately preceding December quarter or the immediately preceding June quarter, as the case requires.

18.3.2 There is to be no adjustment percentage for an adjustment period if:

- (a) the percentage calculated for that period in accordance with this rule 18.3 is less than 1.1%; or  
*[amended by Deed of Amendment No.53 operative 1/9/20]*
- (b) the index number for the June quarter in that period is the same as the index number for the immediately preceding June quarter.

18.3.3 If there is to be no adjustment percentage for an adjustment period, then, for the purposes of calculating the percentage for the next adjustment period:

- (a) the index number for the June quarter in the first-mentioned period is to be taken to have not been published; and
- (b) the index number for that quarter is to be taken to be the same as the index number for the June quarter in the last year for which there was an adjustment percentage.

18.3.4 If at any time, whether before, on or after 1 January 1989, the Commonwealth Statistician has published, or publishes in respect of a particular June quarter an index number in substitution for an index number previously published by him or

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her in respect of that quarter, then, for the purposes of this Part 18 the publication of the later index number must be disregarded.

- 18.3.5 Despite subrule 18.3.4, if at any time after 1 January 1989 the Commonwealth Statistician has changed the reference base for the Consumer Price Index (All Groups Index) for Sydney, then, for the purposes of the application of this Part 18 (after the change takes place), regard must be had only to index numbers published in terms of the new reference base.

#### **18.4 Adjustment of pensions: general cases**

- 18.4.1 Subject to this Part 18, if there is an adjustment percentage for a particular adjustment period, the pension payable on the adjustment date for that period to a person to whom this rule 18.4 applies is adjusted, on and from that adjustment date, by that percentage.

- 18.4.2 This rule 18.4 applies:

- (a) to a person who last became a pensioner on or before the first day of that particular adjustment period concerned; and
- (b) to a person who is the Spouse of a deceased pensioner, where that deceased pensioner last became a pensioner on or before the first day of the particular adjustment period concerned and died before the adjustment date for that period.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

#### **18.5 Adjustment of pensions: partial adjustment**

- 18.5.1 This rule 18.5 applies:

- (a) to a person who last became a pensioner during the period beginning with the first day of the particular adjustment period concerned and ending with 31 March next following; and
- (b) to a person who is the Spouse of a deceased pensioner, where that deceased pensioner last became a pensioner during the period beginning with the first day of the particular adjustment period concerned and ending with 31 March next following and died before the adjustment date for that adjustment period.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

- 18.5.2 Subject to this Part 18, if there is an adjustment percentage for a particular adjustment period, the pension payable on the adjustment date for that period to a person to whom this rule 18.5 applies is adjusted, on and from that adjustment date, by the percentage calculated in accordance with the formula set out in subrule 18.5.3.

- 18.5.3 The formula referred to in subrule 18.5.2 is:

- (a) where the adjustment period is the adjustment period beginning on 1 January 1989;

$$A = P \times \frac{Q}{2}; \text{ or}$$

- (b) where the adjustment period is the adjustment period beginning on 1 July 1989 or on 1 July in any subsequent year:

$$A = P \times \frac{Q}{4}$$

where, in the case of either formula:

A represents the percentage by which the pension is to be adjusted; and

P represents the adjustment percentage for the particular adjustment period; and

Q represents the number of whole quarters of the particular adjustment period, being the whole quarters after, and (if applicable) the whole quarter on the first day of which:

- (i) in the case of a person referred to in subrule 18.5.1(a) the person last become a pensioner; or
- (ii) in the case of a person referred to in subrule 18.5.1(b) the deceased Spouse of that person last became a pensioner.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

## 18.6 Minimum amount to which pensions may be reduced

18.6.1 Irrespective of anything in this Part 18:

- (a) a pension (other than a pension payable to a person by virtue of that person being the Spouse of a pensioner) must not be reduced below the fortnightly amount that would have been payable but for this Part 18; and

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

- (b) a pension payable to a person by virtue of that person being the Spouse of a pensioner must not be reduced below the fortnightly amount that would have been payable by reference to the pension that would have been payable to the former pensioner but for this Part 18.

*[amended by Deed of Amendment No.[24] operative 30/6/97]*

## 18.7 Calculation of percentages

18.7.1 If a percentage that is calculated under this Part 18 is or includes a fraction of one-tenth of 1%, then:

- (a) if the fraction is less than one-half of one-tenth the fraction is to be disregarded; and

- (b) if the fraction is not less than one-half of one-tenth the fraction is to be treated as one-tenth.

**19. SCALE FOR CALCULATING ADDITIONAL DEATH BENEFITS AND ADDITIONAL DISABLEMENT BENEFITS**

<b>Age in years at Exit Date</b>	<b>Multiplier of Salary</b>	<b>Age in years at Exit Date</b>	<b>Multiplier of Salary</b>
20, or under 20	6.0	40	2.50
21	5.8	41	2.35
22	5.6	42	2.20
23	5.4	43	2.05
24	5.2	44	1.90
25	5.0	45	1.75
26	4.8	46	1.60
27	4.6	47	1.45
28	4.4	48	1.30
29	4.2	49	1.15
30	4.0	50	1.00
31	3.85	51	0.9
32	3.70	52	0.8
33	3.55	53	0.7
34	3.40	54	0.6
35	3.25	55	0.5
36	3.10	56	0.4
37	2.95	57	0.3
38	2.80	58	0.2
39	2.65	59	0.1
		60, or over 60	0

**20. OTHER CONTRIBUTORS TRANSFERRED UNDER THE TRANSFER REGULATIONS**

20.1 In respect of those transferred contributors transferred pursuant to clause 11 of the Transfer Regulations, the Benefits of those members shall be determined in accordance with the provisions of the Acts and Regulations set out in rule 20.2 below insofar as they apply to each of those members.

20.2 The Acts and Regulations referred to in rule 20.1 are:

- (a) New South Wales Retirements Benefits Act 1972;
- (b) Local Government & Other Authorities (Superannuation) Act 1927;
- (c) Public Authorities Superannuation Act 1985;
- (d) Transport Employees Retirement Benefits Act 1967; and
- (e) Parts 2, 3 and 6 of the State Authorities Superannuation (Transitional Provisions) Regulation 1988.

