

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 7 dated 4 May 2000

Amendment 8 dated 14 August 2000

Amendment 9 dated 28 March 2001

Amendment 10 dated 21 November 2000

Amendment 12 dated 30 April 2001

Amendment 20 dated 19 November 2003

Amendment 21 dated 19 November 2003 (consent 8/1/04)

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 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 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 07 December 2016 (*amended Schedule 2 and 4*)

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*)

SCHEDULE 4

DIVISION D – (SSS)

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SCHEDULE 4

DIVISION D – (SSS)

These are the Rules governing Division D of the Fund. As at the Transfer Day, these Rules are intended to reflect the rights, benefits and entitlements of Members under the State Superannuation Scheme established under the *Superannuation Act 1916*, as at the time immediately before the Transfer Day.

1. INTERPRETATION

1.1 Definitions

1.1.1 In these Rules, unless inconsistent with the content or subject-matter:

Abandoned Unit, in relation to a Member, means:

- (a) a unit of pension which the Member has, in accordance with these Rules, elected to abandon;
- (b) a unit of pension in respect of which the Member is not to contribute, or has ceased contributing, under this Division, by reason of electing, in accordance with these Rules, to reduce the number of units of pension in respect of which the Member is to contribute;
- (c) a unit of pension in respect of which the Member has, in accordance with these Rules, elected not to contribute under this Division; or
- (d) a unit of pension the Contributions for which are refunded to the Member or the Member's Spouse under subrule 9.2.3;

but does not include a unit of pension to which an election under subrule 6.1.2 relates.

Annual Adjustment Day in relation to a contributor, means the day determined to be the Contributor's Annual Adjustment Day under Rule 4.2.

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.

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

Annual Review Day, in relation to a Contributor, means the day determined to be the Contributor's Annual Review Day under rule 4.2.

Appointed Day means 14 February 1966.

Chief Executive Officer has the same meaning as in Division A.

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

Child means a Child who has not attained the age of 18 years and, without limiting the operation of the *Status of Children Act 1996*, includes an ex-nuptial or adopted Child (whether or not the adoption took place in Australia).

Contribution Period means a four-weekly period commencing on and including a date specified in Column 2 of rule 1.6 and ending on and including the date specified opposite thereto in Column 3 of that rule.

Contributor means a Member and includes a person who has elected to take the benefit of Part 16, but does not include a Member while exempted from contributing under this Division.

Contributors' Reserve means the reserve for Contributors' Contributions established and maintained under subrule 2.2.1.

Contributory Unit means a unit of pension other than a Reduced Value Unit, an Abandoned Unit or a reserve unit of pension under rule 11.7.

De Facto Relationship is the relationship described in paragraph (b), (c) or (d) of the definition of Spouse between a Contributor or pensioner and a De Facto Spouse.

[amended by Deed of Amendment No.12 operative 01/07/01]

De Facto Spouse is a Spouse referred to in paragraph (b), (c) or (d) of the definition of Spouse.

[amended by Deed of Amendment No.12 operative 01/07/01]

Discharged has the meaning given to that expression by subrule 12.8.2.

Dismissed has the meaning given to that expression by rule 12.11.

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 Reserve means a reserve referred to in subrule 2.2.1(b).

Entry Payment Day, in relation to a Member, means that Member's Entry Payment Day for the purposes of the *Superannuation Act 1916*.

Executive Officer means a Contributor who is:

- (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.

[(d) inserted by Deed of Amendment No.[1] operative 27/4/98; amended by Deed of Amendment No.[38] operative on 05/06/13]

Exit Day, in relation to a Member, means the last day on which the Member is, in the opinion of the Trustee an Employee, whether he is an Employee for the whole or part only of that day.

Financial Year means the year commencing 1 July.

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 01/06/16; 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]

Maturity Age means:

- (a) in the case of a Member who, being a woman Contributor, elected to contribute at the rate prescribed for retirement at the age of 55 years, that age; or
- (b) in the case of any other Member, the age of 60 years.

Part-time Employee means a person appointed by an Employer to a position certified to the Trustee by the Employer not to be a full-time position, having regard to the number of hours per week for which the person is required to work in that position.

Prescribed means under the *Superannuation Act 1916* or, if no such prescription has been made, after the Transfer Day means as determined from time to time by the Trustee.

Prescribed Age means:

- (a) in the case of a Member who, being a woman Contributor, elected to contribute at the rate prescribed for retirement at the age of 50 years, that age; or
- (b) in the case of any other Member, the age of 55 years.

Public Sector Executives Superannuation Scheme

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

Reduced Value Unit means a Reduced Value Unit allocated under rule 14.1.

Relieving Allowance means an allowance paid to the holder of an office or position for performing any or all of the duties of another office or position, without being appointed to that other office or position on a permanent basis.

Reserve means an Account.

Resigned has the meaning given to that expression by subrule 12.12.

Retrenched has the meaning given to that expression by subrule 12.8.1.

Salary, in relation to a Contributor, means Salary of the Contributor, determined in accordance with rule 1.2 or 1.3 and expressed as an annual rate.

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 1/7/05]

Same-sex Partner

[inserted by Deed of Amendment No.12 operative 1/7/01; 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 5 June 2013]

Service means Service under, or employment by, one or more Employers.

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

[amended by Deed of Amendment No.[1] operative 1/7/97; (d) inserted by Deed of Amendment No.12 operative 01/07/01; deleted by Deed of Amendment No. [31] operative 01/07/11]

State Superannuation Scheme means the superannuation scheme established under the *Superannuation Act 1916*.

Superannuation Guarantee Shortfall has the same meaning as in the Superannuation Guarantee (Administration) Act 1992 of the Commonwealth.

1.1.2 A person who is an Employee and a Contributor does not cease to be a Contributor just because at any time after the Commencement Date the person is paid at hourly, daily, weekly or fortnightly rates, or by piece-work.

1.1.3 For the purposes of these Rules, the salary group within which a Salary falls is the Salary group in the scale in section 12(1) of the *Superannuation Act 1916* in

which the Salary would fall if the scale were extended to express the unit entitlement for that Salary as provided by subrule 11.1.1 of these Rules.

1.1.4 For the purposes of these Rules, the number of Abandoned Units of pension that a person has at a particular time after 28 November 1972 is the number (if any) by which:

(a) the number of units of pension that, pursuant to subrule 11.1.1, is appropriate for a Salary equal to that person's Salary at that time,

exceeds:

(b) the number of units of pension in respect of which pension would be paid:

(i) if the person had reached the age entitling the person to Retire under subrule 13.1.1 and had so retired; and

(ii) if any contributions under rule 9.2, 11.3 or 11.5 outstanding at that time in respect of any of those units of pension had been paid.

1.1.5 ***

1.1.6 A reference in these Rules to a pension payable to a person who is a Spouse is a reference to a pension payable under rule 13.6, 13.7 or 16.7 to the person in the person's capacity as a Spouse.

1.1.7 A reference in these Rules (except in rule 13.11 and subrule 13.28.2) to a Child in respect of whom a pension is payable (being a pension payable at a rate determined in accordance with rule 22.2 or 22.3) includes a reference to a student in respect of whom a pension is payable under rule 13.27 or 16.10 at that rate.

1.1.8 Where, under these Rules, any period is required to be expressed as a fractional part of a year, the period shall be expressed as a fractional part of 365.25 days.

1.2 Salary of Executive Officers

1.2.1 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 1.2.

1.2.2 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.

1.2.3 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 Employer's contributions to superannuation and any performance-related incentive payment).

1.2.4 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 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.

- 1.2.5 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 1.2, but not so that the amount is less than the monetary remuneration payable to the officer at the date of the election.
- 1.2.6 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 1.2, 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.
- 1.2.7 An Employer must notify the Trustee of a nomination or election under this rule 1.2. 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.
- 1.2.8 Nothing in this rule 1.2 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 1.2 is less than the monetary remuneration of the officer.
- 1.2.9 In this rule 1.2, 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 the *Public Sector Employment and Management Act 2002*, the monetary remuneration payable in accordance with the *Public Sector Management Act 1988*; or
[amended by Deed of Amendment No.[38] operative on 5 June 2013]
 - (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 officer is an Employee of an Employer to which Division A applies, the monetary remuneration payable to the officer.
[amended by Deed of Amendment No.[38] operative on 5 June 2013]
- 1.2.10 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]

1.3 **Definition of Salary**

[1.3.1 to 1.3.5 inclusive replaced by new 1.3.1 & 1.3.2 by Deed of Amendment No.[21] operative 19/11/03]

- 1.3.1 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 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]

1.3.2 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 1.3.1 applies) who is also 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.

1.3.3 In this rule 1.3:

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

approved employment Benefit

[deleted 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 for fringe benefits tax purposes.

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

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.

- 1.3.4 Any allowances or other kinds of remuneration treated as Salary immediately before the commencement of this rule 1.3 in relation to a Contributor shall continue to be treated as Salary for the purposes of these Rules, but only in relation to that Contributor.

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

1.4 Certain Persons not entitled to Contribute

- 1.4.1 Notwithstanding any other provision of these Rules (except subrule 1.4.3), a person is not required or entitled to commence contributing to this Division on or after 1 July 1985.

- 1.4.2 Subrule 1.4.1 applies, subject to subrule 1.4.3, to a person who was previously a Contributor to the State Superannuation Scheme, whether before or after 1 July 1985.

- 1.4.3 Subrule 1.4.1 does not apply to:

- (a) a person who was, immediately before 1 July 1985, an Employee but was not contributing to the State Superannuation Scheme, being a person to whom rule 1.5 applies and who elects to become a Contributor to this Division in accordance with that rule 1.5;
- (b) a person who makes an election under rule 13.21 and complies with that rule; or
- (c) a person who is re-employed by an Employer under subrule 15.4.1 after the restoration of the person's health.

1.5 Existing Employees who may elect to contribute to Fund

1.5.1 Except as provided by subrule 1.5.2, this rule 1.5 applies to a person:

- (a) who was, immediately before 1 July 1985, an Employee but was not contributing to the State Superannuation Scheme; and
- (b) who would, but for section 1A of the *Superannuation Act 1916*, have been required or entitled, subject to the provisions of that Act, to contribute to the State Superannuation Scheme.

1.5.2 This rule 1.5 does not apply to:

- (a) a person exempted from contributing to the State Superannuation Scheme under section 10T of the *Superannuation Act 1916*; or
- (b) a person who was, under section 10D of the *Superannuation Act 1916*, treated by the State Authorities Superannuation Board as if he or she were not an Employee.

1.5.3 (a) A person to whom this rule 1.5 applies may elect to contribute to this Division if:

- (i) before 1 July 1985, the Employer of the person had notified the State Authorities Superannuation Board that the person was an Employee; or
- (ii) on or before 31 December 1985:
 - (A) the Employer of the person notified the State Authorities Superannuation Board that the person was an Employee; or
 - (B) the person lodges at the office of the Trustee a certificate signed by or on behalf of his or her Employer stating that the person is an Employee.

(b) Where, within the period of 28 days after a person to whom this rule 1.5 applies was given notice by the State Authorities Superannuation Board that the Employee of the person notified the State Authorities Superannuation Board that the person is an Employee, the person did not make an election referred to in subrule 1.5.3(a) or apply to the State Authorities Superannuation Board to be excluded from the provisions of this rule 1.5, the person shall be deemed to have directed that the notification given by the Employer be regarded as an election referred to in subrule 1.5.3(a).

(c) Where, immediately before 1 July 1985, a person was an Employee but was, under section 10C of the *Superannuation Act 1916*, being treated by the State Authorities Superannuation Board as if he or she were not an Employee, the person may elect to contribute to this Division only if:

- (i) the person had not attained the Maturity Age before that day or, if the person had attained that age, has not served for at least 10 years with any one or more Employers;

- (ii) on or before 30 September 1985 the person lodged a request with his or her Employer that arrangements be made for the person to submit himself or herself to a prescribed medical examination (as defined in section 10A of the *Superannuation Act 1916*); and
 - (iii) the person submits himself or herself to the examination arranged pursuant to that request and, in the opinion of the Trustee, passes that examination.
- (d) A person who would, but for rule 1.4, be required or entitled, subject to the provisions of these Rules, to contribute to this Division and who makes an election in accordance with this rule 1.5 shall, upon the election taking effect, be so required or entitled to contribute to this Division.
- (e) Subrule 1.5.3(d) ceases to apply in respect of a person to whom this rule 1.5 applies if, pursuant to rule 3.2, the Trustee treats the person as if the person had not been an Employee and subrule 1.5.3(d) shall not thereafter apply in respect of that person.
- 1.5.4 (a) Where a Contributor to the State Public Service Superannuation Fund or the Public Authorities Superannuation Fund becomes a Contributor to this Division in accordance with an election made under this rule 1.5, the Contributor shall, for the purposes of the *State Public Service Superannuation Act 1985* or the *Public Authorities Superannuation Act 1985*, as the case requires, be deemed to have Resigned from employment with an Employer.
- (a) Where a Contributor to the Public Authorities Superannuation Fund (being a person entitled to make an election under this rule 1.5) does not become a Contributor to this Division in accordance with such an election, section 12(7) of the *State Public Service Superannuation Act 1985* applies to the Contributor.

1.6 Four-weekly Contribution Periods

Column 1	Column 2	Column 3
Period No.	Commencing Date	Terminating Date
1.	1st July.	28th July.
2.	29th July.	25th August.
3.	26th August.	22nd September.
4.	23rd September.	20th October.
5.	21st October.	17th November.
6.	18th November.	15th December.
7.	16th December.	12th January.
8.	13th January.	9th February.

9.	10th February.	9th March.
10	10th March.	6th April.
11.	7th April.	4th May.
12.	5th May.	1st June.
13.	2nd June.	30th June.

1.7 **Shift Allowance**

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

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

2.1 **Payments under 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 Members under this Division;
[amended by Deed of Amendment No.[1] operative 27/4/98]
- (b) income derived from investment of assets held in respect of this Division, and any profit made from realisation of any investment held in respect of this Division;
- (c) subject to Superannuation Law, money borrowed for the purposes of this Division; and
- (d) any other amounts payable to this Division.

2.1.2 The Trustee shall cause to be paid from the Fund in respect of this Division:

- (a) the administration costs incurred by the Trustee;
- (b) Benefits payable under these Rules;
- (c) amounts in repayment of money borrowed for the purposes of this Division;
- (d) any Tax; and
- (e) any other amounts payable from this Division.

2.2 **The Trustee required to establish certain reserves within this Division**

2.2.1 The Trustee shall establish and maintain in respect of this Division the following reserves:

- (a) a reserve for Contributors' contributions;
- (b) in relation to Employers a reserve or reserves as the case may be.

2.2.2 The Trustee may also establish and maintain in respect of this Division such other reserves and such accounts as, in its opinion, are necessary or convenient for the proper management of this Division and administration of these Rules.

2.3 Contributors' Reserve

2.3.1 The Trustee must ensure that there is credited to the Contributors' Reserve the contributions that Contributors make to this Division or have made to the State Superannuation Scheme on or after 1 July 1988.

2.3.2 The Trustee must ensure that there is debited to the Contributors' Reserve:

- (a) that portion of any Benefit payable to or in respect of a Contributor from the Contributors' Reserve in accordance with subrule 13.15.2(a);

[2.3.2 (b) & (c) deleted by Deed of Amendment No.7 operative 1/7/99]

2.4 Employer Reserves

2.4.1 Whenever an Employer makes a contribution under this Division in respect of a Contribution Period, the Trustee must ensure that the contribution is credited to the appropriate Employer Reserve.

2.4.2 The Trustee must ensure that there is debited to the appropriate Employer Reserve:

- (a) the portion of any Benefit payable to or in respect of a Contributor in accordance with subrule 13.15.2(b);
- (b) any administration costs incurred by the Trustee in relation to the Employer or an Employer to whom the reserve relates, and contributors who are employees of that employer;
[(b) replaced by Deed of Amendment No.7 operative 1/7/99]
- (c) any Tax in respect of contributions to the reserve that are attributable to the Employer or an Employer to whom the reserve relates; and
- (d) any other amounts that are properly debited to the reserve.

2.5 Adjustment of reserves and accounts for interest etc.

2.5.1 Whenever appropriate, the Trustee must fix a rate of interest for the purposes of subrule 2.5.2 after having regard to:

- (a) the income in respect of this Division;
- (b) any Tax in respect of the investment of assets held to provide Benefits under this Division; and
- (c) such other matters as it considers relevant.

2.5.2 Whenever appropriate, the Trustee must adjust each of the reserves and accounts established under this Part 2 by applying the rate of interest that is currently fixed under subrule 2.5.1.

2.5.3 The Trustee may fix a rate of interest for the purpose only of enabling specific reserves or accounts to be adjusted.

2.6 Source of administration costs payments

[replaced by Deed of Amendment No.7 operative 1/7/99]

The administration costs payable in respect of this Division are to be debited to the Employer Reserves and such other reserves (the Contributors' Reserve excepted) and accounts in the Fund as the Trustee considers appropriate.

2.7 Funds, accounts and reserves generally

2.7.1 The Trustee must:

- (a) credit to this Division or, as the case may be, to the appropriate reserve or account any amount that is required by or under the Deed or Rules to be debited to this Division or to that reserve or account; and
- (b) debit to this Division or to the appropriate reserve or account any amount that is required by the Deed or Rules to be debited to this Division or to that reserve or account.

2.7.2 The Trustee may:

- (a) credit to this Division or, as the case may be, to the appropriate reserve or account any amount that is permitted by or under the Deed or Rules to be credited to this Division or to that reserve or account; and
- (b) debit to this Division or to the appropriate reserve or account any amount that is permitted by or under the Deed or Rules to be debited to this Division or to that reserve or account.

3. MEDICAL EXAMINATION OF CONTRIBUTORS

3.1 Medical Examination

3.1.1 The Trustee may require a person to undergo a medical examination.

3.1.2 A person shall submit to a medical examination as soon as practicable after the person has been required to undergo such an examination.

3.2 Failure etc. to undergo medical examination

3.2.1 Where a person submits to a medical examination and, in the opinion of the Trustee, fails to pass the examination, the Trustee shall, subject to this rule 3.2, treat the person as if the person had not, for the period of the person's employment, been an Employee and, if the person is still an Employee, as if the person were not an Employee.

- 3.2.2 Where a person is being treated by the Trustee under subrule 3.2.1 as if the person were not an Employee and the person subsequently passes a medical examination:
- (a) the Trustee shall cease treating the person in that way pursuant to that subrule 3.2.1 as from the time when, in the opinion of the Trustee, the person so passed the examination; and
 - (b) if at that time the person would, apart from this rule 3.2, have been an Employee, the Trustee shall treat him as if the person had become an Employee at that time.
- 3.2.3 Where:
- (a) a person has been required to submit to a medical examination; and
 - (b) the Trustee forms the opinion that the person refused or wilfully neglected to submit to the examination,
- the Benefit payable on the person ceasing, or, as the case may be, having ceased, to be an Employee (whether by reason of his death or in any other circumstances except those referred to in rule 12.1) shall be that which would be payable if the person had Resigned and elected under rule 13.20 to take the Benefit of rule 13.18 and no pension or other Benefit shall be payable to the person or to, or in respect of, any other person as a consequence of the person so ceasing or having ceased to be an Employee.
- 3.2.4 Where the Trustee forms the opinion referred to in subrule 3.2.3 in relation to a person and the person subsequently submits to a medical examination and, in the opinion of the Trustee, passes the examination:
- (a) subrule 3.2.3 does not apply to the person in respect of the person ceasing to be an Employee; and
 - (b) any pension or other Benefit payable as a result of the person ceasing to be an Employee shall be calculated as if the person had become a Contributor from the time when, in the opinion of the Trustee the person so passed the examination.
- 3.2.5 Except as provided by subrule 3.2.6, where an Employee who, in the opinion of the Trustee, did not submit to a medical examination as required by subrule 3.1.2, being an Employee who is not a person to whom subrule 3.2.3 applies, ceases to be an Employee (whether by reason of death or in any other circumstances), the Trustee shall treat the person as if the person had not, for the period of the person's employment, been an Employee.
- 3.2.6 Subrule 3.2.5 does not apply in respect of a person:
- (a) who, in the opinion of the Trustee, did not submit to a medical examination; and

- (b) in respect of whom, but for this subrule 3.2.6, subrule 3.2.5 would apply, where the Trustee is of the opinion, having regard to such evidence as is available to it, that the person would have passed a medical examination.

3.3 Suppressed or misleading information

3.3.1 This rule 3.3 applies to a person if the person was medically examined at a medical examination and the examining medical practitioner, at any time after a report is made with respect to the examination, forms the opinion that the person suppressed information, or gave misleading information, in connection with the examination and that, as a result, the report would have been different if all information, or correct information, in that connection had been given.

3.3.2 The Trustee may require a person to whom this rule 3.3 applies to undergo a medical examination.

3.3.3 The Trustee may, in relation to a person to whom this rule 3.3 applies (whether or not the person has undergone a medical examination in accordance with a requirement under subrule 3.3.2):

- (a) treat the person for the purposes of these Rules in such manner; and
- (b) take such action,

as will, in the opinion of the Trustee, result in the person, and the person's Spouse and children, as the case may require, being placed, as nearly as possible, in the position under these Rules that they would be or would have been placed at all relevant times had all the information, or correct information, been given as referred to in subrule 3.3.1.

3.3.4 The action which the Trustee may take under subrule 3.3.3 may include any or all of the following:

- (a) discontinuing or varying the rate of any pension;
- (b) paying the whole or any part of a lump sum;
- (c) refunding all or any contributions made to this Division;
- (d) recovering the whole or part of any pension paid or any amount paid by reason of a commutation of pension.

4. CONTRIBUTIONS

4.1 Definitions

4.1.1 In this Part 4, except in so far as the context or subject-matter otherwise indicates or requires:

half-year means a period of 6 months:

- (a) commencing on and including 1st January and ending on and including 30th June; or

- (b) commencing on and including 1st July and ending on and including 31st December;

relevant period, in relation to an Employee, means the half-year in which the Employee's birthday does not fall.

4.1.2 In this Part 4, a reference:

- (a) to the number of units of pension for which the annual cost is equal to a particular amount includes a reference to the largest number of units of pension for which the annual cost is less than that amount; and
- (b) to the annual cost to a person for a unit of pension:
 - (i) where the contributions in respect of the unit are required to be made by the person in accordance with the tables of contributions fixed by or under these Rules, is a reference to an amount equal to 13 of those contributions; or
 - (ii) where contributions in respect of the unit are required to be made by the person by instalments under rule 9.2 is a reference to an amount equal to 13 of those instalments.

4.2 Determination of Annual Review Day and Annual Adjustment Day

4.2.1 The Trustee shall, in respect of a Contributor, determine:

- (a) a day in each relevant period to be the Contributor's Annual Review Day; and
- (b) a day in each relevant period to be the Contributor's Annual Adjustment Day.

4.2.2 A Contributor's Annual Adjustment Day for a relevant period may be the same as, or later than, but not earlier than, the Contributor's Annual Review Day for that period.

4.2.3 A Contributor may not have more than one Annual Review Day, nor more than one Annual Adjustment Day, in a relevant period.

4.3 General provisions as to determinations under this Part 4

4.3.1 The Trustee may amend or revoke a determination under this Part 4.

4.3.2 A determination may be made under this Part 4 so as to apply to a specified Employee or a specified class of Employees.

5. LIABILITY OF EMPLOYEES TO CONTRIBUTE

5.1 Requirement to contribute

5.1.1 Subject to the Deed and Rules, every Employee who is a Member of this Division shall contribute to this Division in accordance with these Rules.

5.1A Salary Sacrifice

[inserted by Deed of Amendment No.[23] operative 1/7/05]

- 5.1A.1 The Trustee shall credit as a Contribution by the Contributor an amount equal to the Salary Sacrifice Amount less any Tax attributable to that Salary Sacrifice Amount.

5.2 Existing Contributors and Employees

- 5.2.1 An Employee who was contributing to the State Superannuation Scheme on 12th January 1977 shall, subject to rule 6.1, contribute, and continue to do so, to this Division for the number of units of pension for which, and at the rate for each such unit at which, the Employee was required to contribute on that date or at such other rates as may from time to time be fed by or under these Rules.

- 5.2.2 Where:

- (a) a Contributor's first Annual Adjustment Day under the *Superannuation Act 1916* fell before 31st December 1977;
- (b) the Contributor contributed to the State Superannuation Scheme in respect of an additional number of units of pension as on and from that adjustment day; and
- (c) the Contributor was a Contributor to the State Superannuation Scheme at 12th January 1977,

the Contributor shall, for the purposes of rule 13.3, be deemed to have commenced contributing for those units as from 13th January 1976, or the day on which the Contributor became a Contributor, whichever is the later.

5.3 Commencement of contributions

- 5.3.1 A person who became a Contributor to the State Superannuation Scheme on or after 13th January 1977 shall contribute to this Division in accordance with these Rules by reference to the rate of Salary actually being paid to the person on his entry review date (as determined under the State Superannuation Scheme).

5.4 Increase of contributions: Annual Review Days

- 5.4.1 Subject to the Deed or Rules, where the number of units of pension that, pursuant to subrule 11.1.1, is appropriate for the Salary actually being paid to a Contributor (including a Contributor referred to in rule 5.2) on the Contributor's Annual Review Day in any half-year is higher than the aggregate of:

- (a) the number of units of pension (if any) for which the Contributor is contributing at that time;
- (b) the number of units of pension (if any) for which the Contributor has completed contributing; and

(c) the number of the Contributor's Abandoned Units (if any),

the Contributor shall, as on and from the Contributor's Annual Adjustment Day in that half-year, contribute to this Division in respect of the additional number of units of pension in accordance with these Rules.

5.4.2 On a Contributor's Annual Review Day in any half-year:

(a) if the annual cost to the Contributor for the units of pension for which contributions are payable by the Contributor is not less than an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid, the additional units of pension referred to in subrule 5.4.1 are optional units of pension; and

(b) if:

(i) the annual cost to the Contributor for the units of pension for which contributions are payable by the Contributor is less than an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid; and

(ii) the number of additional units of pension referred to in subrule 5.4.1 is in excess of the number for which the annual cost to the Contributor is equal to the shortfall under subparagraph (i),

the excess additional units of pension are optional units of pension.

5.4.3 A Contributor may, within 2 months after the Contributor's Annual Review Day in any half-year, elect to abandon any 1 or more of the optional units of pension in respect of which, but for the election, the Contributor, would be required by this rule 5.4 to commence contributing to this Division.

5.4.4 Where a Contributor entitled to make an election under subrule 5.4.3 dies without making such an election before the expiration of the period within which, but for the Contributor's death, the Contributor could have made the election, the Contributor's Spouse may, before the expiration of that period, make the election.

5.5 Abandoned Units to be taken up if contributions fall below 6% of Salary

5.5.1 On a Contributor's Annual Review Day, if the Contributor has Abandoned Units and the annual cost to the Contributor for the units of pension for which contributions are payable by the Contributor is less than an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid:

(a) where there are no additional units of pension as referred to in subrule 5.4.1, the Contributor shall take up the lesser of all of the Abandoned Units and the number of Abandoned Units for which the annual cost is equal to the shortfall; or

- (b) where there are additional units of pension as so referred to but the annual cost to the Contributor for the additional units is less than the shortfall, the Contributor shall take up the lesser of all of the Abandoned Units and the number of Abandoned Units for which the annual cost is equal to the balance of the shortfall.

5.5.2 Where, under this rule 5.5, a Contributor is required to take up an Abandoned Unit which the Contributor had on the Contributor's Annual Review Day in any half-year:

- (a) the Contributor shall commence to contribute for the unit as from the Contributor's Annual Adjustment Day in that half-year; and
- (b) the unit ceases to be an Abandoned Unit as from the Annual Adjustment Day.

5.6 Limitation on increase in contribution by certain Contributors

5.6.1 This rule 5.6 applies to a Contributor on an Annual Review Day of the Contributor if:

- (a) the Contributor's Entry Payment Day was before 1 July 1985;
- (b) the Contributor has any Abandoned Units; and
- (c) the number of units of pension for which contributions are payable by the Contributor on the Annual Review Day is less than the number for which the annual cost is equal to an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid on the net preceding Annual Review Day of the Contributor.

5.6.2 On an Annual Review Day on which this rule 5.6 applies to a Contributor, rules 5.4 and 5.5 shall be construed, in their application to the Contributor on that day, as if references in those sections to 6% were references to the minimum prescribed percentage referred to in subrule 5.6.3.

5.6.3 For the purpose of subrule 5.6.2, the *minimum prescribed percentage* in relation to a Contributor on an Annual Review Day is the lesser of:

- (a) the sum of:
 - (i) 1%; and
 - (ii) the percentage, on the next preceding Annual Review Day, of the annual Salary of the Contributor at the rate actually being paid at

that preceding Annual Review Day that represents the amount that is equal to the annual cost to the Contributor for the units of pension for which contributions were payable by the Contributor on the Annual Adjustment Day of the Contributor next following that preceding Annual Review Day; and

- (b) 6%.

5.7 Increase of contributions: Exit Days

5.7.1 Subject to the Deed or Rules, where the number of units of pension that, pursuant to subrule 11.1.1, is appropriate for the Salary actually being paid to a Contributor on the Contributor's Exit Day is higher than the aggregate of:

- (a) the number of units of pension (if any) for which the Contributor is contributing at that time;
- (b) the number of units of pension (if any) for which the Contributor has completed contributing; and
- (c) the number of the Contributor's Abandoned Units (if any),

the former Contributor or the former Contributor's Spouse shall, within one month after the Contributor's Exit Day, or within such further period as the Trustee may, in special circumstances, allow, contribute to this Division in respect of the additional number of units of pension in accordance with these Rules.

5.7.2 On a Contributor's Exit Day:

- (a) if the annual cost to the Contributor for the units of pension for which contributions are payable by the Contributor is not less than an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid, the additional units of pension referred to in subrule 5.7.1 are optional units of pension; and
- (b) if:
 - (i) the annual cost to the Contributor for the units of pension for which contributions are payable by the Contributor is less than an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid; and

- (ii) the number of additional units of pension referred to in subrule 5.7.1 is in excess of the number for which the annual cost is equal to the shortfall under subparagraph (i),

the excess additional units of pension are optional units of pension.

5.7.3 A Contributor may, within 1 month after the Contributor's Exit Day, elect to abandon any 1 or more of the optional units of pension in respect of which, but for the election, the Contributor would be required by this rule 5.7 to make a contribution to this Division.

5.7.4 Where a person entitled to make an election under subrule 5.7.3 dies without making such an election before the expiration of the period within which, but for the Contributor's death, the Contributor could have made the election, the person's Spouse may, before the expiration of that period, make the election.

5.7.5 This rule 5.7 does not apply to or in respect of a former Contributor unless:

- (a) the former Contributor or the former Contributor's Spouse is entitled to a pension under these Rules (other than a pension under rule 13.4) consequent on the former Contributor's ceasing to be an Employee; or
- (b) the former Contributor elects to take the Benefit of rule 13.16.

5.8 No contributions for more than appropriate number of units

5.8.1 Except in the circumstances specified in Part 6 and except in consequence of an approval under section 13A of the *Superannuation Act 1916* (as in force at any time before 13th January 1977), an Employee shall not contribute in respect of a number of units of pension that is greater than the number that, pursuant to subrule 11.1.1, is appropriate for his Salary.

5.9 Cessation of contributions

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

An Employee is not entitled to contribute to the Division and the Trustee is not to accept a contribution to the Division offered by an Employee after the Employee attains 70 years of age.

5.10 Exemptions from contributing

5.10.1 A person who was exempted from contributing to the State Superannuation Scheme on or before 30 June 1994 is exempted from contributing to this Division.

5.11 Consequences of exemption

5.11.1 Where a person is exempted under these Rules from contributing to this Division, neither he nor any other person claiming through him is entitled to any Benefit under these Rules, but the contributions (if any) paid by the person so exempted shall be refunded.

5.12 Other Contributions by Contributors

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

- 5.12.1 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.
- 5.12.2 This section applies to a Contributor only if:
- (a) the leave is for the purposes of raising children of whom the Contributor is a parent, or for whom he or she has assumed the responsibilities 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.
- 5.12.3 Rules 11.3.1 and 11.3.2. apply to a Contributor, and to the period of leave of the Contributor, during any period during which this section applies to the Contributor.
- 5.12.4 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.
- 6. DECREASES IN SALARY OR UNIT ENTITLEMENT**
- 6.1 Decrease in Salary**
- 6.1.1 Where the Salary of a Contributor is reduced, the Contributor shall continue to contribute for any units of pension that are in excess of the number of units that is, pursuant to subrule 11.1.1, appropriate to the Contributor's Salary as reduced.
- 6.1.2 Where the Salary of a Contributor is reduced (whether before, on or after 13th January 1977) and the Salary as reduced is actually paid as from a date after 12th January 1977, the Contributor may, within 2 months after the date on which the reduced Salary is actually paid to the Contributor, elect not to contribute for one or more units of pension, not exceeding the difference between:
- (a) the number of units that is, pursuant to subrule 11.1.1, appropriate to the Contributor's Salary as reduced; and

(b) the number of units that is, pursuant to subrule 11.1.1, appropriate to the Contributor's Salary as at the latest of whichever of the following days is applicable to the Contributor, namely:

- (i) the Contributor's last Annual Review Day;
- (ii) the day as from which the number of units of pension for which the Contributor was contributing was last reduced under this rule 6.1 or rule 6.3 or 6.4,

but so that the number of units in respect of which the Contributor contributes is not reduced to less than 6.

- 6.1.3 Where a Contributor elects not to contribute for a unit of pension under subrule 6.1.2, the Contributor's contributions under this Division in respect of the unit shall cease on and from the first day of the Contribution Period in which the Salary as reduced is actually paid and shall be refunded to the Contributor.
- 6.1.4 No person has any rights in this Division in respect of a unit of pension to which an election under subrule 6.1.1 relates.
- 6.1.5 No person has any rights in this Division in respect of an excess unit of pension referred to in subrule 6.1.1 and not the subject of an election under subrule 6.1.2, unless the Trustee is satisfied that the Contributor's Salary was reduced by reason of ill health or for some other reason which the Trustee, having regard to the circumstances of the case, considers warrants the retention of entitlement to Benefits under these Rules in respect of the unit.
- 6.1.6 Where no person has any rights in this Division in respect of a unit of pension, as referred to in subrule 6.1.5, and the Contributor ceases to be an Employee, any contributions made by the Contributor in respect of the unit shall be refunded to him.
- 6.1.7 Where a Contributor elects not to contribute for a unit of pension under subrule 6.1.2, and subsequently the Contributor's Salary is increased, these Rules apply in relation to the increase as if the Contributor had not been formerly entitled to the unit.
- 6.1.8 A unit of pension in respect of which a Contributor is contributing to this Division ceases to be an excess unit of pension, as referred to in subrule 6.1.1, if the Contributor's Salary is increased and that unit is one of the number of units that, pursuant to subrule 11.1.1, is appropriate to the Contributor's Salary as increased.

6.2 Fluctuations in Salary

- 6.2.1 Where the number of units of pension that, pursuant to subrule 11.1.1, was appropriate to the Salary actually being paid to a Contributor at any time after 12 January 1976 was higher than the number of units that, pursuant to subrule 11.1.1, was or is appropriate to the Salary actually being paid to the Contributor at the Contributor's net review day after that time, the Trustee may determine that the Contributor's Salary as at the review day shall be treated as if it had been equal to the Contributor's Salary as at the earlier time.
- 6.2.2 A determination under this rule 6.2 shall not take effect unless the appropriate contributions in respect of the additional units of pension (being the contributions that would have been already or would be payable in accordance with these Rules had the greater Salary in fact been paid to the Contributor at the review day) have been or are paid to the Trustee within a period approved by the Trustee.
- 6.2.3 Where a determination under this rule 6.2 has effect, then, for all purposes of these Rules:
- (a) the Contributor's Salary shall be treated in accordance with the determination; and
 - (b) the Contributor shall be deemed to have been contributing for the additional units of pension as from the commencement of the period to which the contributions referred to in subrule 6.2.2 relate.
- 6.2.4 In this rule:
- Contributor* includes former Contributor;
- review day means* Annual Review Day or Exit Day.

6.3 Decrease in unit entitlement on taking leave of absence

- 6.3.1 Where, on the commencement, or extension, by a Contributor of a period of leave of absence, or on the commencement of a period for which a deduction factor is applied under subrule 11.3.5, 11.4.1 or 11.5.4, the number of units of pension (if any) for which the Contributor has completed contributing and the number of units of pension (if any) for which, but for this rule 6.3, contributions would be payable by the Contributor is greater than the number of units of pension that, pursuant to subrule 11.1.1, is appropriate to the Salary actually being paid to the Contributor, the Contributor shall cease to contribute for the number of units of pension equal to the difference.
- 6.3.2 On the termination of a period of leave of absence by a Contributor in respect of which subrule 11.3.1 or 11.3.5 applies before the expiration of the period or of a period in respect of which subrule 11.4.1 or 11.5.4 applies:
- (a) the Contributor shall be deemed not to have ceased to contribute for the number of units of pension for which the Contributor ceased to contribute under subrule 6.3.1 but shall be deemed to have ceased to contribute for the number of units of pension (if any) equal to the difference between:

- (i) the number of units of pension (if any) for which the Contributor has completed contributing and the number of units (if any) for which, but for the application of subrule 6.3.1 on the commencement of the period and of this subrule 6.3.2 on the termination, contributions would be payable by the Contributor; and
 - (ii) the number of units of pension that, pursuant to subrule 11.1.1, is appropriate to the Salary actually being paid to the Contributor;
- (b) all contributions for units of pension which would have been payable, had the Contributor ceased to contribute for the number of units of pension equal to the difference on the commencement of the period, shall be deemed to have been payable by the Contributor; and
 - (c) any contributions for units of pension which have been refunded or applied in accordance with a direction by the Contributor as referred to in subrule 6.3.3 and which are payable as referred to in paragraph (b) shall be payable in respect of those units.

6.3.3 Where a Contributor ceases to contribute for a unit of pension under this rule 6.3, the Contributor's contributions to this Division in respect of the unit shall cease, on and from the first day of the Contribution Period in which the period concerned commences, and any contributions paid in respect of that unit shall, unless the Contributor directs the Trustee to apply them towards contributions payable in respect of other units of pension during the period, be refunded to the Contributor.

6.3.4 No person has any rights in this Division in respect of a unit of pension for which contributions have ceased under this rule 6.3 and have not again become payable.

6.3.5 Where a Contributor ceases to contribute for a unit of pension under this rule 6.3 and subsequently the Salary of the Contributor is increased, these Rules apply in relation to the increase as if the Contributor had not been formerly entitled to the unit.

6.4 Commencement of part-time employment etc.

6.4.1 In this rule 6.4, a reference to a change in the employment status of a Contributor is a reference:

- (a) to a Contributor who is not a part-time Employee becoming a part-time Employee; and
- (b) to a Contributor who is employed in a position as a part-time Employee becoming employed in another position as a part-time Employee, if the Salary ratio (as defined in subrule 11.5.1) in relation to the former position is more than that in relation to the other position.

6.4.2 On a change in the employment status of a Contributor, the Contributor shall cease to be a Contributor for the units of pension in respect of which contributions

were payable by the Contributor, or for which the Contributor had completed contributing, before that change (other than any reserve units in respect of which contributions are payable under rule 11.7).

6.4.3 No person has any rights in this Division in respect of units of pension for which a person has ceased to be a Contributor pursuant to subrule 6.4.2.

6.4.4 Where a Contributor whose employment status changes ceases to be a Contributor for units of pension pursuant to subrule 6.4.2, the Contributor's contributions to this Division in respect of those units of pension shall cease, as on and from the first day of the Contribution Period in which the change occurred.

6.4.5 Any contributions paid in respect of units of pension for which a person has ceased to be a Contributor on a change in employment status shall be allocated towards the purchase of the number of fully paid up units calculated in accordance with the following formula:

$$PUU = TU + IU + UC$$

where:

PUU is the number of units purchased;

TU is the highest whole number obtained from the calculation of the formula:

$$UHn - \frac{Cn}{Rn} \quad (\text{except where } \frac{Cn}{Rn} \text{ exceeds } UHn);$$

UHn is the number of units of pension for which contributions were payable by the Contributor immediately before the change occurred in accordance with the tables of contributions fixed by or under these Rules, but excluding:

- (a) any such units of pension which are excess units of pension referred to in subrule 6.1.1 and in respect of which no person has any rights in this Division; and
- (b) any such units of pension, being reserve units, for which contributions were being made under rule 11.7;

Cn is the amount of contributions due, for the Contribution Period preceding that in which the change occurred, in respect of that number of units of pension;

Rn is the relevant amount under subrule 6.4.6 in relation to the Contributor for an additional unit of pension;

IU is the highest whole number obtained from the calculation of the formula:

$$\frac{TCB}{RB}$$

- TCB is the total amount paid in respect of instalments payable by the person on or before the time the change occurred for units of pension for which the Contributor contributed in accordance with Part 9 (but deducting therefrom any part of that amount allocated under these Rules to the purchase of fully paid up units);
- RB is the amount specified in subrule 9.1.1 as the cost of a unit of pension in relation to the Contributor;
- UC is the number of units (if any) purchased by the person and credited to the person as fully paid up units under this rule 6.4, or otherwise.

6.4.6 For the purposes of subrule 6.4.5, the relevant amount in relation to a Contributor whose employment status changes for an additional unit of pension is:

- (a) where the Contributor has attained the Prescribed Age on or before the last day of the Contribution Period preceding that in which the change occurred, the amount which, if the Contributor were required under Part 8 to commence to contribute for an additional unit of pension on that day, would be the amount payable in accordance with the tables of contributions fixed under rule 8.3 for that unit for a Contribution Period; or
- (b) where the Contributor has not attained the Prescribed Age on or before that day, the amount equal to the sum of:
- (i) the amount payable by the Contributor for any additional unit of pension for which the Contributor had been required to commence contributing on and from the Contributor's last Annual Adjustment Day before the change occurred for a Contribution Period or, as the case may be, the amount that would have been so payable if the Contributor had been so required; and
- (ii) for each day of the period commencing on the day following that Annual Adjustment Day and ending on the last day of the Contribution Period preceding that in which the change occurred, the amount equal to 1/364th part of the difference between the amount referred to in subparagraph (i) and the amount which that amount would have been if, on that Annual Adjustment Day, the Contributor had been 1 year older than the age actually attained.

- 6.4.7 Where, in relation to a Contributor whose employment status has changed, the figure obtained pursuant to subrule 6.4.5 from the calculation of the formula:

$$\frac{UH_n - C_n}{R_n}$$

is or includes a fraction, there shall be paid to the Contributor, as a refund of contributions not allocated towards the purchase of fully paid up units, the amount calculated in accordance with the following formula:

$$Q1 = S \times \frac{F1}{P1}$$

where:

Q1 is the amount to be paid;

S is the amount of the contributions paid by the Contributor in respect of the units the number of which is attributed to the symbol UH_n pursuant to subrule 6.4.5;

F1 is the fraction which is or is included in the figure obtained;

P1 is the figure obtained.

- 6.4.8 Where, in relation to a Contributor whose employment status has changed, the figure obtained pursuant to subrule 6.4.5 from the calculation of the formula:

$$\frac{TCB}{RB}$$

is or includes a fraction, there shall be paid to the Contributor, as a refund of instalments not allocated towards the purchase of fully paid up units, the amount calculated in accordance with the following formula:

$$Q2 = TCB \times \frac{F2}{P2}$$

where:

Q2 is the amount to be paid;

TCB is the amount attributed to that symbol pursuant to subrule 6.4.5;

F2 is the fraction which is or is included in the figure obtained;

P2 is the figure obtained.

- 6.4.9 Where a person's contributions are allocated to the purchase of paid up units under this rule 6.4 on a change in employment status:

- (a) the person shall, on and from that change occurring, be deemed to be a Contributor for the number of units purchased and to have contributed for

those units for a period of 2 years and 6 months but shall not be required to make further contributions in respect of those units; and

- (b) the Employer in whose Service the person is employed will not be required to make, before the retirement of the person, any further contribution in respect of those units of pension.

- 6.4.10 Subject to the Deed or Rules, where the number of units of pension that, pursuant to subrule 11.1.1, is appropriate for the Salary certified by the Employer of a Contributor to be the Salary which would be paid to the Contributor if employed full-time in the position in which the Contributor is employed on a change in employment status is higher than the number of fully paid up units credited to the Contributor under this rule 6.4, the Contributor shall, as on and from the first day of the Contribution Period in which the change occurs, contribute under this Division in respect of the additional number of units of pension in accordance with these Rules.
- 6.4.11 On the day on which the employment status of a Contributor changes, if the number of additional units of pension referred to in subrule 6.4.10 is in excess of the number for which the annual cost to the Contributor is equal to an amount representing 6% of the annual Salary of the Contributor at the rate actually being paid, the excess units of pension are optional units of pension.
- 6.4.12 A Contributor may, within 2 months after the day on which the employment status of the Contributor changes, elect to abandon any one or more of the optional units of pension in respect of which, but for the election, the Contributor would be required by this rule 6.4 to commence contributing under this Division.
- 6.4.13 Where a Contributor elects not to contribute for a unit of pension under subrule 6.4.12, contributions under this Division in respect of the unit shall cease as on and from the first day of the Contribution Period in which the employment status of the Contributor changes and any contributions paid in respect of the unit shall be refunded to the Contributor.
- 6.4.14 No person has any rights in this Division in respect of a unit of pension to which an election under subrule 6.4.12 relates.
- 6.4.15 Where no person has any rights in this Division in respect of an excess unit of pension of a Contributor referred to in subrule 6.1.1 and the employment status of the Contributor changes, any contributions made by the Contributor in respect of the unit shall be refunded to the Contributor.
- 6.4.16 Where a person whose contributions are allocated to the purchase of fully paid up units under this rule 6.4 dies, retires under subrule 12.1.2 before attaining the age of 60 years, or is retired under rule 12.7 before attaining that age, the Trustee may, except where the contributions are refunded pursuant to rule 13.8 or 13.10, determine that a specified amount, being part of those contributions, be refunded

to the person or, where the person is dead, to the person's legal personal representatives, and may act in accordance with its determination.

6.4.17 Where a Contributor whose employment status changes is a Contributor whose Entry Payment Day in the State Superannuation Scheme occurred before 1 July 1985 and, immediately before the change occurred:

- (a) the Contributor had any Abandoned Units; and
- (b) the annual cost to the Contributor for the units of pension for which contributions were payable by the Contributor was an amount representing a percentage which was less than 6% of the annual Salary of the Contributor at the rate actually being paid on the Contributor's previous Annual Review Day, the number of those units being less than the number for which the annual cost was equal to an amount representing 6% of that annual Salary,

such of the additional units of pension (if any) referred to in subrule 6.4.10 as are in excess of the number for which the annual cost to the Contributor is equal to an amount representing that lesser percentage of the annual Salary at the rate actually being paid to the Contributor on the day the change occurred are optional units of pension for the purposes of subrule 6.4.12, notwithstanding anything to the contrary in subrule 6.4.11.

7. ABANDONED UNITS

7.1 No contributions or rights in respect of Abandoned Units

7.1.1 Notwithstanding anything in this Part 7, contributions are not payable under this Division in respect of an Abandoned Unit.

7.1.2 No person has any rights under this Division in respect of an Abandoned Unit, but nothing in this subrule 7.1.2 affects the refund of contributions made in respect of any such unit or the operation of Part 14 in relation to any such unit.

7.2 Elections to take up Abandoned Units at Annual Review Day

Where an Employee has an Abandoned Unit at the Employee's Annual Review Day in any half-year, the Employee may, within 2 months after that day, elect to take up that unit, and if the Employee so elects:

- (a) the Employee shall commence to contribute for the unit as from the Employee's Annual Adjustment Day in that half-year; and
- (b) the unit ceases to be an Abandoned Unit as from that Annual Adjustment Day.

7.3 Elections to take up Abandoned Units at Exit Day

7.3.1 Where an Employee has an Abandoned Unit at the Employee's Exit Day, the Employee may, before the expiration of one month after that day, elect to take up that unit.

7.3.2 Where an Employee entitled to make an election under subrule 7.3.1 dies without making such an election before the expiration of the period within which, but for

the Employee's death, the Employee could have made the election, the Employee's Spouse may, before the expiration of that period, make the election.

7.3.3 Where an election has been made under this rule 7.3 to take up an Abandoned Unit:

- (a) the contribution payable in respect of the unit shall be paid to the Trustee within one month after the Employee's Exit Day or within such further period as the Trustee may, in special circumstances, allow; and
- (b) the unit ceases to be an Abandoned Unit, provided the contribution is paid.

7.3.4 This rule 7.3 does not apply to or in respect of an Abandoned Unit unless:

- (a) pension is payable in respect of the unit; or
- (b) the former Contributor elects to take the Benefit of rule 13.16.

7.4 Restrictions as to Abandoned Units

7.4.1 An Abandoned Unit may only be taken up under this Division by a person if the aggregate of:

- (a) the number of units of pension (if any) for which the person is contributing;
- (b) the number of units of pension (if any) for which the person has completed contributing; and
- (c) the number of the person's Abandoned Units (including the firstmentioned Abandoned Unit),

is equal to or less than the number of units that, pursuant to subrule 11.1.1, is appropriate for the rate of Salary actually being paid to the person at the person's Annual Review Day or the person's Exit Day, as the case may require.

7.4.2 Pension payable under rule 13.5 or by virtue of the death of a Contributor is not payable in respect of a unit of pension which a person has elected to take up under this Part 7 unless:

- (a) contributions in respect of the unit were due, and have been paid, for at least 2 years and 6 months following the date from which the Contributor commenced contributing for the unit; or
- (b) that person's Exit Day is on or after the last day of the Contribution Period preceding that in which the person attains the Maturity Age.

7.4.3 Where a Contributor's contributions in respect of a unit of pension cease on the first day of the Contribution Period in which the Contributor ceases to be an Employee or attains the Maturity Age, the Contributor shall, for the purposes of subrule 7.4.2(a), be deemed to have paid contributions in respect of the unit for so much of that period as precedes the Contributor so ceasing to be an Employee or the Contributor attaining that age, as the case may be.

8. CONTRIBUTIONS BY EMPLOYEES FOR UNITS OF PENSION AT TABLE RATES

8.1 Contributions according to scale graduated by age etc.

Except where otherwise provided by these Rules:

- (a) the amount of Contribution to be paid by a Contributor shall be based upon the number of units of pension for which the Contributor contributes, upon the sex of the Contributor, and, in the case of a woman Contributor, upon whether she contributes for a pension payable at the age of 55 years or 60 years, and shall be in accordance with the tables of Contributions fixed by or under these Rules; and
- (b) the amount of Contributions to be paid by the Contributor in respect of:
 - (i) a unit for which the Contributor commenced to contribute as from the Contributor's Entry Payment Day shall be based upon the age of the Contributor at that date;
 - (ii) a unit for which the Contributor commenced or commences to contribute as from the Contributor's Annual Adjustment Day in any half-year shall be based upon the age of the Contributor at the Contributor's Annual Adjustment Day in that half-year; or
 - (iii) a unit for which the Contributor contributes as from the Contributor's Exit Day shall be based upon the age of the Contributor at the Contributor's Exit Day.

8.2 Units taken up after Prescribed Age

Subject to rule 8.5, an Employee may not commence contributing for a unit of pension under this Part 8 if the Employee attains or has attained the Prescribed Age at the Employee's Annual Adjustment Day.

8.3 Tables of contributions

- 8.3.1 The tables of Contributions, payable under this Part 8, for men and women according to the ages set out in subrule 8.3.5 shall be in force and apply in respect of additional units of pension for which Employees who were Contributors at 30th June 1963 to the State Superannuation Scheme commenced to contribute on or after 13th January 1977 to the State Superannuation Scheme or under this Division after the date of Transfer of that Contributor.
- 8.3.2 The tables of Contributions, payable under this Part 8, for men and women according to the ages set out in subrule 8.3.6 shall be in force and apply to Employees who became Contributors to the State Superannuation Scheme on or after 1st July 1963 and shall be paid in respect of all units of pension contributed for by those Employees.
- 8.3.3 ***
- 8.3.4 ***
- 8.3.5 Tables of Contributions for Employees who were Contributors to the State Superannuation Scheme at 30 June 1963

TABLE A**MEN****Employee Contributions for Four Weeks****(Contribution at 30th June 1963)**

Age Next Birthday	For Each Additional unit \$	Age Next Birthday	For Each Additional Unit
26	0.54	41	1.26
27	0.58	42	1.34
28	0.60	43	1.46
29	0.64	44	1.56
30	0.68	45	1.68
31	0.70	46	1.84
32	0.74	47	2.00
33	0.78	48	2.20
34	0.84	49	2.44
35	0.88	50	2.72
36	0.92	51	3.06
37	0.98	52	3.48
38	1.04	53	4.04
39	1.10	54	4.76
40	1.18	55	5.80
		56-60	396.90 ÷ n

NOTE n denotes the number of complete four-weekly contributions payable before attainment of age 60.

TABLE B**WOMEN****Employee Contributions for Four Weeks****(Contributors at 30th June 1963)**

Age Next Birthday	Retirement at age 55 For Each Unit \$	Retirement at age 60 For Each Unit \$	Age Next Birthday	Retirement at age 55 For Each Unit \$	Retirement at age 60 For Each Unit
26	0.72	0.52	41	2.02	1.24
27	0.76	0.54	42	2.22	1.34
28	0.80	0.58	43	2.44	1.44
29	0.86	0.60	44	2.72	1.56
30	0.92	0.64	45	3.04	1.68
31	0.98	0.68	46	3.42	1.84
32	1.04	0.70	47	3.92	2.00
33	1.12	0.76	48	4.54	2.20
34	1.20	0.80	49	5.38	2.44
35	1.28	0.84	50	6.54	2.72
36	1.38	0.90	51	450.90 ÷ n	3.08
37	1.48	0.96	52	450.90 ÷ n	3.50
38	1.58	1.02	53	450.90 ÷ n	4.06
39	1.72	1.08	54	450.90 ÷ n	4.80
40	1.86	1.16	55	450.90 ÷ n	5.84
			56-60	..	395.54 ÷ n

NOTE n denotes the number of complete four-weekly contributions payable before attainment of Maturity Age.

8.3.6 Tables of Contributions for Employees who become Contributors to the State Superannuation Scheme on or after 30 June 1963 or to this Division on or after the date of transfer of that transferred member

TABLE A

MEN

Employee Contributions for Four Weeks

(Contributors after 30th June 1963)

Age Next Birthday	For First 2 Units	For Each Additional Unit	Age Next Birthday	For First 2 Units	For Each Additional Unit
	\$	\$		\$	
16	0.86	0.42	36	2.46	1.16
17	0.94	0.44	37	2.62	1.24
18	0.98	0.46	38	2.74	1.30
19	1.04	0.48	39	2.92	1.40
20	1.10	0.52	40	3.12	1.50
21	1.16	0.54	41	3.32	1.60
22	1.22	0.56	42	3.54	1.70
23	1.28	0.60	43	3.80	1.84
24	1.32	0.62	44	4.08	1.98
25	1.40	0.66	45	4.38	2.12
26	1.44	0.68	46	4.76	2.32
27	1.54	0.72	47	5.18	2.52
28	1.62	0.76	48	5.68	2.76
29	1.70	0.80	49	6.28	3.06
30	1.80	0.86	50	6.96	3.40
31	1.90	0.90	51	7.84	3.84
32	2.02	0.94	52	8.94	4.38
33	2.12	1.00	53	10.32	5.06
34	2.24	1.06	54	12.16	5.98
35	2.34	1.10	55	14.74	7.26
			56-60	999.36 ÷ n	493.28 ÷ n

NOTE n denotes the number of complete four-weekly contributions payable before attainment of age 60.

TABLE B

WOMEN

Employee Contributions for Four Weeks

(Contributors after 30th June 1963)

Age Next Birthday	Retirement at age 55. For Each Unit \$	Retirement at age 60. For Each Unit \$	Age Next Birthday	Retirement at age 55. For Each Unit \$	Retirement at age 60. For Each Unit \$
16	0.46	0.34	36	1.62	1.06
17	0.48	0.36	37	1.74	1.14
18	0.52	0.38	38	1.88	1.20
19	0.54	0.40	39	2.02	1.28
20	0.58	0.42	40	2.20	1.38
21	0.62	0.46	41	2.40	1.46
22	0.66	0.48	42	2.62	1.58
23	0.70	0.50	43	2.90	1.70
24	0.76	0.54	44	3.22	1.84
25	0.82	0.58	45	3.60	2.00
26	0.86	0.62	46	4.06	2.18
27	0.90	0.64	47	4.64	2.38
28	0.96	0.68	48	5.38	2.62
29	1.02	0.72	49	6.38	2.90
30	1.10	0.76	50	7.76	3.22
31	1.16	0.80	51	534.40 ÷ n	3.64
32	1.24	0.84	52	534.40 ÷ n	4.16
33	1.32	0.90	53	534.40 ÷ n	4.82
34	1.42	0.94	54	534.40 ÷ n	5.70
35	1.50	1.00	55	534.40 ÷ n	6.92
			56-60		468.80 ÷ n

NOTE n denotes the number of complete four-weekly contributions payable before attainment of Maturity Age.

8.4 Cessation of Contributions

Subject to these Rules, contributions payable to this Division by a Contributor under this Part 8 in respect of any units of pension, other than those for which the Contributor contributes by instalments under rule 9.2, and those referred to in rule 8.5, shall cease to be payable in respect of those units on the first day of the Contribution Period in which the Contributor ceases to be an Employee or attains the Maturity Age, whichever first occurs.

8.5 Units taken up at Exit Day

8.5.1 The contribution of a former Contributor referred to in subrule 5.7.1 in respect of an additional unit of pension shall, if the former Contributor's Exit Day is before the Contribution Period in which the former Contributor would attain the Maturity Age, and whether or not the former Contributor has attained the Prescribed Age, be the contribution payable for one Contribution Period in accordance with the appropriate table of contributions.

8.5.2 Where:

- (a) an election by a former Employee or a former Employee's Spouse under rule 7.3 to take up an Abandoned Unit takes effect; and
- (b) the former Employee's Exit Day is before the Contribution Period in which the former Employee would attain the Maturity Age,

the contribution payable in respect of the unit shall, whether or not the former Employee has attained the Prescribed Age, be the contribution for one Contribution Period in accordance with the appropriate table of Contributions.

9. CONTRIBUTIONS BY EMPLOYEES FOR UNITS OF PENSION OTHERWISE THAN AT TABLE RATES

9.1 Cost of units of pension

9.1.1 For the purposes of this Part 9, and notwithstanding anything contained in the Deed or Rules, the cost of a unit of pension is, in relation to an Employee:

- (a) who was a Contributor to the State Superannuation Scheme at 30th June 1963 and has continued to be a Contributor since that date, and:
 - (i) who, being a woman Contributor, elected to contribute at the rate prescribed for retirement at the age of 55 years, \$450.90;
 - (ii) who, being a woman Contributor, elected to contribute at the rate prescribed for retirement at the age of 60 years, \$395.54; or
 - (iii) who is a male Contributor, \$396.90; or
- (b) who commenced to contribute to the State Superannuation Scheme after 30th June 1963 and:
 - (i) who, being a woman Contributor, elected to contribute at the rate prescribed for retirement at the age of 55 years, \$534.40;

- (ii) who, being a woman Contributor, elected to contribute at the rate prescribed for retirement at the age of 60 years, \$468.80; or
- (iii) who is a male Contributor, \$499.68 in respect of each of the first 2 units, and \$493.28 in respect of each subsequent unit.

9.1.2 Notwithstanding subrule 9.1.1, where an Employee who, being a woman, elected to contribute at the rate prescribed for retirement at the age of 55 years has attained the age of 60 years on or before her Entry Payment Day, Annual Adjustment Day or Exit Day, the cost of a unit of pension for which she commences to contribute on or after that day shall, for the purposes of this Part 9, be the cost applicable had she elected to contribute at the rate prescribed for retirement at the age of 60 years.

9.2 Employees who have reached the Prescribed Age

9.2.1 Subject to rules 8.5 and 9.3, where an Employee who has reached the Prescribed Age on or before the Employee's Entry Payment Day or Annual Adjustment Day, as the case may require, is required or elects to commence contributing for a unit of pension, the Employee shall, subject to this rule 9.2, contribute the cost of the unit by 65 four-weekly instalments, each such instalment being equal to an amount determined by the Trustee, being an amount that is, or is not less by more than a fraction of a cent than, one sixty-fifth of that cost.

9.2.2 Where an Employee referred to in subrule 9.2.1 ceases to be employed by the Employer prior to completion of payment of instalments pursuant to subrule 9.2.1, the following provisions apply:

- (a) where the Employee retires after reaching the Maturity Age, the total amount of Contributions unpaid as at the date of retirement shall be paid within one month after the date upon which the Employee ceases to be so employed, or within such further period as the Trustee may, in special circumstances, allow;
- (b) where the Employee is retired in accordance with rule 12.7, or elects to retire under subrule 13.1.2, or is Retrenched before reaching the Maturity Age, the total amount of contributions unpaid as at the last day of the Contribution Period preceding that in which the Employee ceases to be employed shall be paid within one month after the date upon which the Employee ceases to be so employed, or within such further period as the Trustee may, in special circumstances, allow;
- (c) where the Employee dies and is survived by a Spouse, the Spouse, if a pension is payable to the Spouse in accordance with rule 13.6, shall within 3 months after the death of the Employee, or within such further period as the Trustee may, in special circumstances, allow, pay the total amount of contributions unpaid as at the date of the Employee's death.

9.2.3 Where the total amount of contributions required to be paid by subrule 9.2.2(a), (b) or (c) is not paid within the time prescribed, or within such further period as the Trustee may, in special circumstances, allow, the Employee or the Spouse of

the Employee, as the case may be, shall be refunded the amount of the instalments paid pursuant to subrule 9.2.1.

9.2.4 Where a refund is payable under subrule 9.2.3, no person has any rights under this Division in respect of the unit or units of pension to which the refund relates, but nothing in this subrule 9.2.4 affects the operation of Part 14 in relation to any such unit.

9.2.5 A reference in subrule 9.2.2 to the total amount of Contributions unpaid as at a particular date is:

(a) in relation to an Employee who ceases to be employed by the Employee before attaining the Maturity Age and who commenced contributing for the unit of pension:

(i) before the Contribution Period in which the Employee would attain the Maturity Age, a reference to the total amount of Contributions that would have been payable up to and including that date had the tables of Contributions fixed by or under these Rules been applicable to the Employee in respect of the unit; or

(ii) after the Contribution Period in which the Employee would attain the Maturity Age, a reference to the cost of the unit; or

(b) in relation to an Employee who ceases to be employed by the Employer on or after attaining the Maturity Age, a reference to the cost of the unit, less the amount of instalments paid pursuant to subrule 9.2.1.

9.2.6 Where, but for this subrule 9.2.6, the 65 instalments payable in respect of a unit of pension pursuant to subrule 9.2.1 would be less than the cost of the unit, the 65th instalment shall, notwithstanding that subrule, be increased by the difference.

9.3 Units taken up at Exit Day

9.3.1 The contribution of a Contributor referred to in subrule 5.7.1 in respect of an additional unit of pension shall, if the Contributor's Exit Day is on or after the first day of the Contribution Period in which the Contributor would attain or has attained the Maturity Age, be the cost of the unit.

9.3.2 Where:

(a) an election by a former Employee or a former Employee's Spouse under rule 7.3 to take up an Abandoned Unit takes effect; and

(b) the former Employee's Exit Day is on or after the first day of the Contribution Period in which the former Employee would attain or has attained the Maturity Age,

the contribution payable in respect of the unit shall be the cost of the unit.

10. CONTRIBUTIONS BY EMPLOYERS

10.1 Contributions to be made by an Employer

- 10.1.1 An Employer must pay under this Division in respect of each Contributor that the Employer employs an amount equal to a specified multiple of the contributions payable to this Division by that Contributor.
- 10.1.2 The specified multiple referred to in subrule 10.1.1 is a multiple that the Trustee periodically fixes in respect of the Employer concerned.
- 10.1.3 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.
- 10.1.4 The Trustee may require an 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 relevant Employers' reserves for Employers to meet the Employers' liabilities under these Rules.

10.2 Calculation of contributions and time for payment

- 10.2.1 Contributions under this Part 10 shall be calculated on the basis of Contribution Periods.
- 10.2.2 An Employer must pay to the Trustee the contributions payable by the Employer in respect of a Contribution Period at such times as the Trustee may require.

10.3 Employer may be required to make further payments in certain cases

- 10.3.1 Whenever it appears to the Trustee that there is insufficient money in an Employer Reserve:

- (a) to pay the Employer-financed portion of a 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,

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.

- 10.3.2 If an Employer fails to pay an amount required to be paid under subrule 10.3.1 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.

10.4 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.

10.5 Transfer of credits between Employers of transferred Contributors

Whenever:

- (a) a Contributor ceases to be employed by an Employer and becomes employed by another Employer; and
 - (b) the Contributor continues to be a Contributor under these Rules,
- the Trustee must, as soon as practicable after the Contributor begins the later employment:
- (c) debit the Employer Reserve of the former Employer with the actuarially calculated transfer value referable to the Contributor; and
 - (d) credit the Employer Reserve of the new Employer with that value.

11. ANCILLARY PROVISIONS

11.1 Contributions to be related to units of pension

11.1.1 Subject to these Rules, the Contributions of an Employee under this Part 11 shall be made in respect of units of pension as provided by rule 13.1 and the number of those units, on any particular day, shall be calculated in accordance with the following formula:

$$UE = \frac{S + (9 \times CF)}{260}$$

where:

UE is the number of units of pension;

S is the annual rate of Salary;

CF is 1 or $\frac{a}{b}$, whichever is the greater;

(a) is the index number appearing in the Consumer Price Index (All Groups Index) for Sydney last published before that day by the Australian Statistician under the *Census and Statistics Act 1905* of the Commonwealth;

(b) is:

(i) the number 114.6; or

(ii) if, after 3 May 1991, the Australian Statistician changes the reference base for the Consumer Price Index (All Groups Index) for Sydney, a number determined by the Trustee, on actuarial advice, to represent what that index would have been for the June quarter 1982 if the change in the reference base had applied at that date.

11.1.2 Where the number of units of pension calculated in accordance with subrule 11.1.1 includes a fraction of a unit, the number of units shall be deemed to be the next highest whole number.

11.1.3 Any Index number published by the Australian Statistician at any time (and whether before or after the commencement of this subrule 11.1.3) in respect of a particular quarter in substitution for an Index number previously published in respect of that quarter is to be disregarded for the purpose of ascertaining the value of the expression "a" in the formula in subrule 11.1.1, unless the Trustee otherwise determines.

11.1.4 In this rule, *Index number* and *quarter* have the same meanings as in Part 21.

11.2 Alteration of unit entitlement in certain cases

11.2.1 Except as provided by subrule 11.2.2, a reference (however expressed) in any other provision of these Rules to the number of units of pension that, pursuant to rule 11.1 1, is appropriate to the Salary being paid to a Contributor on any particular day shall, if 1 or more deduction factors are required to be applied under this rule 11.2 by the Trustee in relation to the Contributor on that day, be construed as a reference to the number of units calculated in accordance with the following formula:

$$U = NU \times \frac{PFS - DT}{PFS}$$

where:

U is the number of units to be calculated;

NU is the number of units that, but for this rule 11.2, would be appropriate to that Salary;

PFS is the sum of:

- (a) the number of years, if any, (including any fractional part of a year calculated on a daily basis) of the period that commenced when the Contributor last became a Contributor and ended on that day (but excluding any part of that period during which the person had been on leave of absence pursuant to rule 15.1); and
- (b) the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which that day precedes:
 - (i) the date on which the person attains the Maturity Age; or
 - (ii) where any employment which, on that day, the Contributor is entitled to count as Service for the purposes of rule 12.1 is, in total, for less than a period of 10 years, the expiration of the balance of that period of 10 years,

whichever is the later;

DT is the total of all deduction factors required to be applied by the Trustee in relation to the Contributor on that day.

11.2.2 Where the number of units of pension calculated in accordance with the formula specified in subrule 11.2.1 is or includes a fraction of a unit:

- (a) if the fraction is less than one-half, the fraction shall be disregarded; or,
- (b) if the fraction is not less than one-half, the fraction shall be deemed to be a whole unit.

11.3 Deduction factors in relation to certain periods of leave of absence

- 11.3.1 Except as provided by subrule 11.3.2, on and from the commencement of a period of leave of absence without pay by a Contributor, the Trustee shall apply under rule 11.2, in relation to the Contributor, in addition to such other deduction factors (if any) as the Trustee is required to apply in relation to the Contributor, a deduction factor equal to the length of so much of that period as exceeds 3 months (expressed in terms of years, if any, and including any fractional part of a year calculated on a daily basis).
- 11.3.2 Subrule 11.3.1 does not apply in relation to a period of leave of absence by a Contributor where:
 - (a) the leave is a prescribed form of leave or is leave with respect to which subrule 11.8.2, 11.8.3 or 11.8.6 applies;
 - (b) the period commences before 1 July 1985 or is not more than 3 months; or
 - (c) before the commencement of that period, the Contributor elects to have subrule 11.3.1 not apply in relation to that period.
- 11.3.3 The reference to a prescribed form of leave in subrule 11.3.2(a) includes (but is not limited to) a reference to maternity leave and is to be taken to have included such a reference from and including 1 July 1985.
- 11.3.4 Where a period of leave of absence to which subrule 11.3.1 applies terminates (whether by reason of death of the Contributor or otherwise), on or before the expiration of 3 months of the period, the Trustee shall, on and from that termination, cease to apply under rule 11.2 in relation to the Contributor the deduction factor required under subrule 11.3.1 to be applied on and from the commencement of that period.
- 11.3.5 The Trustee must apply under section 11.2, in relation to a Contributor who takes a single period of leave without pay that is sick leave or maternity leave, a deduction factor equal to the length of that part of the period of leave that exceeds 2 years.
- 11.3.6 The deduction factor applied under subrule 11.3.5 is to be expressed in terms of years and include any fractional part of a year calculated on a daily basis.
- 11.3.7 The deduction factor applied under subrule 11.3.5 is to be applied on and from the end of 2 years after the commencement of the single period of leave and is in addition to any other deduction factor that the Trustee is required to apply in relation to the Contributor.

11.3.8 Where a period of leave of absence to which subrule 11.3.1 applies terminates (whether by reason of death of the Contributor or otherwise) before the expiration of the whole, but after the expiration of 3 months, of the period or a period of leave of absence is extended after the commencement of the period and the period, as extended, is a period of leave of absence to which subrule 11.3.1 applies, the Trustee shall, on and from that termination or extension, apply under rule 11.2 in relation to the Contributor:

- (a) instead of the deduction factor (if any) required under subrule 11.3.1 to be applied on and from the commencement of that period; and
- (b) in addition to such other deduction factors (if any) as the Trustee is required to apply in relation to the Contributor,

a deduction factor equal to the length of so much of the period of leave actually taken or the length of so much of the period of leave, as extended, as exceeds 3 months (expressed in terms of years, if any, and including any fractional part of a year calculated on a daily basis).

11.4 Deduction factors for periods determined by the Trustee

11.4.1 Despite any other provision of these Rules, the Trustee may apply under rule 11.2, in relation to a Contributor specified by the Trustee, a deduction factor equal to the length of the period for which the Trustee determines that the deduction factor is to apply.

11.4.2 The deduction factor is to be expressed in terms of years and include any fractional part of a year calculated on a daily basis.

11.4.3 The Trustee may only make such a determination if it is of the opinion that it is necessary to do so for the purposes of a provision of Superannuation Law restricting the acceptance of contributions by a superannuation fund.

11.4.4 The deduction factor is to be applied on and from the commencement of the period specified by the Trustee and is in addition to any other deduction factor that the Trustee is required to apply in relation to the Contributor.

11.5 Deduction factors in relation to part-time employment

11.5.1 In this rule 11.5, a reference to the salary ratio in relation to a position in which a person is employed as a part-time Employee is a reference to the ratio of the Salary of the person as a part-time Employee to the Salary certified by the Employer of the person to be the Salary which would be paid to the person if employed full-time in that position.

11.5.2 Where a Contributor who is not a part-time Employee becomes employed in a position as a part-time Employee or a Contributor who is a part-time Employee becomes employed as a part-time Employee in a position in relation to which the salary ratio is different from that of the former position, the Trustee shall, on and from the day on which the Contributor becomes so employed, apply under rule 11.2, in relation to the Contributor, in addition to such other deduction factors (if any) as the Trustee is required to apply in relation to the Contributor, a deduction factor equal to the figure calculated in accordance with the following formula:

$$D = PA \times (1 - SR)$$

where:

D is the deduction factor;

PA is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the day precedes:

- (a) the date on which the Contributor attains the Maturity Age; or
- (b) where any employment which, on that day, the Contributor is entitled to count as Service for the purposes of rule 12.1 is, in total, for less than a period of 10 years, the expiration of the balance of that period of 10 years,

whichever is the later;

SR is the salary ratio (expressed as a fraction) in relation to the position.

11.5.3 Where a Contributor who is employed in a position as a part-time Employee ceases to be employed as a part-time Employee or becomes employed in another position in relation to which the salary ratio is different from that of the former position, the Trustee shall, on and from the day on which the Contributor becomes employed in the other position, apply under rule 11.2 in relation to the Contributor:

- (a) instead of the deduction factor required under subrule 11.5.2 to be applied on and from the day on which the Contributor became employed in a position having the salary ratio of the former position; and
- (b) in addition to such other deduction factors (if any) as the Trustee is required to apply in relation to the Contributor,

a deduction factor equal to the figure which would have been calculated in accordance with subrule 11.5.2 if the figure attributed to the symbol "PA" were the number of years, if any, (including any fractional part of a year calculated on a daily basis) of the period during which the Contributor was employed in a position having the salary ratio of the former position.

11.5.4 The Trustee must apply under section 11.2, in relation to a Contributor who is employed for less than 10 hours a week for a single period of more than 2 years, a deduction factor equal to the length of that part of the period that the Contributor is so employed that exceeds 2 years and ends on the date on which the Contributor attains the Maturity Age.

11.5.5 The deduction factor applied under subrule 11.5.4 is to be expressed in terms of years and include any fractional part of a year calculated on a daily basis.

11.5.6 The deduction factor applied under subrule 11.5.4 is to be applied on and from the end of 2 years after the commencement of the period of employment and is in addition to any other deduction factor that the Trustee is required to apply in relation to the Contributor.

11.5.7 Subrules 11.5.1 to 11.5.3 do not apply in respect of a Contributor during any period in which the Trustee is required to apply a deduction factor under subrule 11.5.4.

11.5.8 However, subrule 11.5.3 applies to a Contributor who, at the end of the period, commences to be employed for more than 10 hours a week in the same way as it applies to any other Employee whose salary ratio changes.

11.6 Continuation of certain contributions

11.6.1 Where a Contributor completes payment of the 65 instalments under rule 9.2, in respect of a unit of pension, or, pursuant to rule 8.4, contributions cease to be payable in respect of a unit of pension by a Contributor who attains the Maturity Age, contributions shall, until the Contributor's next Annual Adjustment Day or Exit Day (whichever first occurs), continue to be made at the rate at which the Contributor was contributing for that unit.

11.6.2 Any continued contributions made by a Contributor by virtue of subrule 11.6.1 shall be credited, in such manner as the Trustee thinks fit, to units of pension in respect of which the Contributor is contributing or may, on the Contributor's next Annual Adjustment Day or Exit Day, be required to contribute by instalments under rule 9.2.

11.6.3 Subrule 11.6.1 ceases to apply to a Contributor if the Trustee so approves on application made by the Contributor before his Exit Day.

11.6.4 Without affecting the operation of this rule 11.6, a Contributor to whom this rule 11.6 applies shall be deemed, for the purposes of these Rules, to have ceased contributing for the unit of pension referred to in subrule 11.6.1.

11.7 Reserve units

11.7.1 There shall be a reserve units of pension account (in this rule referred to as the *reserve account*) which shall form part of this Division and into which shall be paid all contributions made by Contributors under this rule 11.7.

11.7.2 A Contributor who is contributing for not less than the number of units of pension corresponding to the salary-group within which the Contributor's Salary falls may, by notice in writing to the Trustee in the form prescribed, elect to contribute for reserve units of pension (hereinafter referred to as *reserve units*) in accordance with the provisions of this rule 11.7.

11.7.3 An election under subrule 11.7.2 may only be made by a Contributor within 2 months after the Contributor's Annual Review Day in any half-year.

11.7.4 The number of reserve units for which a Contributor shall be entitled to contribute shall not exceed 8.

11.7.5 Contributions in respect of a reserve unit:

- (a) shall take effect as from the Contributor's Annual Adjustment Day in the half-year in which the election is made; and

- (b) shall be made as if the reserve unit were a Contributory Unit, contributions for which are payable as from the Annual Adjustment Day.

11.7.6

- (a) Where a Contributor who has contributed for at least ten years for any reserve units, or contributed for at least one year for any reserve units and has attained the age of 50 years, becomes eligible to or is required to contribute for one or more additional units of pension in pursuance of the provisions of these Rules, the Contributor may elect by notice in writing to the Trustee in the form prescribed to appropriate to the contribution account the contributions paid by the Contributor to the reserve account in respect of a number of reserve units not exceeding the number of those additional units of pension.
- (b) Where a Contributor so elects, no further contributions shall be paid into the reserve account in respect of the reserve units to which the election applies and the contributions payable by the Contributor in respect of so many of the additional units of pension as is equal to the number of those reserve units shall be at the same rate as the contributions paid into the reserve account in respect of those reserve units.

11.7.7 The Trustee must pay to a Contributor who, in accordance with section 15A(6) of the *Superannuation Act 1916* elected to discontinue the payment of contributions for reserve units the amount paid in respect of those units, together with any interest payable under subrule 11.7.11.

11.7.8 If a Contributor who is contributing for reserve units ceases to be an Employee, the Trustee must pay to the Contributor or, as the case may be, to the Contributor's legal personal representatives the amount of the Contributor's contributions paid in respect of those units, together with any interest payable under subrule 11.7.10.

11.7.9 In subrule 11.7.8, the reference to legal personal representatives includes a reference to a person referred to in the Trust Deed.

11.7.10 A Contributor is entitled to interest on contributions for reserve units paid for by the Contributor, compounded annually, at the rate fixed by the Trustee in accordance with rule 24.5 and payable from the respective dates of payment.

11.7.11 Payments under subrules 11.7.7 and 11.7.8 are to be made from the appropriate reserve.

11.7.12 For the purposes of subrules 11.7.7 to 11.7.11, a reference to the specified rate is:

- (a) if the rate relates to a period before 20 March 1989, 6.5% per annum or, where another rate has been specified for the purposes of subsection (6)(c) of the *Superannuation Act 1916* (as in force before 20 March 1989), that other rate; or
- (b) if the rate relates to a period after 20 March 1989 such rate as the Trustee fixes from time to time under rule 24.5 for the purposes of this rule 11.7.

11.7.13 A Contributor who made an election under subsection 15A(6) of the *Superannuation Act 1916* in respect of any reserve unit or units shall not again be eligible to elect to contribute for any reserve unit or units.

11.7.14 A Contributor who has made an election under subrule 11.7.6 may elect to contribute for reserve units but so that the number of reserve units for which the Contributor becomes a Contributor by virtue of the operation of this subrule 11.7.14, together with the reserve units, if any, for which the Contributor was contributing immediately before electing under this subrule 11.7.14 and any reserve units which may already have been appropriated by the Contributions under subrule 11.7.6 shall not exceed 8.

11.8 Employees on leave of absence

11.8.1 In respect of any Contributor who is on leave of absence, whether without pay or not, that Contributor's contributions shall be paid during such leave of absence as for a period of Service and shall become due on or before the last day of each month or four-weekly Contribution Period.

11.8.2 For the purposes of these Rules, where a Contributor is on leave without pay from the Service of an Employer and is on secondment to the Service of another Employer, that Contributor's Salary shall, notwithstanding subrule 11.8.1, be that paid or payable by that other Employer.

11.8.3 For the purposes of these Rules, where a Contributor:

- (a) is on approved leave from the Service of an Employer;
- (b) is not on secondment to the Service of another Employer; and
- (c) is not a Contributor to and in respect of whom subrule 11.8.7 is declared pursuant to subrule 11.8.6 to apply,

and the Trustee is of the opinion that the Contributor's Salary would have been varied had the Contributor not been on that leave, the Contributor shall, unless the Trustee otherwise determines, be deemed to have been paid by the Contributor's Employer Salary at the rates to which and at the times at which it would have been varied.

11.8.4 For the purposes of subrule 11.8.3, a person is on approved leave if the person is on leave without pay from the Service of the person's Employer:

- (a) by reason of:
 - (i) ill health;
 - (ii) secondment to the Service of a public authority constituted by or under an Act;
 - (iii) secondment to the Service of the Government of the Commonwealth or another State or to the Service of a public authority constituted by or under an Act of the Parliament of the Commonwealth or another State; or

- (iv) Service with the naval, military or air forces of the Commonwealth;
or

(b) in circumstances approved by the Employer under subrule 11.8.5.

11.8.5 For the purposes of subrule 11.8.4(b), the Employer may, if it thinks fit, by notice in writing to the Trustee, approve of circumstances in which a person is on leave without pay from the Service of his Employer, if that Employer certifies to the Trustee that that person is, during the period of leave, acting in the interests of the Employer or the State.

11.8.6 An Employer may determine, either unconditionally or subject to conditions, that subrule 11.8.7 or 11.8.8 applies, or both apply:

- (a) to and in respect of a Contributor specified in the instrument who is on leave of absence from the service of his Employer and is on secondment but not to the Service of another Employer; and
- (b) generally during the period of that secondment or during such period as is specified in the instrument, being, in either case, a period commencing before or after the commencement of this subrule 11.8.6 or the date of the declaration.

11.8.7 During the period in which this subrule 11.8.7 is declared pursuant to subrule 11.8.6 to apply to and in respect of a Contributor who is on secondment, the Contributor's Salary shall, for the purposes of these Rules, be that paid or payable in respect of the Service to which he is seconded.

11.8.8 During the period in which this subrule 11.8.8 is declared pursuant to subrule 11.8.6 to apply to and in respect of a Contributor who is on secondment, the Employer specified in the declaration as the Employer for the purposes of these Rules shall, for the purposes of these Rules, be deemed to be the Employer from whose Service the Contributor is on leave of absence.

11.9 Deferment of payment of contributions

The Trustee may, in special circumstances, defer the payment of any contribution by a Contributor but, where the Trustee so defers a payment, no Benefit is payable to or in respect of the Contributor until the outstanding contribution and, where appropriate, interest thereon, have been paid or arrangements satisfactory to the Trustee have been made for their payment.

11.10 Manner of payment deduction from wages or salaries

11.10.1 Whenever salaries or wages are paid to Contributors, their Employer must deduct from those salaries or wages the contributions that those Contributors are required to make to this Division.

11.10.2 An Employer who has deducted contributions in accordance with subrule 11.10.1 must pay those contributions to the Trustee, without deduction, within the period specified by the Trustee.

11.10.3 The Trustee may enter into an arrangement with a Contributor, or may require a Contributor to enter into an arrangement with the Trustee, for the payment of

arrears of contributions to this Division that have been incurred, or are expected to be incurred, by the Contributor.

11.10.4 Where a Contributor:

(a) fails to comply with a requirement under subrule 11.10.3 to enter into an arrangement referred to in that subrule; or

(b) having entered into such an arrangement, fails to comply with its terms,

the Trustee may direct that any period in respect of which any such arrears are outstanding is not a period of Service by the Contributor, and the direction shall have effect according to its tenor.

11.10.5 Arrears in Employers' contributions (including arrears arising as a consequence of Contributors commencing to contribute to this Division after the date on which they were required to contribute) shall be payable, and shall be deemed always to have been payable, at such time or times as the Trustee may determine.

11.11 Contributor eligible for membership or a member of Division A

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

11.11.1 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 Part 16.

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

11.11.2 If a Contributor fails to make an election under subrule 11.11.1 within 2 months of being required to make that election, the Contributor is, for the purposes of this rule 11.11, to be taken to have elected to continue to contribute to this Division.

11.11.3 Nothing in these Rules prevents a Contributor who elects to continue to contribute to 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 other fund.

11.11.4 If a Contributor elects to continue to contribute to this Division, the Contributor may, at any time thereafter while being eligible to become or being a member of Division A, elect to make provision for a Benefit provided by Part 16.

11.11.5 A Contributor who elects, under this rule 11.11, to make provision for a Benefit provided by Part 16:

(a) may elect to make provision for the Benefit even though he or she has not completed 3 years' continuous Contributory Service;

(b) is not entitled to a Benefit payable under any other provision of these Rules;

(c) is not entitled to elect to take the Benefit provided by rule 16.11;

- (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.

11.11.6 If a Contributor makes an election under subrule 11.11.5(d):

- (a) the Contributor is entitled to be paid the Benefit provided by Part 16, but only in accordance with subrule 11.11.5(d), this subrule 11.11.6 and subrule 11.11.7;
- (b) the Trustee must, as soon as practicable thereafter, pay to Division A the amount of Benefit to which the Contributor is entitled; and
- (c) the Trustee must credit the amount to the account established or to be established for the person in Division A.

11.11.7 For the purposes of subrule 11.11.6(a), the Benefit to which the Contributor is entitled is an amount equal to the actuarially calculated lump sum value of the Benefit provided by Part 16 on ceasing to be a Contributor.

11.11.8 If a Contributor makes an election under subrule 11.11.1 (b) or 11.11.4 within 12 months after being:

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

the Salary of the Contributor, for the purpose 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.

11.12 Transferred members – PSESS Election

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

11.12.1 A person:

- (a) 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 rule 16.

11.12.2 If the person makes an election under this rule, then subrule 11.11.6 applies.

12. PENSIONS AND BENEFITS

12.1 Retirement on pension

- 12.1.1 A Contributor (being, in the case of a woman, a Contributor at the rate prescribed for retirement at age 60) who has served for at least ten years with any one or more Employers shall be entitled to elect to retire on pension from the Service of the Contributor's Employer upon or after reaching the age of 60 years; and every woman Contributor at the rate prescribed for retirement at age 55 who has so served shall be entitled to so retire upon or after reaching the age of 55 years.
- 12.1.2 A Contributor (being, in the case of a woman, a Contributor at the rate prescribed for retirement at age 60) shall be entitled to elect to retire from the Service of the Contributor's Employer on pension on or after reaching the age of 55 years if the Contributor has continuously been a Contributor during the next preceding period of ten years.
- 12.1.3 A person who, before becoming a Contributor, was:
- (a) employed on terms requiring the Contributor to give the whole of his or her time to that employment; and
 - (b) paid at an hourly, daily, weekly or fortnightly rate, or at piecework rates,
- is entitled to have that employment treated as Service as an Employee for the purposes of this rule 12.1.
- 12.1.4 Whenever:
- (a) a period of employment that a Contributor has had with an Employer; and
 - (b) a later period of Service that the Contributor has had as an Employee with an Employer are continuous,
- the Trustee may, if satisfied that, having regard to the nature of the work performed by the Contributor during that period of employment, it is proper to do so, treat, for the purposes of this rule 12.1, that period of employment as a period of Service as an Employee with that Employer.
- 12.1.5 A reference in subrule 12.1.4 to a period of Service as an Employee with an Employer includes a reference to a period treated under subrule 12.1.3 or 12.1.4 as a period of Service as an Employee.

12.2 **Commuting of pension**

[deleted by Deed of Amendment No.4 operative 1/1/00]

12.3 **Limitations on elections under rule 12.2**

[deleted by Deed of Amendment No.4 operative 1/1/00]

12.4 **Commuting of pension**

[heading amended by Deed of Amendment N.o4 operative 1/1/00]

- 12.4.1 A person who is entitled or becomes entitled to a pension under these Rules may commute the whole or part of that pension (subject to this rule 12.4 and rule 26A).
[replaced by Deed of Amendment No.4 operative 1/1/00]
- 12.4.2 A person may not commute the whole or any part of a pension under subrule 12.4.1 before attaining the age of 55 years.
[replaced by Deed of Amendment No.4 operative 1/1/00]

- 12.4.3 This rule does not authorise the commutation of a pension payable in respect of Children.
- 12.4.4 Subject to rule 12.5, any person desiring to commute pension pursuant to this section may elect to do so at any time after attaining the age of 54 years and 6 months.
[replaced by Deed of Amendment No.4 operative 1/1/00]

12.4.5 An election under this rule 12.4 may be made in respect of 2 different amounts and as from 2 different dates and the election shall have effect as to the different amounts as from the respective dates from which the different amounts are commuted.

12.4.6 Where:

- (a) a person making an election under this rule 13.5 in respect of one amount dies before the election takes effect, the election shall be deemed to be revoked; and
- (b) a person making an election under this rule 12.4 in respect of different amounts as from different dates dies before the commutation as to one or both of those amounts takes effect, the commutation as to that or those amounts, as the case may be, shall not be effective.

12.4.7 Where an election under this rule 12.4 takes effect and the person who made the election dies before any lump sum payable pursuant to the election has been paid to the person, the Trustee shall pay the lump sum to the person's legal personal representatives.

12.4.8 Upon an election under this rule 12.4 taking effect as to an amount of pension, there shall be paid from this Division to the person who made the election or, as the case may require, to the legal personal representatives of the person, a lump sum calculated by multiplying the fortnightly amount of pension commuted by the prescribed commutation factor in relation to the person subject to rule 13.7A.3 and 13.8.3.
[amended by Deed of Amendment N.o4 operative 30/6/99]

12.4.9 In subrule 12.4.8:

prescribed commutation factor means:

- (a) in relation to a person whose election under this rule 12.4 took effect as to an amount of pension before the person attained the age of 60 years, the figure (rounded to 2 decimal places) calculated in accordance with the following formula:

$$F = 285 - (A - 55) \times 7$$

where:

F is the prescribed commutation factor;

- A is the age of the person in years (including any fractional part of a year calculated on a daily basis) on the date the election by the person to commute took effect as to that amount of pension; and
- (b) in relation to a person whose election under this rule 12.4 took effect as to an amount of pension on or after the person attained the age of 60 years:
- (i) 250, where no prescribed period has elapsed in relation to the person; or
- (ii) where a prescribed period has elapsed in relation to the person, a figure lower than 250 determined by the Trustee having regard to the length of the prescribed period;

prescribed period, in relation to a person whose election under this rule 12.4 took effect as to an amount of pension on or after the person attained the age of 60 years, means:

- (a) in the case of such a person who became entitled to the amount of pension to which the election relates on or before attaining the age of 65 years, the period (if any) between:
- (i) the attainment by the person of the age of 60 years or the day on which the person became entitled to that amount of pension, whichever was the later; and
- (ii) the day on which the election took effect as to that amount of pension; or
- (b) in the case of such a person who became entitled to the amount of pension to which the election relates after attaining the age of 65 years, the period (if any) between:
- (i) the attainment by the person of the age of 65 years; and
- (ii) the day on which the election took effect as to that amount of pension.

12.4.10 Subject to rule 12.5, a person may, with the approval of the Trustee, make more than one election under this rule 12.4, but only one such election shall take effect.

12.4.11 Where a person makes an election under rule 12.10 to take up additional units, nothing in subrule 12.4.10 applies to an election made under this rule 12.4 in respect only of any of the pension payable in respect of those additional units, but:

- (a) a person may not, without the approval of the Trustee, make more than one such election under this rule 12.4 in respect of that pension; and
- (b) only one such election made by the person under this rule 12.4 in respect of that pension shall take effect.

12.4.12 Subrules 12.4.10 and 12.4.11 apply to and in respect of an election under this rule 12.4 whether or not the election has been amended or revoked.

- 12.4.13 The approval of the Trustee may only be given for the purposes of subrule 12.4.10 and 12.4.11 in special circumstances.
- 12.4.14 An election made under this rule 12.4 by an Employee before the day on which the Employee attained the age of 55 years shall be deemed to be revoked if the Employee has not retired before the expiration of 12 months after attaining that age.
- 12.4.15 An election made under this rule 12.4 by an Employee on or after the day on which the Employee attained the age of 55 years shall be deemed to be revoked if the Employee has not retired before the expiration of 12 months after making the election.
- 12.4.16 These Rules apply to and in respect of a person who is entitled to a pension and who commutes the whole of that pension in accordance with this rule 12.4 in the same way as it applies to and in respect of a pensioner under these Rules.
- 12.4.17 On the death of a person who has, pursuant to this rule 12.4, commuted the whole or part of any pension payable to the person, the pension payable to the Spouse of the person pursuant to the provisions of these Rules shall be determined in accordance with the pension that would have been payable to the person at the time of death had the person not so commuted that pension.
- 12.4.18 Nothing in these Rules shall be construed as requiring the Trustee to make inquiries as to whether any pension is payable under these Rules as a consequence of the death of a person who has commuted the whole of a pension in accordance with this rule 12.4.

12.5 Limitations on elections under rule 12.4

- 12.5.1 Subject to Rule 12.5, a person may not make an election under rule 12.4 relating to a pension under these Rules after the expiration of 6 months after:
[replaced by Deed of Amendment No.4 operative 1/1/00]
- (a) the day on which the person attained the age of 55 years, or
- (b) the day on which the person became entitled to that pension,
- whichever is the later day.
- 12.5.2 Subject to rule 12.5, if a person makes an election under rule 12.10 to take up additional units, the person may not make an election under rule 12.4 in respect only of the pension payable in respect of those additional units after the expiration of 6 months after:
[replaced by Deed of Amendment No.4 operative 1/1/00]
- (a) the day on which the person attained the age of 55 years, or
- (b) the day on which the person made the election under rule 12.10,
- whichever is the later day.
- 12.5.3 Where:

- (a) an election under rule 12.4 was not made within the time prescribed in respect thereof by the provisions of subrules 12.5.1 and 12.5.2;
- (b) it is proved to the satisfaction of the Trustee that the election was not made within that time because:
 - (i) the person entitled to make the election did not know of the right to make the election; or
 - (ii) circumstances substantially beyond the control of the person prevented the making of the election; and
- (c) the Trustee is satisfied that, in the circumstances of the case, it is desirable that the election should be accepted,

the Trustee may, subject to such terms and conditions as it may impose, accept the election and deal with it as if that time had been indefinitely extended.

12.5.4 Where:

- (a) a pension became payable to a person before the person attained the age of 60 years;
- (b) the person has attained the age of 59 years and 6 months; and
- (c) the person, although entitled to do so, has not previously made an election under rule 12.4 (being an election which has taken effect) to commute the whole or any part of that pension,

the person may make an election under rule 12.4 in relation to that pension before the expiration of the period of 6 months after the day on which the person attains or attained the age of 60 years.

12.6 Interest to be paid on commuted amounts

Whenever a lump sum is payable under rule 12.4, interest at the rate currently fixed under rule 24.5 for the purposes of this rule 12.6 (less any deduction for money due to this Division) is payable under this Division in respect of the period beginning with the date on which the lump sum becomes payable and ending with the date when it is authorised to be paid.

[amended by Deed of Amendment No.4 operative 1/1/00]

12.7 Breakdown retirement

12.7.1 Any Contributor may be retired from the Service of his Employer on the ground of invalidity or physical or mental incapacity to perform his duties.

12.7.2 The question whether the Contributor is an invalid, or is physically or mentally incapable of performing his or her duties, shall be determined by the Trustee, having regard to medical advice furnished by any one or more medical practitioners nominated by the Trustee.

12.8 Retrenchment and Discharge

12.8.1 For the purposes of these Rules, a Contributor shall be taken to be Retrenched when the Contributor's Service with an Employer is terminated and where the Service 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 Service, does not propose to fill the Contributor's position;
 - (ii) the work which 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, because of 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).

12.8.2 For the purposes of these Rules, a Contributor shall be taken to be Discharged on the cessation of the Contributor's employment with an Employer 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.

12.9 Date of retirement, Contributions payable etc.

12.9.1 For the purpose of determining the rights of an Employee under these Rules, the date of his retirement shall be the date on which in the opinion of the Trustee he ceases to be employed by his Employer.

12.9.2 Except as provided by rule 12.10, a person is not entitled to elect to contribute, or required to contribute, in respect of an additional unit or units of pension by reason of a Salary increase not actually paid before the date of his retirement, determined as provided by subrule 12.9.1, or the date of his death, whichever first occurs.

12.9.3 Notwithstanding anything contained in these Rules, rules 13.3 and 13.5 excepted, pension shall be payable, in the case of the death of an Employee from the day following the date of death of the Employee, and in the case of the retirement of an Employee the date of whose retirement is determined by the Trustee in accordance with this rule 12.9 from the day following such date.

12.10 Retrospective Salary increases

12.10.1 Notwithstanding subrule 12.9.2, where:

- (a) a Contributor retires or dies; or
- (b) where a pensioner dies,

and an amount in respect of an increase in the Contributor's or pensioner's Salary that took effect from a day earlier than the day of the Contributor's or pensioner's

retirement or death and payable up to the day of the Contributor's or pensioner's retirement or death has been paid to the Contributor or pensioner, or is payable to the Contributor's or pensioner's estate,

- (c) the Contributor or pensioner, or
- (d) in the case of the Contributor's or pensioner's death, the Contributor's or pensioner's Spouse,

may make an election to take up any or all of the additional units to which such increase would have entitled the Contributor or pensioner had the Contributor or pensioner continued to be a Contributor.

12.10.2 Pension in respect of the additional units in respect of which an election is made under this rule 12.10 shall be payable from the day following the date of retirement or death of the Contributor or pensioner, as the case may be.

12.10.3 The contributions payable consequent on an election under this rule 12.10 in respect of a unit of pension shall be the contributions that would have been payable had the unit been a unit in respect of which the Contributor was required by subrule 5.7.1 to contribute under this Division.

12.10.4 Nothing in this rule 12.10 authorises a person to elect to take up Abandoned Units.

12.10.5 An election under this rule 12.10 shall:

- (a) in the case of a person who retires after 1 January 1971 be made by the Contributor or pensioner within three months after the increase is actually paid to the Contributor or pensioner and, in the event of the person's death before the expiration of the said three months and the person's not having made such election, be made by the person's Spouse within three months after the person's death;
- (b) in the case of a person who retires after 1 January 1971 and dies before the increase is paid, be made by the person's Spouse within three months after the increase is paid;
- (c) in the case of a Contributor who dies before the increase is paid be made, by the person's Spouse within three months after the increase is paid,

but the Trustee may in special circumstances allow an election to be made under this rule 12.10 after the expiration of the periods above prescribed.

12.11 Dismissal

For the purposes of these Rules, a Contributor shall be taken to be Dismissed when the Employer compulsorily terminates (however expressed) the Contributor's Service otherwise than:

- (a) by compulsorily retiring the Contributor on a pension payable under these Rules; or
- (b) by Retrenching or Discharging the Contributor.

12.12 Resignation

12.12.1 For the purposes of these Rules, a Contributor shall be taken to have Resigned from the Service of an Employer when the Contributor terminates (however expressed) that Service without:

[numbering inserted by Deed of Amendment No.10 operative 30/6/99]

(a) being entitled to retire from that Service on a pension payable under these Rules; or

(b) being Retrenched.

12.12.2 Notwithstanding Rule 12.12.1, a Contributor shall be taken to have Resigned from the Service of an Employer when the Contributor terminates that Service and elects to take the Benefit of Rule 13.19.

[inserted by Deed of Amendment No.10 operative 30/6/99]

12.12.3 Where a Contributor elects to take the Benefit of Rule 13.19 then no other Benefit will be payable under these Rules.

[inserted by Deed of Amendment No.10 operative 30/6/99]

13. GRANT OF PENSIONS AND BENEFITS

13.1 Amount of pension payable on retirement

13.1.1 A Contributor who retires is entitled to be paid a pension of \$5.50 per fortnight for each unit for which the Contributor was contributing at the time of retirement.

13.1.2 Subrule 13.1.1 does not apply to a Contributor in respect of whom special provision for the payment of a pension or other retirement Benefit is made under another provision of these Rules.

13.1.3 If the Trustee has made a determination under rule 23.1 in respect of a pension payable under this rule 13.1, the amount of the pension is reduced by the amount specified in the Trustee's determination.

13.2 Pension of woman retiring before 60

On the retirement at or after the age of 55 years of a woman who has contributed for a pension payable on reaching that age, the full pension for which she has so contributed shall be payable.

13.3 Pension on retirement before reaching 60 years of age

13.3.1 This rule 13.3 applies to a Contributor who retires in accordance with subrule 12.1.2 and who is not entitled to a pension under rule 13.4.

13.3.2 A Contributor to whom this rule 13.3 applies is entitled on retirement to a pension determined according to the number of units for which the Contributor has, at the time of retirement, contributed for not less than 2 years and 6 months.

13.3.3 Subject to this rule 13.3, the value of each unit of pension referred to in subrule 13.3.2 is as follows:

- (a) if the age of the Contributor at the Contributor's last birthday before retirement was 55 years, \$3.27 per fortnight;
- (b) if the age of the Contributor at the Contributor's last birthday before retirement was 56 years, \$3.55 per fortnight;
- (c) if the age of the Contributor at the Contributor's last birthday before retirement was 57 years, \$3.91 per fortnight;
- (d) if the age of the Contributor at the Contributor's last birthday before retirement was 58 years, \$4.35 per fortnight;
- (e) if the age of the Contributor at the Contributor's last birthday before retirement was 59 years, \$4.88 per fortnight.

13.3.4 In addition to the value of a unit of pension specified in subrule 13.3.3, a Contributor is entitled to receive in respect of the unit an amount per fortnight calculated in accordance with the following formula:

$$\frac{(A - B) \times C}{364}$$

where:

- A represents the value that the unit would have had if the Contributor had in fact retired on the Contributor's next birthday after that retirement; and
- B represents the value of the unit at the Contributor's last birthday before retirement; and
- C represents the number of days during the period beginning with the day after the Contributor's last birthday before retirement and ending with the day before payment of the pension is due to begin.

13.3.5 If a Contributor to whom this rule 13.3 applies has contributed for one or more units of pension for less than 2 years and 6 months, the Contributor is entitled to be paid on retirement a lump sum equal to the amount of contributions that the Contributor has paid in respect of the unit or units.

13.3.6 A pension under this rule 13.3 becomes payable on and from the day following the Contributor's Exit Day, except as provided by subrule 13.3.7.

13.3.7 A pension under this rule 13.3 payable to a Contributor who is Retrenched becomes payable on and from the day after the day on which the Contributor actually leaves the Service of the Contributor's Employer, whether at the Contributor's Exit Day any period of untaken leave was due to the Contributor or not.

13.3.8 A Contributor whose pension is determined in accordance with this rule 13.3 ceases to be liable to pay contributions to this Division on the first day of the month or four-weekly period, as the case may be, in which the pension becomes payable in accordance with subrule 13.3.6 or 13.3.7.

- 13.3.9 If the Trustee has made a determination under rule 23.1 in respect of a pension payable under this rule 13.3, the amount of the pension is reduced by the amount specified in the Trustee's determination.

13.4 Pension on retirement before age 60 – component pension

- 13.4.1 On the retirement of a Contributor under subrule 12.1.2, except as provided by subrule 13.4.2, the pension to which the Contributor is entitled is a pension under this rule 13.4.

- 13.4.2 A Contributor is entitled to the pension under rule 13.3 and not the pension under this rule 13.4 if the sum of:

- (a) the amount which would be payable to the Contributor on the commutation of the whole of the pension payable to the Contributor under rule 13.3; and
- (b) the amount of any lump sum which would be payable to the Contributor under subrule 13.3.5,

is greater than the amount which would be payable to the Contributor on the commutation of the whole of the pension payable to the Contributor under this rule 13.4.

- 13.4.3 The pension to which a Contributor is entitled under this rule 13.4 is a pension of an amount per fortnight equivalent to the sum of the employee-contributed pension component, and the employer-financed pension component, in relation to the Contributor.

- 13.4.4 For the purposes of subrule 13.4.3, the employee-contributed pension component, in relation to a Contributor, shall be calculated in accordance with the following formula:

$$P1 = 2.20 \times EPU \times (1 - .07 \times TM)$$

where:

P1 is the employee-contributed pension component;

EPU is the sum of the following:

- (a) $\frac{UHn - Cn}{Rn}$ (except where $\frac{Cn}{Rn}$ exceeds UHn);
- (b) $\frac{TCB}{RB}$; and
- (c) uc;

UHn is the number of units of pension for which Contributions were payable by the Contributor on the Contributor's Exit Day in accordance with the tables of contributions fixed by or under these Rules, but excluding:

- (a) any such units of pension which are excess units of pension referred to in subrule 6.1.1 and in respect of which no person has any rights under this Division; and
- (b) any such units of pension, being reserve units, for which Contributions were being made under rule 11.7;

Cn	is the amount of Contributions due for the last Contribution Period for which Contributions were payable by the Contributor before the Contributor's Exit Day, in respect of that number of units of pension;
Rn	is the amount which, if the Contributor were required under Part 8 to commence to contribute for an additional unit of pension on the Contributor's Exit Day, would be the amount payable in accordance with the tables of Contributions fixed under rule 8.3 for that unit for a Contribution Period;
TCB	is the total amount paid in respect of instalments payable by the Contributor on or before the Contributor's Exit Day for units of pension for which the Contributor contributed in accordance with Part 9 (but deducting therefrom any part of that amount allocated under these Rules to the purchase of fully paid up units);
RB	is the amount specified in subrule 9.1.1 as the cost of a unit of pension in relation to the Contributor;
UC	is the number of units (if any) purchased by the Contributor and credited to the Contributor as fully paid up units;
TM	is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the day from which the pension under this rule 13.4 commences to be payable precedes the date on which the Contributor attains the age of 60 years.

13.4.5 For the purposes of subrule 13.4.3, the employer-financed pension component, in relation to a Contributor, shall be calculated in accordance with the following formula:

$$P2 = 3.30 \times UE \times \frac{S}{S + TM} \times (1 - .04 \times TM)$$

where:

P2	is the employer-financed pension component;
UE	is the number of units of pension that, pursuant to subrule 11.1.1, is appropriate to the Salary payable to the Contributor on the Contributor's Exit Day plus, in a case to which rule 6.1 applies, the number of any excess units of pension referred to in subrule 6.1.1 and in respect of which the Trustee considers, in accordance with

subrule 6.1.5, that the retention of entitlement to Benefits under these Rules is warranted;

S is the number of years (including any fractional part of a year calculated on a daily basis) of continuous Contributory Service by the Contributor with any one or more Employers;

TM is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the day from which the pension under this rule 13.4 commences to be payable precedes the date on which the Contributor attains the age of 60 years.

13.4.6 If the Trustee has made a determination under rule 23.1 in respect of a pension payable under subrule 13.4.3, the amount of that pension is reduced by the amount specified in the Trustee's determination.

13.4.7 For the purposes of subrule 13.4.5, the period of continuous Contributory Service by a person on the person's Exit Day is the period that commenced when the person last became a Contributor and ended on that day (but excluding any part of that period during which the person is treated by rule 15.1 as being on leave of absence without pay).

13.4.8 Except as provided by subrule 13.4.9, a pension payable under this rule 13.4 shall commence and be payable as from the day following the Contributor's Exit Day.

13.4.9 A pension payable under this rule 13.4 to a Contributor who is Retrenched shall be payable as from and including the day after the date on which the Contributor actually leaves the Service of the Employer, whether or not at the Contributor's Exit Day any period of untaken leave was due to the Contributor.

13.4.10 Contributions payable by and in respect of a Contributor whose pension is payable under this rule 13.4 shall cease to be paid on the first day of the Contribution Period preceding that in which the pension commences to be payable in accordance with subrule 13.4.8 or 13.4.9.

13.5 Breakdown pensions

13.5.1 Except as provided by subrules 13.5.2, 13.5.4 and 13.5.6, if a Contributor is retired on the ground of invalidity or physical or mental incapacity to perform the Contributor's duties, the Contributor shall, subject to subrule 7.4.2, be entitled to the full pension for which the Contributor was contributing as at the Contributor's Exit Day.

13.5.2 If a Contributor:

(a) being a person who became a Contributor to the State Superannuation Scheme on or after 13th January 1978; or

(b) being a person who, immediately before 13th January 1978, was:

(i) a Contributor accepted or treated as a Contributor for limited Benefits under the State Superannuation Scheme as then in force; or

- (ii) a Contributor accepted or treated as a Contributor in the provisional category under the State Superannuation Scheme as then in force,

is retired on the ground of invalidity or physical or mental incapacity to perform the Contributor's duties and the number of years (disregarding any fraction of a year) comprising the period from the date when the Contributor last became a Contributor and the Contributor's Exit Day, after having subtracted from that period any period of retirement pursuant to rule 12.7 in respect of which the Contributor received a pension under the *Superannuation Act 1916*, is less than 10, the Contributor shall be entitled to a pension, the amount of which shall be calculated in accordance with the formula:

$$P = x \frac{A}{100} \times (80 + \frac{20B}{C})$$

where, in relation to the Contributor:

- P is the amount of the pension per fortnight;
- A is the amount of pension per fortnight that would have been payable to the Contributor under subrule 13.5.1 had the Contributor been a person to whom that subrule 13.5.1 applies;
- B is the number of years (disregarding any fraction of a year) comprising the period from the date when the Contributor last became a Contributor to the Contributor's Exit Day, after having subtracted from that period any period of retirement pursuant to rule 12.7 in respect of which the Contributor received a pension under the State Superannuation Scheme; and
- C is:
- (a) the number of years (disregarding any fraction of a year) comprising the period from the date when the Contributor last became a Contributor to the last day of the Contribution Period preceding that in which the Contributor would attain the Maturity Age; or
 - (b) 10,
- whichever is the lesser.

13.5.3 If the Trustee has made a determination under rule 23.1 in respect of a pension payable under subrule 13.5.2, the amount of the pension is reduced by the amount specified in the Trustee's determination.

13.5.4 If:

- (a) a person becomes a Contributor within the period of one year ending on and including the last day of the Contribution Period preceding that in which the Contributor would attain the Maturity Age;

- (b) the Contributor is retired on the ground of invalidity or physical or mental incapacity to perform the Contributor's duties; and
- (c) the Contributor's Exit Day precedes the last day of the Contribution Period referred to in paragraph (a),

then:

- (d) subrule 13.5.2 does not apply to that person; and
- (e) the Contributor shall be entitled to a pension equal to 80% of the amount of pension that would have been payable to the Contributor under subrule 13.5.1 had the Contributor been a person to whom subrule 13.5.1 applies.

13.5.5 Subrule 13.5.2 does not apply to a Contributor whose Exit Day is on or after the last day of the Contribution Period preceding that in which the Contributor attains or would attain the Maturity Age.

13.5.6 If, in respect of a Contributor referred to in subrule 13.5.2(b) (other than a Contributor referred to in subrule 13.5.2(b)(ii)), the amount of pension to which the Contributor would have been entitled, had the *Superannuation Act 1916* not been amended by the *Superannuation (Amendment) Act 1977*, is greater than the amount to which the Contributor would otherwise be entitled under subrule 13.5.2, the Contributor shall, notwithstanding subrule 13.5.2, be entitled to a pension of the greater amount.

13.5.7 A Contributor to whom this rule 13.5 applies shall be granted payment of pension only for such period at a time as the Trustee determines and a fresh application shall, unless the Trustee from time to time otherwise determines, be necessary before any further payment is made.

13.5.8 The period determined by the Trustee as referred to in subrule 13.5.7 for the payment of pension to a person who:

- (a) has not attained the Maturity Age, shall be such period (not exceeding 5 years) as the Trustee thinks fit, having regard to the state of health of the person; and
- (b) has attained the Maturity Age, may be for the remainder of the person's life.

13.5.9 *[deleted by Deed of Amendment No.7 operative 1/7/99]*

13.5.10 Contributions payable by or in respect of a Contributor to whom this rule 13.5 applies cease to be payable on the first day of the Contribution Period during which the pension becomes payable.

[amended by Deed of Amendment No.7 operative 1/7/99]

13.6 Pensions to Spouse on death of Contributor

13.6.1 On the death of a male Contributor, pension is, subject to rule 13.31, payable to his Spouse, at the rate of two-thirds of the pension that would have been payable

to the Contributor had he, where he was aged not less than 60 years, retired or been retired immediately before his death or, where he died before reaching the age of 60 years, had he been retired immediately before his death.

- 13.6.2 On the death of a woman Contributor, pension is, subject to rule 13.31, payable to her Spouse, at the rate of two-thirds of the pension that would have been payable to the Contributor had she, where she was aged not less than the Maturity Age, retired or been retired immediately before her death or, where she died before reaching the Maturity Age, had she been retired immediately before her death.

13.7 Pension to Spouse on death of pensioner

- 13.7.1 On the death of a male pensioner, pension is, subject to rule 13.31 and 13.33, payable to his Spouse, at the rate of two-thirds of the pension payable to the pensioner at the time of his death.

- 13.7.2 On the death of a woman pensioner, pension is, subject to rule 13.31 and 13.33, payable to her Spouse, at the rate of two-thirds of the pension payable to the pensioner at the time of her death.

- 13.7.3 Notwithstanding the foregoing provisions of this rule 13.7, but subject to rule 13.33, where a pensioner referred to in subrule 13.7.1 or 13.7.2 had contributed for not more than 4 units of pension in the State Superannuation Scheme and had received a pension increase in terms of section 2 of the *Superannuation (Amendment) Act 1970*, the pension payable to the pensioner's Spouse shall not exceed \$20 per fortnight, but nothing in this subrule affects the operation of Part 21.

- 13.7.4 A reference in subrule 13.7.1 or 13.7.2 to a pensioner does not include a person who is entitled to receive only a pension under this rule or rule 13.6.

13.7A Minimum Benefit payable in respect of a pensioner who dies

[13.7A inserted by Deed of Amendment No.4 operative 30/6/99]

- 13.7A.1 If a pensioner dies without leaving a Spouse to whom pension is payable under these Rules, nor a Child in respect of whom pension is payable under these Rules, there is payable to the personal representatives of the pensioner an amount calculated by deducting from the minimum Benefit payable in respect of the pensioner the total of all Benefits paid to the pensioner under these Rules.

- 13.7A.2 If a pensioner dies, leaving a surviving Spouse, and the surviving Spouse dies, and there is no Child of the pensioner or Spouse in respect of whom pension is payable under these Rules, there is payable to the personal representatives of the pensioner an amount calculated by deducting from the minimum Benefit payable in respect of the pensioner the total of:

- (a) all Benefits paid to the pensioner under these Rules;
- (b) all Benefits paid as a consequence of the death of the pensioner to the spouse or any other person under these Rules.

- 13.7A.3 If a pensioner dies leaving a surviving Spouse to whom pension is payable under these Rules, and no Child of the pensioner or spouse in respect of whom pension

is payable under these Rules, and the surviving Spouse elects to commute the whole of that pension under rule 12.4, there is payable to the Spouse, on that election taking effect, whichever is the greater of the following amounts:

- (a) the amount that would be payable under rule 12.4 (but for this rule 13.7A), or
- (b) the amount calculated by deducting from the minimum Benefit payable in respect of the pensioner the total of:
 - (i) all Benefits paid to the pensioner under these Rules; and
 - (ii) all Benefits paid as a consequence of the death of the pensioner to the Spouse or any other person under these Rules.

13.7A.4 If subrule 13.7A.1, 13.7A.2 or 13.7A.3 would apply in respect of a pensioner, but for the pensioner leaving a Child or Children in respect of whom pension is payable under these Rules (or would, but for this rule 13.7A, be so payable), the Trustee may, if it considers it to be in the best interests of the Child or Children, apply this rule 13.7A as if there were no such Child or Children, in which case pension or pensions are not payable under these Rules in respect of the Child or Children.

13.7A.5 If a pensioner has no personal representatives, an amount payable to the pensioner's personal representatives is to be paid to such person or persons as the Trustee may determine.

13.7A.6 For the purposes of this rule 13.7A, if a pensioner dies and his or her Spouse died at the same moment or in circumstances rendering it uncertain which of them survived the other, and the Spouse died before a pension became payable to him or her under these Rules because of the pensioner's death, the pensioner is taken not to have a surviving Spouse.

13.7A.7 For the purposes of this Rule 13.7A, the minimum Benefit payable in respect of a pensioner is the amount to which the pensioner would have been entitled under Rule 13.19 if the pensioner had, on the day determined by the Trustee as being the last day on which he or she was an Employee, resigned from the service of his or her employer and elected to take the benefit of that rule.

13.7A.8 In this rule 13.7A:

Benefits includes instalments of pension.

pensioner means a person to whom a pension is payable under these Rules because the person was a former Contributor, and includes a person who became entitled to a pension under these Rules because the person was a former Contributor and who commuted that pension in accordance with these Rules.

13.8 Death of Employee before retirement

13.8.1 Where an Employee dies before retirement without leaving a Spouse in respect of whom pension is payable under these Rules, the Employee shall, unless the

Employee leaves a Child or Children in respect of whom pension is payable under these Rules or would, but for this rule 13.8, be so payable, be deemed to have Resigned, immediately before dying, from the Service of the Employee's Employer and to have elected under 13.20 to take the benefit of 13.19.

13.8.2 The amount payable under rule 13.19 by reason of the death of an Employee in the circumstances referred to in subrule 13.8.1 shall be paid by the Trustee to the Employee's legal personal representatives or, where the Employee has no legal personal representatives, to such persons as the Trustee may determine.

13.8.3 Where an Employee referred to in subrule 13.8.1 leaves a Child or Children in respect of whom pension is payable under these Rules or would, but for this rule 13.8.3, be so payable, the Trustee may:

- (a) make a payment referred to in subrule 13.8.2 as if the Employee had not left such a Child or Children, in which case a pension or pensions shall not be payable under these Rules in respect of the Child or Children; or
- (b) pay a pension or pensions in respect of the Child or Children as if this rule 13.8 did not exist and pay to the legal personal representatives of the Employee or, if there are no legal personal representatives, to such persons as the Trustee may determine, an amount equal to the total of the contributions paid by the Employee to this Division,

whichever the Trustee considers to be in the best interests of the Child or Children.

13.8.4 If an Employee dies before retirement leaving a surviving Spouse in respect of whom pension is payable under these Rules, and no Child in respect of whom pension is payable under these Rules, and the surviving Spouse elects to commute the whole of that pension under rule 12.4, there is payable to the Spouse, on that election taking effect, whichever is the greater of the following amounts:

- (a) the amount that would be payable under rule 12.4 (but for this rule 13.8); or
- (b) the amount that would have been payable if the Employee had resigned, immediately before dying, from the Service of the Employee's Employer and elected under rule 13.20 to take the benefit of Rule 13.19, less the total of any Benefits paid as a consequence of the death of the Employee to the Spouse or any other person under these Rules (including any instalments of pension).

[inserted by Deed of Amendment No.4 operative 30/6/99]

13.8.5 If subrule 13.8.4 would apply in respect of an Employee, but for the Employee leaving a Child or Children in respect of whom pension is payable under these Rules (or would, but for this rule 13.8, be so payable), the Trustee may, if it considers it to be in the best interests of the child or children, apply subrule 13.8.4 as if there were no such Child or Children, in which case pension or pensions are not payable under these Rules in respect of the Child or Children.

[inserted by Deed of Amendment No.4 operative 30/6/99]

13.9 Extension of rule 13.8 to certain cases where Spouses die contemporaneously

Where:

- (a) an Employee died before the Employee's retirement, whether before, on or after the commencement of this rule 13.9;
- (b) the Employee's Spouse died at the same moment or after the Employee died or in circumstances rendering it uncertain which of them survived the other; and
- (c) the Spouse died before a pension became payable to the Spouse under these Rules consequent on the Employee's death,

the Employee shall, for the purposes of rule 13.8 or section 32A of the *Superannuation Act 1916* or section as in force at any time, be deemed not to have had a Spouse at the time of the Employee's death.

13.10 Death after retirement and before payment of pension

[deleted by Deed of Amendment No.7 operative 1/7/99]

13.11 Refund in certain cases where Spouse dies leaving Children

13.11.1 Where:

- (a) an Employee dies before retirement leaving a Spouse;
- (b) the Spouse dies; and
- (c) there are Children of the Employee or of the Spouse in respect of whom pension becomes payable in accordance with rule 13.13,

there shall be paid to the Employee's legal personal representatives or, where the Employee has no legal personal representatives, to such persons as the Trustee may determine a sum equal to the contributions paid by the Employee to this Division less:

- (d) the total amount of pension paid to the Spouse under rule 13.6 otherwise than in respect of a Child; and
- (e) any lump sum paid to the Spouse under rule 12.4 in respect of such a pension.

[amended by Deed of Amendment No.4 operative 1/1/00]

13.12 Children's pensions at rule 22.2 rates

13.12.1 A pension of the appropriate amount per fortnight under rule 22.2 is payable on the death of a Contributor or pensioner in respect of a Child if the conditions set out in subrules 13.12.2 and 13.12.3 are satisfied.

13.12.2 The Child must be a Child of the Contributor or pensioner or a Child of a surviving Spouse of the Contributor or pensioner who is not eligible to receive a pension under rule 13.13.

13.12.3 If the Child is not a Child of the Contributor or pensioner, the Child:

- (a) must have been born or adopted before the death of the Contributor or pensioner; and
- (b) must have been ordinarily part of the Contributor's or pensioner's household at the time of the death of the Contributor or pensioner.

13.12.4 A pension under this rule 13.12 ceases to be payable in respect of a Child if the surviving parent dies.

13.12.5 A pension under this rule 13.12 continues to be payable notwithstanding that the surviving parent marries or remarries.

13.12.6 Nothing in this rule affects the operation of rule 13.33.

13.12.7 In this rule:

pensioner means a person who received a pension because the person was a former Contributor.

13.13 Children's pensions at rule 22.3 rates

13.13.1 A pension of the appropriate amount per fortnight under rule 22.3 is payable on the death of a Contributor or pensioner in respect of a Child if the conditions set out in subrules 13.13.2 - 13.13.4 are satisfied.

13.13.2 The Child must be a Child of the Contributor or pensioner or a Child of a Spouse of the Contributor or pensioner.

13.13.3 The other parent of the Child or the Spouse of the Contributor or pensioner who was a parent of the Child:

- (a) must have died before the Contributor's or pensioner's death;
- (b) must have been divorced from the Contributor or pensioner; or
- (c) must have been in a De Facto Relationship with the Contributor or pensioner that ended before the Contributor's or pensioner's death.

13.13.4 If the Child is not a Child of the Contributor or pensioner:

- (a) in a case where the Spouse who is the parent of the Child is divorced from or the former De Facto Spouse of the pensioner or Contributor, the Child must have been born or adopted before the divorce or end of the De Facto Relationship; and
- (b) in any case, the Child must have been ordinarily part of the Contributor's or pensioner's household at the time of the death of the Spouse, divorce or end of the De Facto Relationship.

13.13.5 In this rule 13.13:

pensioner means a person who received a pension because the person was a former Contributor;

Spouse includes a person previously married to the Contributor or pensioner or a former De Facto Spouse.

13.13.6 Where a pension ceases to be payable under rule 13.12 in respect of a Child because the surviving parent dies, a pension of the appropriate amount per fortnight under rule 22.3 is payable in respect of the Child.

13.13.7 Nothing in this rule 13.13 affects the operation of rule 13.33.

13.14 The Trustee may determine to pay Children's pensions in other cases

The Trustee may, if it considers it appropriate, determine that a pension is payable under a provision of these Rules to a Child even though the Child is not eligible under that provision to receive a pension.

13.15 The Trustee to apportion Benefit between the Contributors' Reserve and the appropriate Employer Reserve

13.15.1 Whenever:

- (a) a Benefit under these Rules becomes payable to a Contributor (other than a Benefit under Part 16);
- (b) a Contributor elects to take the Benefit of Part 16; or
- (c) if a Contributor has died without having received a Benefit under these Rules the Benefit becomes payable to another person in consequence of that death,

the Trustee must ascertain the portion of the Benefit that is payable from the Contributors' Reserve and the portion that is payable from the appropriate Employer Reserve.

13.15.2 For the purposes of subrule 13.15.1:

- (a) the portion of the Benefit payable to or in respect of a Contributor from the Contributors' Reserve is an amount equal to the lesser of the amount calculated according to subrule 13.15.4 and the relevant amount; and
- (b) the portion of the Benefit payable to or in respect of the Contributor from the appropriate Employer Reserve is equal to the relevant amount, less the amount ascertained under paragraph (a).

13.15.3 For the purposes of subrule 13.15.2, the relevant amount is:

- (a) if a lump sum Benefit (other than a commutation of pension) is to be paid to or in respect of the Contributor, the amount of the Benefit payable to or in respect of the Contributor; or
- (b) if a pension or a commutation of a pension is to be paid to or in respect of the Contributor, the amount calculated by the Trustee as the capitalised value of the Benefits payable to or in respect of the Contributor.

13.15.4 For the purposes of subrule 13.15.2, the amount to be calculated is:

- (a) the amount that would have been payable if the Contributor had elected to take the Benefit of rule 13.18; and
- (b) interest:
 - (i) compounded on 30 June in each year in respect of the period beginning with the day on which the Contributor first became liable to make contributions under these Rules and ending with the day on which the Contributor ceased to be employed by an Employer; and
 - (ii) calculated at the prescribed rate on the amount ascertained by applying the formula set out in subrule 13.15.5.

13.15.5 For the purposes of subrule 13.15.4(b), the formula is as follows:

$$\frac{A + B}{2}$$

where:

- A represents the total amount of Contributions (excluding Contributions refundable under subrule 11.7.7 or 11.7.8) that the Contributor had paid to this Division from the beginning of the Contributor's Contributory Service to the beginning of the period in respect of which the calculation is to be made, together with interest if any) at the prescribed rate calculated at 30 June immediately preceding that period;
- B represents the total amount of those Contributions from the beginning of the Contributor's Contributory Service to the end of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated as at 30 June immediately preceding that period.

13.15.6 For the purposes of this rule 13.15, *prescribed rate* means:

- (a) in respect of any relevant period ending before 1 July 1972, 3.5% per year; and
- (b) in respect of any relevant period beginning on or after 1 July 1972, the rate as fixed by the Trustee from time to time, having regard to the earnings of this Division and such other matters as the Trustee considers relevant.

13.16 Retrenchment Benefits payable to an Employee who is Retrenched after completing 10 years' Service

13.16.1 This rule 13.16 does not apply to an Employee who is Retrenched before having completed 10 years' Service with any one or more Employers.

- 13.16.2 In the case of the retrenchment of an Employee who was a Contributor to the State Superannuation Scheme at 30th June 1963, the Contributor is, subject to rule 13.20, entitled to either:
- (a) a lump sum payment equal to three and one-half times the sum of:
 - (i) the contributions that the Contributor paid to the State Superannuation Scheme (but without interest) before 13th January 1952; and
 - (ii) ten-elevenths of the contributions that the Contributor has paid to the State Superannuation Scheme (but without interest) on or after 13th January 1952 and to this Division (but without interest),
 in determination of all rights given by these Rules (subrule 13.16.4 excepted); or
 - (b) such pension as is determined by the Trustee to be the equivalent of the Contributor's rights in this Division.
- 13.16.3 In the case of the Retrenchment of an Employee who became a Contributor to the State Superannuation Scheme on or after 1st July 1963, the Contributor is, subject to rule 13.20, entitled to either:
- (a) a lump sum payment equal to two and one-half times the contributions that the Contributor has paid to the State Superannuation Scheme and this Division (but without interest), in determination of all rights given by these Rules (subrule 13.16.4 excepted); or
 - (b) such pension as is determined by the Trustee to be the equivalent of the Contributor's rights in this Division.
- 13.16.4 An Employee entitled to:
- (a) a lump sum payment under subrule 13.16.2(a) is also entitled to a lump sum payment equal to two and one-half times an amount equal to ten-elevenths of the contributions; or
 - (b) a lump sum payment under subrule 13.16.3(a) is also entitled to a lump sum payment equal to one and one-half times an amount equal to the contributions,
- that would have been payable by him under these Rules in respect of each of the Reduced Value Units allocated to him, had each such Reduced Value Unit been held by him as a Contributory Unit as from the earliest of the times that he is deemed by subrule 14.1.7 to have held the Reduced Value Unit.
- 13.16.5 If the Trustee has made a determination under rule 23.1 in respect of a Benefit payable under this rule 13.16, the amount of the Benefit is reduced by the amount specified in the Trustee's determination.
- 13.16.6 Where an Employee who has been Retrenched and is in receipt of a pension thereafter enters the Service of an Employer:

- (a) the pension shall not cease to be payable;
- (b) the Employee shall contribute as provided in Parts 4 -11; and
- (c) the Employee shall not be entitled to count the Employee's Service prior to retrenchment as Service for the purpose of any other pension or Benefit under these Rules.

13.16.7 Where an Employee who has been Retrenched and has received a lump sum under this rule 13.16 thereafter enters the Service of an Employer, the Employee is not entitled to claim any further Benefit in respect of the Employee's previous Service unless he complies with rule 13.21.

13.16.8 A person who, before becoming a Contributor, was:

- (a) employed on terms requiring the Contributor to give the whole of his or her time to that employment; and
- (b) was paid at an hourly, daily, weekly or fortnightly rate, or at piecework rates,

is entitled to have that employment treated as Service as an Employee for the purposes of this rule 13.16.

13.16.9 Whenever:

- (a) a period of employment that a Contributor has had with an Employer; and
- (b) a later period of Service that the Contributor has had as an Employee with an Employer,

are continuous the Trustee may, if satisfied that, having regard to the nature of the work performed by the Contributor during that period of employment, it is proper to do so, treat, for the purposes of this rule 13.16, that period of employment as a period of Service as an Employee with that Employer.

13.16.10 A reference in subrule 13.16.9 to a period of Service as an Employee with an Employer includes a reference to a period treated under subrule 13.16.8 or 13.16.9 as a period of Service as an Employee.

13.17 Retrenchment Benefits payable to Contributors having not less than 3 years' Contributory Service

13.17.1 This rule 13.17 applies to a Contributor who is Retrenched from the Service of an Employer on or after 13 February 1987 and who, at the time of retrenchment, has completed 3 years' continuous Contributory Service.

13.17.2 For the purpose of subrule 13.17.1, a Contributor who is Retrenched shall be taken to have completed 3 years' continuous Contributory Service when:

- (a) the Contributor has, for a continuous period of 3 years or more immediately preceding the retrenchment, been employed in the Service of an Employer or Employers; and

- (b) during the continuous period of 3 years immediately preceding the retrenchment, the Contributor has been a Contributor under these Rules or has been a Contributor under these Rules and a Contributor to the Public Authorities Superannuation Scheme.

13.17.3 For the purposes of subrule 13.17.1, the period of continuous Contributory Service by a Contributor at the Contributor's Exit Day is:

- (a) subject to paragraph (b), the period that commenced when the Contributor last became a Contributor to the State Superannuation Scheme and ended on that Exit Day; or
- (b) if immediately before becoming a Contributor to the State Superannuation Scheme the Contributor was a Contributor to the Public Authorities Superannuation Fund, the period that commenced when the Contributor last became a Contributor to the Public Authorities Superannuation Fund and ended on that Exit Day,

but excluding in either case any part of that period during which the Contributor is treated by rule 15.1 as being on leave of absence without pay.

13.17.4 A Contributor to whom this rule 13.17 applies is, subject to rule 13.20, entitled to either:

- (a) a lump sum Benefit calculated in accordance with the formula set out in subrule 13.17.5; or
- (b) such pension as is determined by the Trustee to be the equivalent of the Contributor's rights in this Division.

13.17.5 The formula referred to in subrule 13.17.4(a) is as follows:

$$B = C + E$$

where:

B represents the Benefit to be determined;

C is equal to:

(a) $P1 \times (0.96 M-A) \times F$; or
[amended by Deed of Amendment No.4 operative 30/6/99]

(b) the contributions paid by the Contributor,
 whichever is the greater; and

E is equal to $P2 \times (0.98 M-A) \times F$.

13.17.6 For the purposes of subrule 13.17.5:

A represents the Contributor's age in years and any fractional part of a year (that part to be calculated on a daily basis) on the Contributor's Exit Day;

- F is equal to:
- (a) if M is 60 or more, 285; and
 - (b) if M is less than 60, $320 - (M-55) \times 7$;
- M represents the greater of the following:
- (a) the Contributor's Maturity Age;
 - (b) the Contributor's age in years and any fractional part of a year (that part to be calculated on a daily basis) at the date on which the Contributor last became a member of the State Superannuation Scheme + 10;
- P1 is the employee-contributed pension component calculated in accordance with subrule 13.17.7(a); and
- P2 is the employer-financed pension component calculated in accordance with subrule 13.17.7(b).

13.17.7 In subrule 13.17.6:

(a) $P1 = 2.20 \times EPU$

where EPU is the sum of:

- (i) $UH_n - \frac{C_n}{R_n}$ (except where $\frac{C_n}{R_n}$ exceeds UH_n)
- (ii) $\frac{TCB}{RB}$; and
- (iii) UC; and

(b) $P2 = 3.30 \times UE \times \frac{S}{S + T}$

where:

- UE is the number of units of pension that, pursuant to subrule 11.1.1, is appropriate to the Salary payable to the Contributor on the Contributor's Exit Day plus, in a case to which rule 6.1 applies, the number of any excess units of pension referred to in subrule 6.1.1 and in respect of which the Trustee considers, in accordance with subrule 6.1.5, that the retention of entitlement to Benefits under these Rules is warranted;
- S is the number of years (including any fractional part of a year calculated on a daily basis) of continuous Contributory Service by the Contributor with any one or more Employers;
- T is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the Contributor's Exit Day precedes:

- (a) the date on which the Contributor attains the Maturity Age; or
- (b) where any employment which, on the Contributor's Exit Day, the Contributor is entitled to count as Service for the purposes of rule 12.1 is, in total, for less than a period of 10 years, the expiration of the balance of that period of 10 years,

whichever is the later.

13.17.8 For the purposes of subrule 13.17.7(a):

UHn is the number of units of pension for which Contributions were payable by the Contributor on the Contributor's Exit Day in accordance with the tables of Contributions fixed by or under these Rules, but excluding:

- (a) any such units of pension which are excess units of pension referred to in subrule 6.1.1 and in respect of which no person has any rights in this Division; and
- (b) any such units of pension, being reserve units, for which Contributions were being made under rule 11.7;

Cn is the amount of Contributions due for the last Contribution Period for which Contributions were payable by the Contributor before the Contributor's Exit Day, in respect of that number of units of pension;

Rn is the relevant amount under subrule 13.17.9 in relation to the Contributor for an additional unit of pension on the Contributor's Exit Day;

TCB is the total amount paid in respect of instalments payable by the Contributor on or before the Contributor's Exit Day for units of pension for which the Contributor contributed in accordance with Part 9 (but deducting from that amount any part allocated under these Rules to the purchase of fully paid up units);

RB is the amount specified in subrule 9.1.1 as the cost of a unit of pension in relation to the Contributor; and

UC is the number of units (if any) purchased by the Contributor and credited to the Contributor as fully paid up units.

13.17.9 For the purposes of subrule 13.17.8, the relevant amount in relation to a Contributor for an additional unit of pension on the Contributor's Exit Day is:

- (a) where the Contributor has attained the Prescribed Age on or before that day, the amount which, if the Contributor were required under Part 8 to commence to contribute for an additional unit of pension on that day, would be the amount payable in accordance with the tables of Contributions fixed under rule 8.3 for that unit for a Contribution Period; or

- (b) where the Contributor has not attained the Prescribed Age on or before that day, the amount equal to the sum of:
 - (i) the amount payable by the Contributor for any additional unit of pension for which the Contributor had been required to commence contributing on and from the Contributor's last Annual Adjustment Day for a Contribution Period or, as the case may be, the amount that would have been so payable if the Contributor had been so required; and
 - (ii) for each day of the period commencing on the day following that Annual Adjustment Day and ending on the Contributor's Exit Day, the amount equal to 1/364th part of the difference between the amount referred to in subparagraph (i) and the amount that that amount would have been if, on the Contributor's last Annual Review Day before the Contributor's Exit Day, the Contributor had been 1 year older than the age actually attained.

13.17.10 For the purposes of subrule 13.17.7(b), the period of continuous Contributory Service by a Contributor on the Contributor's Exit Day is the period that commenced when the Contributor last became a Contributor and ended on that day, but excluding any part of that period during which the Contributor is treated by rule 15.1 as being on leave of absence without pay.

13.17.11 If the Trustee has made a determination under rule 23.1 in respect of a Benefit payable under this rule 13.17, the amount of the Benefit is reduced by the amount specified in the Trustee's determination.

13.17.12 If a former Employee who:

- (a) has been Retrenched; and
- (b) has received a retrenchment Benefit under this rule 13.17,

subsequently enters the Service of the same or another Employer, the former Employee is not entitled to claim any further Benefit in respect of previous Service with an Employer unless the former Employee has complied with 13.21.

13.18 Refund of contributions

13.18.1 If a Contributor:

- (a) is Retrenched from the Service of an Employer; or
- (b) Resigns or is Dismissed or Discharged from the Service of an Employer,

the Contributor is, subject to rule 13.20, entitled to be paid a lump sum (without interest) equal to the Contributions (other than Contributions refundable under subrule 11.7.8) paid by the Contributor under these Rules, irrespective of the cause of the retrenchment, resignation, dismissal or discharge.

13.18.2 Whenever a lump sum is paid under subrule 13.18.1, there shall, subject to subrule 13.18.3, be deducted from that sum any amount received by the

Contributor as a pension before the Contributor's retrenchment, resignation, dismissal or discharge.

13.18.3 A deduction under subrule 13.18.2 must not reduce the amount paid to a Contributor under this rule 13.18 to an amount below the contributions paid by the Contributor since the Contributor last received any amount as pension.

13.18.4 If a former Employee who:

- (a) has been Retrenched, Dismissed or Discharged, or has Resigned; and
- (b) has received a Benefit under this rule 13.18 or rule 13.19,

subsequently enters the Service of the same or another Employer, the former Employee is not entitled to claim any further Benefit in respect of previous Service unless the former Employee has complied with rule 13.21.

13.19 **Withdrawal Benefit**

13.19.1 In this rule 13.19:

Contributory Service, in relation to a Contributor who is Retrenched, Resigns or is Dismissed or Discharged from the Service of an Employer, is the next preceding period that:

- (a) began:
 - (i) when the Contributor last became a Contributor; or
 - (ii) if, since last becoming a Contributor, the Contributor had been held to be on leave of absence without pay as provided by rule 15.1, when an Employer re-employed the Contributor after that leave of absence; and
- (b) ended when the Contributor's employment with the Employer ceased;

prescribed rate means:

- (a) in respect of any relevant period ending before 1 July 1972, 3.5% per year; and
- (b) in respect of any relevant period beginning on or after 1 July 1972 - the rate as fixed by the Trustee from time to time, having regard to the earnings of the Fund or a fund that was a Former Fund and such other matters as the Trustee considers relevant.
[replaced by Deed of Amendment No.4 operative 30/6/99]
- (c) [deleted by Deed of Amendment No.4 operative 30/6/99]
- (d) in respect of any relevant period beginning on or after the date of transfer of the Contributor the rates as fixed by the Trustee from time to time having regard to such matters as the Trustee considers relevant.

13.19.2 If a Contributor who has not completed 5 years' Contributory Service is Retrenched, Resigns or is Dismissed or Discharged from the Service of an

Employer, the Contributor is, subject to rule 13.20, entitled to receive from this Division the amount that would have been payable if the Contributor had elected to take the Benefit of rule 13.18.

13.19.3 If a Contributor who has completed 5 years' but less than 10 years' Contributory Service is Retrenched, Resigns or is Dismissed or Discharged from the Service of an Employer, the Contributor is, subject to rule 13.20, entitled to receive from this Division an amount equal to the sum of:

(a) the amount that would have been payable if the Contributor had elected to take the Benefit of rule 13.18; and

(b) interest:

(i) compounded on 30 June each year in respect of the period beginning with the day on which the Contributor first became liable to make contributions under these Rules and ending with the day on which the Contributor ceased to be employed by that Employer; and

(ii) calculated at the prescribed rate on the amount ascertained by applying the formula set out in subrule 13.19.5.

13.19.4 If a Contributor who has 10 years' Contributory Service or more is Retrenched, Resigns or is Dismissed or Discharged from the Service of an Employer, the Contributor is, subject to rule 13.20, entitled to receive from this Division an amount equal to the sum of:

(a) the amount that would have been payable if the Contributor had elected to take the Benefit of rule 13.18; and

(b) interest:

(i) compounded on 30 June each year in respect of the period beginning with the day on which the Contributor first became liable to make contributions under these Rules and ending with the day on which the Contributor ceased to be employed by that Employer; and

(ii) calculated at the prescribed rate on the amount ascertained by applying the formula set out in subrule 13.19.5; and

(c) a further amount calculated in accordance with the following formula:

$$\frac{T \times P}{40}$$

where:

- T represents the sum of the amounts referred to in paragraphs (a) and (b); and
[replaced by Deed of Amendment No.4 operative 30/6/99]
- P represents the period of the Contributor's Contributory Service, expressed in years with any fractional part of a year being calculated on a daily basis.

13.19.5 For the purposes of subrules 13.19.3(b) and 13.19.4(b), the formula is as follows:

$$\frac{A + B}{2}$$

where:

- A represents the total amount of Contributions (excluding Contributions refundable under subrule 11.7.8) that the Contributor had paid to this Division from the beginning of the Contributor's Contributory Service to the beginning of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated at 30 June immediately preceding that period; and
- B represents the total amount of those Contributions from the beginning of the Contributor's Contributory Service to the end of the period in respect of which the calculation is to be made, together with interest (if any) at the prescribed rate calculated at 30 June immediately preceding that period.

13.19.5A Despite subrules 13.19.2, 13.19.3, and 13.19.4, the maximum amount that a Contributor is entitled to receive from the Fund under this rule is:

- (a) in the case of a Contributor who has not attained the age of 55 years - the amount calculated by the Trustee, on the basis of actuarial advice, as the capitalised value of the pension that would have been payable to the Contributor had he or she been 55 years of age and elected to retire on pension, or
- (b) in the case of a Contributor who has attained the age of 55 years - the amount calculated by the Trustee as the capitalised value of the pension that would have been payable to the Contributor if the Contributor had elected to retire on pension at his or her current age.

[13.19.5A inserted by Deed of Amendment No.4 operative 30/6/99]

13.19.5B If the Trustee calculates that the maximum amount that a Contributor is entitled to receive from the Fund under Rule 13.19.5A is less than the amount the Contributor would receive under Rule 13.19 if the terms applying immediately prior to the amendments that took effect on 30 June 1999 are applied to calculate the benefit, then the Contributor is entitled to receive that greater amount.

The 'Prescribed Rate' in rule 13.19.1 as it stood immediately prior to that amendment, being as follows:

Prescribed rate

- (a) in respect of any relevant period ending before 1 July 1972, 3.5% per year; and
- (b) in respect of any relevant period beginning on or after 1 July 1972 and ending before 1 July 1990, 4.5% per year; and
- (c) in respect of any relevant period beginning on or after 1 July 1990 and ending before the date of transfer of the Contributor, the rate as fixed by the SAS Trustee Corporation under the Superannuation Act 1916 from time to time, having regard to the earnings or such other matters as the Trustee considers relevant; and
- (d) in respect of any relevant period beginning on or after the date of transfer of the Contributor, the rate as fixed by the Trustee from time to time having regard to such matters as the Trustee considers relevant.

'T' in rule 13.19.4 as it stood immediately prior to that amendment, being as follows:

T represents the amount referred to in paragraph (a), together with such amount as would have been the amount of interest calculated for the purpose of paragraph (b) if:

- (i) for any relevant period beginning on or after 1 July 1972, the prescribed rate had been 4.5% per year; and
- (ii) for any relevant period before that date the prescribed rate had been 3.5% per year; and

[13.19.5B inserted by Deed of Amendment No. 29 operative 30/04/08]

13.19.6 If the Trustee has made a determination under rule 23.1 in respect of a Benefit payable under this rule 13.19, the amount of the Benefit is reduced by the amount specified in the Trustee's determination.

13.20 Contributor who is Retrenched, Resigns or is Dismissed or Discharged to be entitled to the greatest available Benefit

13.20.1 A Contributor who is Retrenched from the Service of an Employer and who, at the date when the retrenchment takes effect, is not entitled to elect to retire on a pension under rule 13.1, 13.2, 13.3 or 13.4 may, at any time before the end of 3 months after that date, elect between taking:

- (a) a lump sum Benefit payable under a provision of Parts 12-24 to any such Contributor who is Retrenched;
- (b) if such a provision also confers an entitlement to a pension, a pension; or

- (c) subject to subrule 13.20.7, the benefit of Part 16.
- 13.20.2 A Contributor who Resigns or is Dismissed or Discharged from the Service of an Employer may, at any time before the end of 3 months after the date when the Resignation, Dismissal or Discharge takes effect, elect between taking:
- (a) a lump sum Benefit payable under a provision of Parts 12-24 to a Contributor who has Resigned or is Dismissed or Discharged; or
 - (b) subject to subrule 13.20.7 the benefit of Part 16.
- 13.20.3 If a Contributor is Retrenched, Resigns or is Dismissed or Discharged from the Service of an Employer, the Employer must take all practicable steps to obtain from the Contributor an election under subrule 13.20.1 or 13.20.2 and, after obtaining such an election, must forward it immediately to the Trustee.
- 13.20.4 If a Contributor who is entitled to make an election under subrule 13.20.1 or 13.20.2 to take a particular kind of Benefit does not make such an election before the end of the prescribed period, the Contributor shall be taken to have elected to take the kind of Benefit that the Trustee decides to be the most appropriate in the circumstances of the case.
- 13.20.5 If a Contributor elects under this rule 13.20 to take a particular kind of Benefit under subrule 13.20.1 and would, but for subrule 13.20.6, be entitled to a Benefit of that kind under 2 or more provisions of Parts 12-24, the Trustee must calculate which of the Benefits under those provisions would be the greater or greatest.
- 13.20.6 A Contributor referred to in subrule 13.20.5 is entitled to receive only the greater or greatest of the Benefits calculated under that subrule.
- 13.20.7 A Contributor who is Retrenched, Resigns or is Dismissed or Discharged from the Service of an Employer is not entitled to elect under subrule 13.20.1 or 13.20.2 to take the Benefit of Part 16 unless the Contributor has completed 3 years' continuous Contributory Service.
- 13.20.8 For the purposes of subrule 13.20.7, a Contributor to whom that subrule applies shall be taken to have completed 3 years' Contributory Service when:
- (a) a Contributor has, for a continuous period of 3 years or more immediately preceding the retrenchment, been employed in the Service of one or more Employers; and
 - (b) during the period of 3 years immediately preceding the retrenchment, the Contributor has been a Contributor under these Rules or has been a Contributor under these Rules and a Contributor to the Public Authorities Superannuation Fund.
- 13.20.9 For the purposes of subrule 13.20.7, the period of continuous Contributory Service by a Contributor at the Contributor's Exit Day is:
- (a) subject to paragraph (b), the period that commenced when the Contributor last became a Contributor to this Division and ended on that Exit Day; or

- (b) if immediately before becoming a Contributor to The State Superannuation Scheme the Contributor was a Contributor to the Public Authorities Superannuation Fund, the period that commenced when the Contributor last became a Contributor to the Public Authorities Superannuation Fund and ended on that Exit Day,

but excluding in either case any part of that period during which the Contributor is treated by rule 15.1 as being on leave of absence without pay.

13.21 Break in Service may be cured on certain conditions

- 13.21.1 In this rule 13.21, a reference to the *prescribed rate* is a reference to the rate of interest for the time being fixed by the Trustee under rule 24.5 for the purposes of this rule 13.21.
- 13.21.2 Where a person who ceases to be employed by an Employer (otherwise than by retirement or Retrenchment on pension under these Rules) enters the Service of the same or a different Employer within the next succeeding period of three months and, within that same period of three months, would (but for rule 1.4) be required to contribute to this Division, the person may, subject to subrule 13.21.8, elect to resume payment of Contributions as if the person had not ceased to be employed if the person elects within three months after the person would (but for rule 1.4) be required to contribute to this Division to comply, and upon the election taking effect does comply, with this rule 13.21.
- 13.21.3 A person referred to in subrule 13.21.2 complies with this rule 13.21 if:
 - (a) the person pays to this Division any lump sum received by the person, or authorises the retention in this Division of any lump sum payable to the person, under rule 13.16, 13.17, 13.18 or 13.19 in consequence of the cessation of the person's employment together with, where the person has received any such amount, interest thereon at the prescribed rate from the date the amount was paid to the person to the date of receipt in the office of the Trustee of the amount payable pursuant to this paragraph;
 - (b) the person pays to this Division the amount referred to in subrule 13.21.4; and
 - (c) the person resumes payment to this Division of the Contributions that would, had the person continued in the employment of the person's previous Employer, have been payable by the person on and from the beginning of the four-weekly Contribution Period in which the person ceased to be employed.

- 13.21.4 The amount required to be paid under subrule 13.21.3(b) by a person who makes an election under this rule 13.21 is an amount equal to the sum of:
- (a) all the Contributions that would have been payable:
 - (i) by the person from the day following the day to which the person's Contributions were paid before cessation of the person's former employment; and
 - (ii) by the person's Employer from the beginning of the four-weekly Contribution Period in which the person ceased to be employed, had the person continued in the employment of the person's former Employer, at the same Salary as that which the person was receiving immediately before cessation of the Contributions the person was required to make by reason of the person's former employment, until the beginning of the first Contribution Period in which the person's employment resumes; and
 - (b) interest at the prescribed rate on the amount of each Contribution referred to in paragraph (a) from the termination of the four-weekly Contribution Period in respect of which it is required to be paid to the date of receipt of the Contribution in the office of the Trustee.
- 13.21.5 The Trustee may, in special circumstances and in a particular case:
- (a) waive payment of interest under this rule 13.21 or any part thereof; or
 - (b) permit payment over an extended period of any amount required to be paid pursuant to subrule 13.21.3(a) or (b).
- 13.21.6 Where a person who makes an election under this rule 13.21 was, immediately before cessation of the person's employment, contributing for reserve units of pension under rule 11.7, the person may, when making an election under this rule 13.21, make an election under section 15(6) of the *Superannuation Act 1916* and, where the person so elects under that section, contributions in respect of the reserve units to which the election under that section relates shall not be taken into account when calculating any amount payable by that person under this rule 13.21.
- 13.21.7 Parts 4-11 apply to and in respect of a person who makes an election under this rule 13.21 and does not comply with this rule 13.21, and so applies as if the person had not made the election.
- 13.21.8 Rule 3.1 does not apply to a person who makes an election under this rule 13.20, unless the Trustee directs that that rule shall apply to the person.
- 13.21.9 A person who ceases to be an Employee and elects under rule 13.21 to take the benefit of Part 16 may not, upon entering the Service of an Employer within the next succeeding period of 3 months, make an election under this rule 13.21 if, during that period, the person received any Benefit under that Part 16.

13.21.10 Where a person who is deemed under subrule 13.21.11 not to have ceased to be an Employee had, upon ceasing to be an Employee, elected under rule 13.20 to take the benefit of Part 16:

- (a) the person shall be deemed not to have elected to take the benefit of Part 16; and
- (b) no person has any rights in this Division in relation to the employee-contributed pension component, or the employer-financed pension component, calculated in relation to the person.

13.21.11 A person who makes an election under, and complies with, this rule 13.21 shall, for the purposes of these Rules, but subject to subrule 13.21.8, be deemed not to have ceased to be an Employee or a Contributor by reason of the cessation of employment that gave rise to the election.

13.22 ***

[deleted by Deed of Amendment No.4 operative 30/6/99]

13.23 ***

[deleted by Deed of Amendment No.4 operative 30/6/99]

13.24 ***

[deleted by Deed of Amendment No.4 operative 30/6/99]

13.25 Incapacity or absence of pensioner

13.25.1 Subject to Superannuation Law if because of a pensioner's incapacity from any cause or because a pensioner cannot be found the Trustee is of opinion that payment of a pension or other Benefit under these Rules should be made to a person other than the pensioner or other beneficiary, and is satisfied that such payment will be used for the maintenance, care and support of the pensioner or beneficiary, or a person who is wholly or partly dependent on the pensioner or beneficiary, the Trustee may make payment of the pension or part thereof to such other person during the period of absence or incapacity.
[amended by Deed of Amendment No.4 operative 30/6/99]

13.25.2 Any amount payable pursuant to subrule 13.25.1 shall be deducted from any pension or Benefit payable to the pensioner or beneficiary.

13.25.3 Any payment made by the Trustee under the authority of this rule 13.25 shall be as valid as if made by way of pension or Benefit to the pensioner or beneficiary, as the case may be.

13.26 Payments in respect of Children

13.26.1 A pension payable under these Rules in respect of a Child shall be paid to the Child's mother, if living, or, if she is not living, to the Child's father, if living.

13.26.2 Notwithstanding anything elsewhere contained in these Rules, any money payable out of this Division under these Rules in respect of a Child may, at the discretion

of the Trustee, be paid to the Child's guardian or expended by the Trustee for the Benefit of the Child.

- 13.26.3 Not more than one pension may be paid in respect of the one Child during any one period and where, but for this subrule 13.26.3, pensions would be payable, in respect of the Child, of the appropriate amount per fortnight under both rule 22.2 and 22.3, the pension payable shall be that of the appropriate amount per fortnight under rule 22.3.

13.27 Pensions in respect of students

- 13.27.1 The provisions of this rule 13.27 shall have effect notwithstanding anything contained elsewhere in these Rules.

- 13.27.2 In this section *student* means a person who, though having attained the age of 18 years, is under the age of 25 years and is receiving full time education from a school, college or university approved by the Trustee.

- 13.27.3 A pension under this rule 13.27:

- (a) shall be payable in respect of a student if a pension would be payable in respect of such student were the student under the age of 18 years; and
- (b) shall be payable to such persons as the Trustee determines a pension would have been payable were such student under the age of 18 years or shall be expended by the Trustee towards the support or education of such student.

- 13.27.4 The amount of pension payable under this rule 13.27 shall be:

- (a) in the case of a student in respect of whom a pension would be payable under rule 13.12 were the student under the age of 18 years, the appropriate amount per fortnight under rule 22.3; or
- (b) in any other case, the appropriate amount per fortnight under rule 22.2.

- 13.27.5 A pension payable under this rule 13.27 shall be paid until the student attains the age of 25 years or ceases to be a student or dies whichever first occurs.

- 13.27.6 A pension shall not be paid to any person in respect of a student unless the Trustee is satisfied that such pension is being used for or towards, or such person contributes towards, the support or education of such student.

- 13.27.7 For the purposes of this rule 13.27 the Trustee may at any time require evidence of the age of the student, the education being received by the student, or the support or education of the student for or towards which the pension is being used, or being contributed to by any person to whom a pension under this rule 13.27 is payable.

In default of the provision of such evidence or if in the opinion of the Trustee the evidence provided is not satisfactory, the Trustee may refuse to pay such pension.

13.28 Pensions payable for a life

- 13.28.1 Except where otherwise specifically provided, a pension shall be payable during the life of the person entitled to it.
- 13.28.2 Pensions in respect of Children shall be payable until they reach the age of 18 years or die under that age.

13.29 Pensions payable fortnightly

Pensions shall be payable by equal fortnightly instalments.

13.30 Reduction of Spouses' pensions

Except where otherwise specifically provided, in any case where in these Rules provision is made for the pension of any person to be determined by the Trustee, any pension under these Rules to the person's Spouse in respect of the Spouse's own life shall be two-thirds of the amount so determined, but not less than one unit.

13.31 Miscellaneous provisions as to Spouses' pensions

- 13.31.1 In this rule 13.31, *Spouse's pension* means a pension under rule 13.6 or 13.7.
- 13.31.2 Where, but for this subrule 13.31.2, a person would be entitled to more than one Spouse's pension, the person shall be entitled to only one of those pensions, being (where they are not equal) the greater or greatest of them.
- 13.31.3 A reference in:
- (a) subrule 13.6.1 to the pension that would have been payable to a male Contributor on his retirement;
 - (b) subrule 13.6.2 to the pension that would have been payable to a woman Contributor on her retirement;
 - (c) subrule 13.7.1 to the pension payable to a Spouse at the time of his death; or
 - (d) subrule 13.7.2 to the pension payable to a Spouse at the time of her death,
- does not include a reference to a Spouse's pension.

13.32 ***

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

13.33 No pension for Spouse or Spouse's Children in certain circumstances

Pension shall not, upon the death of a pensioner, be payable to a person who is the Spouse of the deceased or in respect of any Children of the Spouse who are not Children of the pensioner unless:

- (a) in the case of the Spouse of a pensioner receiving a pension under rule 13.5, the person was the pensioner's Spouse:

- (i) before becoming entitled to that pension; or
 - (ii) before the pensioner attained the Maturity Age and more than 3 years before the death of the pensioner; or
- (b) in any other case, the person was the pensioner's Spouse before becoming entitled to a pension under these Rules,

and unless the person remained the pensioner's Spouse until the date of death.

13.34 Employer subsidy not to be of greater Benefit if Service not continuous

13.34.1 In this rule 13.34 *withdrawal Benefit* means:

- (a) a Benefit payable in accordance with subrule 13.19.3 or 13.19.4; or
- (b) any other Benefit payable to or in respect of a person on cessation of the person's employment otherwise than by reason of the person's death, where the Benefit is wholly or partly payable pursuant to or from a retirement scheme, fund or arrangement to or in respect of which an Employer or a public or local authority constituted by an Act makes, or is liable to make, a payment in respect of a person employed by the Employer or authority.

13.34.2 Where a withdrawal Benefit is paid, or is or will become payable, to a person and he subsequently contributes to this Division without complying with rule 13.21, any Benefit (other than a Benefit payable pursuant to rule 13.18 or a Benefit referred to in paragraph (a) of subrule 13.34.1) payable in respect of that person shall be reduced in a manner determined by the Trustee having regard to the amount of any withdrawal Benefit previously paid to him.

13.35 Payment of Benefits on Death

[inserted by Deed of Amendment No.8 operative 1/7/97; deleted by Deed of Amendment No.9 operative 27/6/01]

14. REDUCED VALUE UNITS

14.1 Allocation of Reduced Value Units

14.1.1 Where:

- (a) a Contributor or a Contributor's Spouse is entitled to a pension under these Rules consequent on the Contributor's ceasing to be a Contributor; or
- (b) a Contributor elects to take the Benefit of rule 13.16,

and the Contributor has a number of Abandoned Units at the Contributor's Exit Day, the Trustee shall (whether or not the Contributor has died) allocate to the Contributor one (and one only) Reduced Value Unit in substitution for each of the number of Abandoned Units that the Contributor has at the Contributor's Exit Day.

14.1.2 This rule 14.1 does not apply to:

- (a) a person who is entitled to a pension under rule 13.4 or to a pension under Part 16; or
- (b) a person who is Retrenched from the Service of an Employer and who is to receive or is receiving a pension under rule 13.17.

14.1.3 The Reduced Value Units allocated to a Contributor under this rule 14.1 shall be deemed to have been held by the Contributor at the Contributor's Exit Day.

14.1.4 Where:

- (a) a person referred to in subrule 14.1.1 has made an election to take up an Abandoned Unit under rule 7.2 or 7.3;
- (b) the unit has not been held as a Contributory Unit for at least 2 years and 6 months; and
- (c) the Contributor's Exit Day is before the last day of the Contribution Period preceding that in which he would attain the Maturity Age,

the Trustee may treat the unit as not having been taken up as a Contributory Unit, and, if the Trustee does so, the Contributions paid to this Division by the Contributor concerned or the Contributor's Spouse in respect of the unit shall be refunded.

14.1.5 For the purposes of this rule 14.1, where an election is made under rule 5.7 to abandon a unit of pension, the unit shall be deemed to be an Abandoned Unit that the Contributor concerned had at the Contributor's Exit Day.

14.1.6 For the purposes of this rule 14.1, where an election is made under rule 12.10 in respect of one or more additional units of pension, the unit or units shall be deemed to have been held by the Contributor concerned at the Contributor's Exit Day.

14.1.7 For the purposes of subrules 13.16.4 and 14.2.3, a Contributor to whom Reduced Value Units are allocated under this rule 14.1 shall, as at the Contributor's Exit Day, be deemed to have held at any time one (and one only) Reduced Value Unit for each of the number of Abandoned Units that the Contributor had at that time, but so that:

- (a) the number of Reduced Value Units that the Contributor would, but for this paragraph, be so deemed to have held before that time does not exceed the number that the Contributor is so deemed to have held at that time; and
- (b) the number of Reduced Value Units that the Contributor would, but for this paragraph, be so deemed to have held at that time does not exceed the number that the Contributor is allocated at the Contributor's Exit Day.

14.1.8 Where the number of Reduced Value Units to be allocated to a Contributor is smaller than the number of Abandoned Units that the Contributor has at the Contributor's Exit Day, the Trustee shall, for the purposes of subrule 14.1.4, have regard to such of those Abandoned Units as the Contributor has had the longest.

14.1.9 This rule 14.1 does not apply to a person to the extent to which the person or the person's Spouse satisfies the Trustee that the allocation of Reduced Value Units would prejudicially affect the person or the person's Spouse's interests.

14.2 Benefits payable in respect of Reduced Value Units

14.2.1 Subject to this rule 14.2, pensions are payable in respect of Reduced Value Units as if they were Contributory Units.

14.2.2 Notwithstanding anything in these Rules or any Act, but subject to this rule 14.2, the sum of \$3.30 per fortnight shall, in respect of Reduced Value Units, be the unit of pension.

14.2.3 Where a pension becomes payable under rule 13.3 to a Contributor:

- (a) the fortnightly pension, payable to the Contributor in respect of a Reduced Value Unit that is allocated to the Contributor and that the Contributor is deemed by subrule 14.1.7 to have held for not less than 2 years and 6 months, shall be the amount that bears to \$3.30 the same proportion as the fortnightly pension that would be payable in respect of that unit had it been a Contributory Unit bears to \$5.50; and
- (b) pension is not payable to the Contributor in respect of a Reduced Value Unit that is allocated to the Contributor and that the Contributor is deemed by subrule 14.1.7 to have held for less than 2 years and 6 months.

14.2.4 Where a pension becomes payable under subrule 13.5 in respect of Contributory Units for which a Contributor has contributed, the fortnightly pension payable in respect of each of the Contributor's Reduced Value Units shall be the amount that bears to \$3.30 the same proportion as the fortnightly pension payable in respect of each of those Contributory Units bears to \$5.50.

14.2.5 [deleted by Deed of Amendment No.4 operative 1/1/00]

14.2.6 [deleted by Deed of Amendment No.4 operative 1/1/00].

14.2.7 The pension payable in respect of Reduced Value Units is subject to automatic adjustment in accordance with Part 21.

14.2.8 If the Trustee has made a determination under rule 23.1 in relation to a pension payable in respect of Reduced Value Units, the amount of the pension is reduced by the amount specified in the Trustee's determination.

14.3 No Employee contributions payable

No Contributions to this Division are payable by a Contributor in respect of a Reduced Value Unit.

15. SPECIAL PROVISIONS RE BREAKDOWN PENSIONERS**15.1 Breakdown pensioner held to be on leave**

Any pensioner who is in receipt of a breakdown pension, shall for the purposes of these Rules be held to be on leave of absence without pay, but shall not be required to contribute in respect of the period of such leave. Notwithstanding the fact that the pensioner is held to be on leave of absence, the pensioner's office or position shall be held to be vacant, and may be filled by the appointment thereto of some other person.

15.2 Continuity of Service

The period of such leave without pay in the case of a breakdown pensioner shall not count as Service; but it shall not, except for the purposes of rules 13.4, 13.17, 13.19 and 16.1, in the event of the pensioner's re-employment under any Employer, be held to constitute a break in the continuity of the pensioner's Service.

15.3 Employee retired through infirmity may be called up for medical examination

Any such pensioner shall submit to a medical examination by a medical practitioner nominated by the Trustee as and when required by the Trustee, and if the pensioner does not comply with that requirement, pension shall cease to be payable to the pensioner until the pensioner complies with the requirement.

15.4 Employee restored to health may be recalled to Service

15.4.1 If, in the opinion of the Trustee, the health of any pensioner retired as aforesaid has become so restored as to enable the pensioner to perform duties which, having regard to the duties performed by the pensioner immediately prior to the pensioner's retirement, are in the opinion of the Trustee suitable to be performed by such pensioner, the Trustee may communicate with the Employer from whose Service the pensioner was retired, or any other Employer under these Rules, and, if suitable employment be found for such pensioner, at a Salary not less than two-thirds of the Salary of a person who is employed in a position which is, in the opinion of the Trustee, a corresponding position to that in which the pensioner was employed immediately before the pensioner's retirement, or at such Salary as may be agreed upon between the pensioner and the pensioner's Employer, may cancel the pension; thereupon the pension shall cease to be payable.

15.4.2 In the event of the subsequent retirement on grounds of invalidity or physical or mental incapacity to perform the person's duties or of the death of a person who has been recalled to the Service in accordance with subrule 15.4.1:

- (a) pension shall, where such retirement or death occurred five years or more after the recall of such person, be paid as provided in these Rules but such

pension shall not be less than the amount of pension at which the person was previously retired;

- (b) pension shall not, where such retirement or death occurred less than five years after the recall of such person, be paid in respect of the number of units of pension in excess of the number for which the person was contributing at the time when the person was previously retired but in such case pension shall not be less than the amount of pension at which the person was previously retired and a lump sum, equal to the contribution paid by the person in respect of the number of units of pension in excess of the number in respect of which pension is payable as aforesaid, shall be payable.

15.4.3 Notwithstanding anything in these Rules:

- (a) where a person is retired under rule 12.7 within five years of again becoming a Contributor following a previous retirement under section 22 of the *Superannuation Act 1916* or under rule 12.7, then, as on and from the date (being not earlier than the commencement date of subsection 51(3) of the *Superannuation Act 1916*) on which pension thereafter first becomes payable to the person, the rate at which it is payable shall be that at which it would have been payable to the person had the person continued in the person's last retirement (disregarding any retirement of that person to which subrule 15.4.2(b) applied) instead of again becoming a Contributor and had the provisions referred to in the definition of *suspended part of a pension* in subrule 21.1.1 did not apply; and
- (b) where a Contributor dies within five years of having again become a Contributor following a previous retirement under section 22 of the *Superannuation Act 1916* or under rule 12.7 of these Rules, then, as on and from the date being not earlier than the commencement date of subsection 51(3) of the *Superannuation Act 1916*) on which pension thereafter first becomes payable to the Contributor's Spouse, the rate at which it is payable shall be that at which it would have been payable to the Contributor's Spouse had the Contributor:
 - (i) where the Contributor has been retired under rule 12.7 once only continued in that retirement instead of the Contributor's again becoming a Contributor; or
 - (ii) where the Contributor has been so retired more than once continued in the Contributor's last retirement (disregarding any retirement of the Contributor's to which subrule 15.4.2 (b) applied) instead of again becoming a Contributor,

and as if the provisions referred to in the definition of *suspended part of a pension* in subrule 21.1.1 did not apply.

16. DEFERRED BENEFITS

16.1 Calculation of deferred pension components

- 16.1.1 Where a person who is Retrenched or Resigns or is Dismissed or Discharged from the Service of an Employer elects to take the benefit of this Division, there shall

be calculated, as at the person's Exit Day, the employee-Contributed pension component, and the employer-financed pension component, in relation to the person.

- 16.1.2 For the purposes of subrule 16.1.1, the employee-contributed pension component in relation to a person shall be calculated in accordance with the following formula:

$$P1 = 2.20 \times EPU$$

where:

P1 is the employee-contributed pension component;

EPU is the sum of the following:

- (a) $UHn - \frac{Cn}{Rn}$ (except where $\frac{Cn}{Rn}$ exceeds UHn);
- (b) $\frac{TCB}{RB}$;
- (c) UC;

UHn is the number of units of pension for which Contributions were payable by the person on the person's Exit Day in accordance with the tables of Contributions fixed by or under these Rules, but excluding:

- (a) any such units of pension which are excess units of pension referred to in subrule 6.1.1 and in respect of which no person has any rights in this Division; and
- (b) any such units of pension, being reserve units, for which Contributions were being made under rule 11.7;

Cn is the amount of Contributions due for the last Contribution Period for which Contributions were payable by the person before the person's Exit Day, in respect of that number of units of pension;

Rn is the relevant amount under subrule 16.1.4 in relation to the person for an additional unit of pension on the person's Exit Day;

TCB is the total amount paid in respect of instalments payable by the person on or before the person's Exit Day for units of pension for which the person contributed in accordance with Part 9 (but deducting therefrom any part of that amount allocated under these Rules to the purchase of fully paid up units);

RB is the amount specified in subrule 9.1.1 as the cost of a unit of pension in relation to the person;

UC is the number of units (if any) purchased by the person and credited to the person as fully paid up units.

- 16.1.3 For the purposes of subrule 16.1.1, the Employer-financed pension component in relation to a person shall be calculated in accordance with the following formula:

$$P2 = 3.30 \times UE \times \frac{S}{S+T}$$

where:

P2 is the employer-financed pension component;

UE is the number of units of pension that, pursuant to rule 11.1.1, is appropriate to the Salary payable to the person on the person's Exit Day plus, in a case to which rule 6.1 applies, the number of any excess units of pension referred to in subrule 6.1.1 and in respect of which the Trustee considers, in accordance with subrule 6.1.5, that the retention of entitlement to Benefits under these Rules is warranted;

S is the number of years (including any fractional part of a year calculated on a daily basis) of continuous Contributory Service by the person with any one or more Employers;

T is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the person's Exit Day precedes:

- (a) the date on which the person attains the Maturity Age; or
- (b) where any employment which, on the person's Exit Day, the person is Entitled to count as Service for the purposes of rule 12.1 is, in total, for less than a period of 10 years the expiration of the balance of that period of 10 years,

whichever is the later.

- 16.1.4 For the purposes of subrule 16.1.2, the relevant amount in relation to a person for an additional unit of pension on the person's Exit Day is:
- (a) where the person has attained the Prescribed Age on or before that day, the amount which, if the person were required under Part 8 to commence to contribute for an additional unit of pension on that day, would be the amount payable in accordance with the tables of Contributions fixed under rule 8.3 for that unit for a Contribution Period; or
 - (b) where the person has not attained the Prescribed Age on or before that day, the amount equal to the sum of:
 - (i) the amount payable by the person for any additional unit of pension for which the person had been required to commence contributing on and from the person's last Annual Adjustment Day for a Contribution Period or, as the case may be, the amount that would have been so payable if the person had been so required; and
 - (ii) for each day of the period commencing on the day following that Annual Adjustment Day and ending on the person's Exit Day, the amount equal to 1/364th part of the difference between the amount referred to in subparagraph (i) and the amount which that amount would have been if, on that Annual Adjustment Day, the person had been 1 year older than the age actually attained.

16.1.5 For the purposes of subrule 16.1.3, the period of continuous Contributory Service by a person on the person's Exit Day is the period that commenced when the person last became a Contributor and ended on that day (but excluding any part of that period during which the person is treated by rule 15.1 as being on leave of absence without pay).

16.1.6 If the Trustee has made a determination under rule 23.1 in respect of a pension payable under this Division, the amount of the pension is reduced by the amount specified in the Trustee's determination.

16.2 Adjustment of pension components

16.2.1 Expressions used in this rule 16.2 have the same meanings as they have in Part 21.

16.2.2 Where:

- (a) the employer-financed pension component in relation to a person is calculated under this Part 16 as at the person's Exit Day;
- (b) pensions are adjusted under Part 21 by a percentage for a year commencing after the Exit Day; and
- (c) no Benefit became payable under this Part 16 during that year to, or by virtue of the death of, the person,

the component, as so calculated and as previously adjusted under this rule 16.2, is, as from the adjustment date for that year, adjusted by that percentage.

16.2.3 Where:

- (a) the employer-financed pension component in relation to a person is calculated under this Part 16 as at the person's Exit Day;
- (b) pensions are adjusted under Part 21 by a percentage for a year commencing on or before the Exit Day and ending after the Exit Day; and
- (c) no Benefit became payable under this Part 16 during that year to, or by virtue of the death of, the person,

the component, as so calculated, is, as from the adjustment date for that year, adjusted by the percentage calculated in accordance with the following formula:

$$A = P \times \frac{Q}{4}$$

where:

- A is the percentage by which the component is to be adjusted;
- P is the percentage for the year by which pensions are adjusted;
- Q is the number of whole quarters of the year, being the whole quarters after the Exit Day.

16.2.4 Where:

- (a) a pension under this Part 16, or a pension that is calculated by reference to a pension that is payable under this Part 16, has become payable to or in respect of a person referred to in rule 16.1; and
- (b) pensions are adjusted under Part 21 by a percentage for a year beginning before and ending after the date on which that pension became so payable,

the pension, as from the adjustment date for that year, is, in addition to any adjustment of the pension under Part 21, adjusted by the amount calculated in accordance with the following formula:

$$A = C2 \times P \times \frac{Q}{4}$$

where:

- A represents the amount of the pension as adjusted;
- C2 represents:
 - (a) in the case of a pension payable under rule 16.3 or 16.5 to a person, the amount of the employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of this rule 16.2 before the pension became payable; or
 - (b) in the case of a pension payable under rule 16.4 to a person, the amount obtained in relation to the person from the

calculation, under that rule 16.4, of the formula $P2 (1 - 0.04 \times TM)$; or

- (c) in the case of a pension payable under this Part 16 to the Spouse of a person referred to in subrule 16.1.1, an amount equal to two-thirds of the amount of the employer-financed pension component calculated in relation to that person and as adjusted by the operation (if any) of this rule 16.2 before the pension became payable; or
- (d) in the case of a pension of a Spouse that is calculated by reference to a pension that was payable to a person under this Part 16, an amount equal to two-thirds of the amount referred to in paragraph (a) or (b), as the case may be, in relation to that person;

P represents the percentage for the year by which pensions are adjusted;

Q represents the number derived by adding together the following:

- (a) except when paragraph (b) applies – “1” (representing the quarter of the year during which the pension became payable);
- (b) if the pension became payable on the first day of a quarter, “0”;
- (c) the smaller of:
 - (i) the number of whole quarters in that year that have occurred before the day on which the pension became payable; and
 - (ii) the number of whole quarters that have occurred since the Exit Day of the person to or in respect of whom the pension is payable and before the day on which the pension became payable.

16.3 Pensions at retirement age

16.3.1 A person referred to in subrule 16.1.1 who has not received any other Benefit under this Part 16 and who applies to the Trustee to receive a pension under this rule 16.3 is entitled to receive that pension:

- (a) on the person's attaining the Maturity Age;
- (b) where any employment which, on the person's ceasing to be a Contributor, the person was entitled to count as Service for the purposes of rule 12.1 was, in total, for less than a period of 10 years, on the expiration of such time

after the person ceased to be a Contributor as is equivalent to the balance of that period; or

(c) on receipt by the Trustee of the application,

whichever is the latest.

16.3.2 The pension which a person is entitled to receive under this rule 16.3 is a pension of an amount per fortnight equivalent to the sum of:

(a) the Employee-contributed pension component calculated in relation to the person; and

(b) the Employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of rule 16.2.

16.3.3 These Rules apply to and in respect of a person who is entitled to a pension under this rule 16.3 in the same way as it applies to and in respect of a Contributor who is entitled to a pension under rule 13.1 and so applies as if the pension payable under this rule 16.3 were a pension payable under that rule 13.1.

16.3.4 The pension provided by this rule 16.3 is not payable under subrule 16.3.1 to a person who elected to provide for the Benefit under rule 11.11 when the requirements of subrule 11.11.5(d) are satisfied.

16.4 Pensions at early retirement age

16.4.1 A person referred to in subrule 16.1.1 who has not received any other Benefit under this Part 16 and who applies to the Trustee to receive a pension under this rule 16.4 is entitled to receive that pension:

(a) on the person's attaining the age of 55 years;

(b) on the expiration of the period of ten years after the person last became a Contributor; or

(c) on receipt by the Trustee of the application,

whichever is the latest.

16.4.2 The pension provided by this rule 16.4 is not payable under subrule 16.4.2 to a person who elected to provide for the benefit under rule 11.11 unless the requirements of subrule 11.11.5(d) are satisfied.

- 16.4.3 The pension which a person is entitled to receive under this rule 16.4 is a pension of an amount per fortnight calculated in accordance with the following formula:

$$TP = P1 (1 - .07 \times TM) + P2 (1 - .04 \times TM)$$

where:

- TP is the amount of the pension;
- P1 is the Employee-contributed pension component calculated in relation to the person;
- P2 is the Employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of rule 16.2;
- TM is the number of years, if any, (including any fractional part of a year calculated on a daily basis) by which the day from which the pension commences to be payable precedes the date on which the person attains the age of 60 years.

- 16.4.4 These Rules apply to and in respect of a person who is entitled to a pension under this rule 16.4 in the same way as it applies to and in respect of a Contributor who is entitled to a pension under rule 13.3 and so applies as if the pension payable under this rule 16.4 were a pension payable under that rule 13.3.

16.5 Disability pension

- 16.5.1 A person referred to in subrule 16.1.1 who has not received any other Benefit under this Part 16 and who applies to the Trustee to receive a pension under this rule 16.5 is entitled to receive that pension:

- (a) on receipt by the Trustee of the application; or
- (b) on the Trustee's being satisfied, after taking into account any medical opinion that it considers to be relevant, that the person is physically or mentally incapable of performing the duties of any employment that, in the opinion of the Trustee, it would be reasonable for the person to undertake,

whichever is the later.

- 16.5.2 The pension which a person is entitled to receive under this rule 16.5 is a pension of an amount per fortnight equivalent to the sum of:

- (a) the employee-contributed pension component calculated in relation to the person; and
- (b) the employer-financed pension component calculated in relation to the person and as adjusted by the operation (if any) of rule 16.2.

- 16.5.3 A person to whom this rule 16.5 applies shall be granted payment of pension only for such period at a time as the Trustee determines and a fresh application shall, unless the Trustee from time to time otherwise determines, be necessary before any further payment is made.

- 16.5.4 The period determined by the Trustee as referred to in subrule 16.5.3 for the payment of pension to a person:
- (a) if the person has not attained the Maturity Age, shall be such period (not exceeding 5 years) as the Trustee thinks fit, having regard to the state of health of the person; and
 - (b) if the person has attained the Maturity Age may be for the remainder of the person's life.
- 16.5.5 A person receiving a pension under this rule 16.5 shall submit to a medical examination as and when required by the Trustee and, if the person defaults in complying with any such requirement, pension shall cease to be payable to the person during the default.
- 16.5.6 A pension payable under this rule 16.5 shall cease to be payable to a person on the Trustee's ceasing to be satisfied as referred to in subrule 16.5.1(b) in relation to the person.
- 16.5.7 Where a pension under this rule 16.5 ceases to be payable to a person, the person shall, for the purposes of this Part 16, be deemed not to have received a Benefit under this Part 16.
- 16.5.8 Except as provided by this rule 16.5, these Rules apply to and in respect of a person who is entitled to a pension under this rule 16.5 in the same way as it applies to and in respect of a person entitled to a pension under rule 13.5 and so applies as if the pension payable under this rule 16.5 were a pension payable under that rule.
- 16.6 Interim pension**
- 16.6.1 The Trustee may grant an interim pension to a person who has attained the age of 55 years and who, on application, would be entitled to a pension under rule 16.4, pending the determination of an application under rule 16.5.
- 16.6.2 The pension which the Trustee may grant is a pension equal to the early retirement pension to which the person would be entitled on application under rule 16.4.
- 16.6.3 These Rules apply to and in respect of a person granted a pension under this rule 16.6 in the same way as it applies to a person entitled to a pension under rule 13.3 and so applies as if a pension payable under this rule 16.6 were a pension payable under that rule 13.3.
- 16.6.4 If an interim pension is granted, the amount of any pension payable to a person under rule 16.5 is to be reduced by the amount of any interim pension paid.
- 16.6.5 Despite subrule 16.5.1, the grant of an interim pension under this rule 16.6 does not make a person ineligible for a pension under rule 16.5 or affect any other right of a person granted a pension under that rule 16.5.
- 16.6.6 However, a person who commutes an interim pension before the determination of an application under rule 16.5 is not entitled to a pension under rule 16.5.

16.7 Pensions for Spouses

- 16.7.1 Where a person referred to in subrule 16.1.1 who has not received a Benefit under this Part 16 dies, the Spouse of the person is entitled to receive a pension under this rule 16.7 on receipt by the Trustee of an application by the Spouse for that pension.
- 16.7.2 The pension which a Spouse of a person is entitled to receive under this rule 16.7 is a pension at the rate of two-thirds of the pension that would have been payable to the person had the person been entitled to pension under subrule 16.5 immediately before dying.
- 16.7.3 These Rules apply to and in respect of a Spouse who is entitled to receive a pension under this rule 16.7 in the same way as it applies to and in respect of a Spouse of a Contributor, being a Spouse to whom pension is payable under these Rules, and so applies as if the pension payable under this rule 16.7 were a pension payable under rule 13.6 by virtue of the death of a Contributor.

16.8 Children's pensions at rule 22.2 rates

- 16.8.1 A pension of the appropriate amount per fortnight under rule 22.2 is payable in respect of a Child on the death of a person referred to in subrule 16.1.1 (*the former Employee*) who has not received a Benefit under this Part 16 if the conditions set out in subrules 16.8.2 and 16.8.3 are satisfied.
- 16.8.2 The Child must be a Child of the former Employee or a Child of a surviving Spouse of the former Employee who is not eligible to receive a pension under rule 16.9.
- 16.8.3 If the Child is not a Child of the former Employee, the Child:
- (a) must have been born or adopted before the death of the former Employee; and
 - (b) must have been ordinarily part of the former Employee's household at the time of the death of the former Employee.
- 16.8.4 A pension under this rule 16.8 ceases to be payable in respect of a Child if the surviving parent dies, but continues to be payable even though the surviving parent marries or remarries.
- 16.8.5 These Rules apply to and in respect of a Child in respect of whom a pension is payable under this rule 16.8 in the same way as it applies to and in respect of a Child in respect of whom a pension is payable under Part 13, and so applies as if the pension payable under this rule 16.8 were a pension payable under Part 13 by virtue of the death of a Contributor.

16.9 Children's pensions

- 16.9.1 A pension of the appropriate amount per fortnight under rule 22.3 is payable in respect of a Child on the death of a person referred to in subrule 16.1.1 (*the former Employee*) who has not received a Benefit under this rule 16.9 if the conditions set out in subrules 16.9.2 to 16.9.4 are satisfied.

- 16.9.2 The Child must be a Child of the former Employee or a Child of a Spouse of the former Employee.
- 16.9.3 The other parent of the Child or the Spouse of the former Employee who was a parent of the Child:
- (a) must have died before the former Employee's death; or
 - (b) must have been divorced from the former Employee; or
 - (c) must have been in a De Facto Relationship with the former Employee that ended before the former Employee's death.
- 16.9.4 If the Child is not a Child of the former Employee:
- (a) in a case where the Spouse who is the parent of the Child is divorced from or the former De Facto Spouse of the former Employee, the Child must have been born or adopted before the divorce or end of the De Facto Relationship; and
 - (b) in any case, the Child must have been ordinarily part of the former Employee's household at the time of the death of the Spouse, divorce or end of the De Facto Relationship.
- 16.9.5 Where a pension ceases to be payable under rule 16.8 in respect of a Child because the surviving parent dies, a pension of the appropriate amount per fortnight under rule 22.3 is payable in respect of the Child.
- 16.9.6 These Rules apply to and in respect of a Child in respect of whom a pension is payable under this rule 16.9 in the same way as it applies to and in respect of a Child in respect of whom a pension is payable under Part 13, and so applies as if the pension payable under this rule 16.9 were a pension payable under Part 13 by virtue of the death of a Contributor.
- 16.9.7 In this rule 16.9:
- Spouse* includes a person previously married to the former Employee or a former De Facto Spouse.
- 16.10 Students' pensions**
- 16.10.1 In this rule 16.10, *student* has the same meaning as it has in rule 13.27.
- 16.10.2 Where a person referred to in subrule 16.1.1 who has not received a Benefit under this Part 16 dies, a pension under this subrule 16.10:
- (a) is payable in respect of a student if a pension would be payable in respect of the student were the person a Contributor and the student under the age of 18 years, on receipt by the Trustee of an application for that pension; and
 - (b) is payable to such persons as the Trustee determines a pension would have been payable were the student under the age of 18 years or shall be expended by the Trustee towards the support or education of the student.
- 16.10.3 The amount of pension payable under this rule 16.10 shall be:

- (a) in the case of a student in respect of whom the pension referred to in subrule 16.10.2(a) is a pension payable under rule 13.13, the appropriate amount per fortnight under rule 22.3; or
- (b) in any other case, the appropriate amount per fortnight under rule 22.2.

16.10.4 For the purposes of subrules 13.27.1, 13.27.5, 13.27.6 and 13.27.7, a pension payable under this rule 16.10 shall be deemed to be a pension payable under rule 13.27.

16.10.5 These Rules apply to and in respect of a student in respect of whom a pension is payable under this rule 16.10 in the same way as it applies to and in respect of a student in respect of whom a pension is payable under rule 13.27, and so applies as if the pension payable under this rule 16.10 were a pension payable under that rule 13.27 by virtue of the death of a Contributor.

16.11 Cash termination Benefit

16.11.1 A person referred to in subrule 16.1.1 who has not received any other Benefit under this Part 16 may, at any time, apply to the Trustee for a cash termination Benefit under this rule 16.11.

16.11.2 On receipt by the Trustee of an application made by a person in accordance with subrule 16.11.1, there shall be payable to the person:

- (a) if the person was Retrenched from the Service of an Employer the lump sum payment to which the person would have been entitled under rule 13.20 in consequence of the Retrenchment if the person had elected under that rule 13.20 to take a lump sum Benefit; or
- (b) if the person Resigned or was Dismissed or Discharged from the Service of an Employer the lump sum payment to which the person would have been entitled under rule 13.19 in consequence of the Resignation, Dismissal or Discharge.

16.11.3 The Trustee is to adjust the amount of a Benefit payable under this rule 16.11, having regard to any adjustment of a Contributor's account under rule 2.5.

16.11.4 An application made in accordance with subrule 16.11.1 shall be deemed to be revoked if the person dies before payment of the cash termination Benefit applied for, leaving a Spouse to whom, but for the payment of that Benefit, a pension would, on application, be payable under these Rules.

16.11.5 Where a person referred to in subrule 16.1.1 dies without having received a Benefit under this Part 16 and without leaving a Spouse (or leaving a Spouse who dies without having received a Benefit under this Part 16), the person shall, unless

the person leaves a Child or Children in respect of whom pension is payable under these Rules or would, but for this rule 16.11, be so payable, if application is made to the Trustee for a Benefit under this rule 16.11, be deemed to have applied for a cash termination Benefit under subrule 16.11.1 immediately before the death, and the money payable under subrule 16.11.2 shall be paid by the Trustee to the person's legal personal representatives or, where the person has no legal personal representatives, to such persons as the Trustee may determine.

16.11.6 Where a person referred to in subrule 16.1.1 dies without having received a Benefit under this Part 16 leaving a Child or Children in respect of whom pension is, on application, payable under these Rules or would, but for this rule 16.11, be so payable, the Trustee may, on receipt by it of an application for a Benefit under this rule 16.11, or rule 16.8 or 16.9:

- (a) pay the cash termination Benefit under this rule 16.11 as if the person had not died leaving the Child or Children, in which case a pension or pensions shall not be payable under these Rules in respect of the Child or Children; or
- (b) pay a pension or pensions in respect of the Child or Children as if this rule 16.11 did not apply,

whichever the Trustee considers to be in the best interests of the Child or Children.

16.12 Effect of Contributor becoming a Contributor to another scheme while employed by the same Employer

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

A Contributor (other than a Contributor who is eligible to become or who is a member under Division A) 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 Part 16 (rule 16.11 excepted) despite anything to the contrary in this Part 16;
- (b) shall be regarded as having elected 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 rule 16.11 while employed by that same Employer.

17. DEFERRAL OF BENEFIT FOR CONTRIBUTORS OVER IN CERTAIN CIRCUMSTANCES

[heading amended by Deed of Amendment No.2 operative 20/10/00; Deed of Amendment No.4 operative 1/7/99]

17.1 Eligible Contributors

17.1.1 This rule applies to a Contributor:

[replaced by Deed of Amendment No.2 operative 20/10/00]

- (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).

17.1.2 The fact that a person undergoes more than one Salary reduction of 20% or more does not mean that the person ceases to be a person to whom this Division applies.

17.2 Exit Day

In this Division, ***Exit Day***, in relation to an Employee to whom this Part 17 applies, means the day immediately preceding the day of the reduction in Salary in relation to which the Employee makes an election under rule 17.3.

17.3 Election to a Benefit

17.3.1 A person to whom this Part 17 applies may elect:

- (a) if the person would have been entitled to be paid a Benefit under subrule 12.1.1 or 12.1.2 had he or she ceased employment on his or her Exit Day to defer that Benefit (in this Part 17 termed ***a deferred Benefit***) in accordance with this Part 17; or
- (b) in any other case to defer a Benefit provided for by Part 16 which Benefit is to be dealt with in accordance with that Part 16.

17.3.2 When a person has made a valid election under subrule 17.3.1(b), a Benefit is not payable to, or in respect of, that person:

- (a) under any other provision of these Rules; and
- (b) unless that person has ceased employment or has died.

17.3.3 An Employee may make only one election under this rule 17.3 but the election may relate to any single reduction in Salary of 20% or more (not just the first reduction that occurs).

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

17.4 Date of deferral of Benefit

A Benefit referred to in this Part 17 is deferred from the Exit Day.

17.5 Calculation of value of deferred Benefit

[replaced by Deed of Amendment No.2 operative 20/10/00]

The initial value of a deferred Benefit is to be calculated:

- (a) if the person is aged 55 years and over, in accordance with Part 13 as if the person had retired and may be adjusted or reduced in the same way as any other Benefit payable to a person on retirement; or
- (b) if the person is aged less than 55 years, in accordance with Part 16.

17.6 Election to commute deferred Benefit

17.6.1 A person who has made a valid election under subrule 17.3.1(a) may elect to commute the whole or part of his or her pension Benefit in accordance with rules 12.4 and 12.5, except that:

- (a) subrules 12.4.5 and 12.4.6 and 12.5.4 do not apply with respect to such an election; and
- (b) the election must be made by the person within 3 months after his or her Exit Day.

17.6.2 A person may not amend or withdraw an election to commute, in whole or in part, a deferred Benefit made under this Part 17.

17.7 Adjustment of deferred Benefit

[replaced by Deed of Amendment No.2 operative 20/10/00]

17.7.1 If a person is aged 55 years or over at the time of making an election pursuant to rule 17.3, the deferred Benefit is to be adjusted:

- (a) as to the pension component of the Benefit, in accordance with Part 21; and
- (b) as to the commuted component of the Benefit, in accordance with rule 2.5.

17.7.2 If a person is aged less than 55 years at the time of making an election pursuant to rule 17.3, the deferred Benefit is to be adjusted;

- (a) as to the pension component of the Benefit, in accordance with Part 16; and
- (b) as to the commuted component of the Benefit, in accordance with rule 2.5.

17.8 When deferred Benefit is payable

A deferred Benefit is to be paid on the happening of any of the following:

- (a) the person in respect of whom a Benefit is payable applying for payment of the Benefit following Resignation, Retirement or any other cessation of employment;

- (b) the death of the person in respect of whom a Benefit is payable.

17.9 Payment of deferred Benefit

17.9.1 A deferred Benefit is to be paid in accordance with this rule 17.9.

17.9.2 In a case other than death of the person to whom this Part 17 applies, payment is to be made to the person of the deferred pension, if any, and the deferred commuted component, if any, adjusted in accordance with this Part 17.

17.9.3 If the person to whom this Part 17 applies dies and is survived by a Spouse, payment is to be made to the Spouse of:

- (a) a fortnightly pension at the rate of two-thirds of the pension, as adjusted, which would have been payable to the person, on the day immediately preceding the day of the person's death, if no election to commute any part of the person's Benefit had been made; and
- (b) where applicable, the deferred commuted component, as adjusted, which would have been payable to the person had the person retired on the day immediately preceding the day of the person's death; and
- (c) amounts in accordance with these Rules in respect of any eligible Children.

17.9.4 If the person to whom this Part 17 applies dies and is not survived by a Spouse, payment is to be made:

- (a) to the estate of the deceased of:
 - (i) where applicable, the deferred commuted amount, as adjusted; or
 - (ii) an amount calculated in accordance with rule 13.19 which would have been payable to the person on the day immediately preceding the day of the person's death,whichever is the greater; and
- (b) of amounts in accordance with these Rules in respect of any eligible Children.

17.10 The Trustee to apportion Benefit

When a Benefit is deferred in accordance with this Part 17, rule 13.15 applies.

17.11 Break in Service

When a Benefit is deferred in accordance with this Part 17, rule 13.21 does not apply.

18. AGE TERMINATION BENEFITS

18.1 Benefit on attaining compulsory payment age

[heading amended by Deed of Amendment No.4 operative 30/6/99]

- 18.1.1 *[amended by Deed of Amendment No.[1] operative 27/4/98; Deed of Amendment No.4 operative 30/6/99; deleted by Deed of Amendment No.[28] operative 01/07/07]*
- 18.1.2 *[deleted by Deed of Amendment No.[1] operative 27/4/98].*
- 18.1.3 An Employee may elect at any time on or after attaining 65 years to be paid any pension to which the Employee is entitled at the time but:
[amended by Deed of Amendment No.[1] operative 27/4/98; Deed of Amendment No.4 operative 30/6/99; amended by Deed of Amendment No.[28] operative 01/07/07]
- (a) may elect under rule 12.4 to commute to a lump sum all or part of the pension; and
- (b) subject to subrule 18.2.2, if such an election is made, may also elect to preserve the whole of the lump sum in this Division, even though the Employee is not retired.
- 18.1.4 The Trustee is to adjust the amount of a Benefit payable under this rule 18.1, having regard to any adjustment of a Contributor's account under rule 2.5.
- 18.1.5 A Benefit provided under subrule 18.1.1 (b) is to be paid out by the Trustee on application by the person to whom it is payable under subrule 18.1.6.
- 18.1.6 A Benefit under subrule 18.1.1(b) is payable:
- (a) if the former Contributor has not died, to the former Contributor; or
- (b) if the former Contributor has died, in accordance with clause 14.17A.
[replaced by Deed of Amendment [25] operative 23/12/05]
- (c) *[deleted by Deed of Amendment [25] operative 23/12/05]*
- 18.1.7 A person entitled or who has elected to be paid to a Benefit under this rule 18.1 is not entitled to any other Benefit under these Rules.
[amended by Deed of Amendment No.[1] operative 27/4/98]
- 18.2 Compulsory payment of deferred or other Benefit**
- 18.2.1 This rule 18.2 applies to a person who is entitled to, but has not been paid, a Benefit under Part 16, Part 17 or this Part 18.
- 18.2.2 The Trustee is, as soon as practicable, to pay the Benefit to which a person to whom this rule 18.2 applies is entitled if:
- (a) *[replaced by Deed of Amendment No.[24] operative 1/7/04; deleted by Deed of Amendment No.[28] operative 01/07/07]*
- (b) *[amended by Deed of Amendment No.[1] operative 27/4/98; replaced 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]*
- (c) the person is at least 65 years of age and has requested the Trustee to pay the Benefit; or
- (d) the Trustee is satisfied that the person has retired from the work force and has at least reached the preservation age.
[amended by Deed of Amendment No.[28] operative 01/07/07]

19. COMPULSORY PRESERVATION OF BENEFITS*[Rule 19 replaced by Deed of Amendment No.4 operative 1/7/99]***19.1 Compulsory preservation of benefits on or after 1 July 1999**

- 19.1.1 The Trustee must, when a pension or lump sum becomes payable under these Rules (including a benefit provided under rule 16 or 17) preserve all or so much of the pension or lump sum as is required to be preserved so as to be consistent with Superannuation Law.
- 19.1.2 For the purpose of preserving a Benefit under this section, the Trustee must convert to a lump sum so much of a pension as is required to be preserved. The remainder of the pension is to be dealt with as otherwise required or permitted by or under these Rules.
- 19.1.3 The amount of the Benefit to be preserved in respect of a Contributor or former Contributor for the purpose of this rule 19.1 is as determined by the Trustee, after obtaining actuarial advice.
- 19.1.4 The amount of a benefit that must be preserved for the purposes of subrule 19.1.1 is to be preserved in the Fund and is to be adjusted, having regard to any adjustment of the appropriate reserve under rule 2.5 or is to be preserved under rule 19.3.

19.2 Payment of compulsorily preserved Benefit

- 19.2.1 The whole or part of a benefit preserved under rule 19.1 is payable by the Trustee in the circumstances in which a Benefit is payable under Superannuation Law.
- 19.2.2 The whole or part of a benefit preserved under rule 19.1 must be paid by the Trustee, if it is required to be paid under Superannuation Law.
- 19.2.3 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 [25] operative 23/12/05]
 - (c) *[deleted by Deed of Amendment [25] operative 23/12/05]*

19.3 Preserved Benefits

- 19.3.1 Any amounts preserved by the Trustee under section 19.1 may be preserved in such funds, accounts or reserves as the Trustee determines, administered by the Trustee.
- 19.3.2 Any such preserved amounts payable by the Trustee under rule 19.2 are to be paid from the appropriate fund, account or reserve referred to in this rule.

20. RIGHTS UNDER VARIOUS ACTS

20.1 Insurance policies may be continued or discontinued at option of Contributor

It shall not be necessary for any Contributor under these Rules to insure the Contributor's life, or to continue in force any policy of insurance on the Contributor's life already taken out at the date of transfer of the transferred member.

20.2 Surrender of policies

20.2.1 Any Employee whose life is insured at the date of transfer of the transferred member, may surrender the Employee's policy of insurance or may transfer such policy (if unencumbered) to the Trustee or to a person approved by the Trustee and request the Trustee to continue the payment of the premiums under the said policy. The Trustee shall thereupon cause such premiums to be duly paid, and on the maturity of the policy shall hand over to the Employee or to the Employee's legal personal representatives to be administered as part of the Employee's estate any sums received on the policy, less the amount of the premiums, with compound interest thereon at the prescribed rate from the respective dates of payment.

However, the Trustee or the person approved by the Trustee pursuant to this rule 20.2 may at any time prior to the maturity of any policy transferred to the Trustee or such person, upon repayment of all moneys paid by the Trustee for premiums thereunder with compound interest thereon at the prescribed rate from the respective dates of payment, release such policy to the Employee.

20.2.2 In this rule 20.2, a reference to the *prescribed rate* is a reference to the rate of interest for the time being fixed by the Trustee under rule 24.5 for the purposes of this rule 20.2.

20.2.3 The right of an Employee under subrule 20.2.1:

- (a) to pay the Trustee the surrender value of an insurance policy; or
- (b) to transfer an insurance policy to the Trustee,

ceased on 21 April 1983.

20.3 Surrender of policies generally

20.3.1 Any Employee or pensioner whose life, or the life of whose Spouse, is insured under a policy of assurance which has been in force for not less than five years and which is at the time of transfer an endowment policy unencumbered and upon which all premiums due have been paid may request the Trustee to accept a transfer of such policy in accordance with the provisions of this rule 20.3.

20.3.2 The Trustee may, in such cases as it deems proper and subject to such conditions as it may determine, accept a transfer of any such policy.

- 20.3.3 Upon such acceptance by the Trustee:
- (a) the Employee or pensioner or Spouse of the Employee or pensioner, as the case may be shall assign the Benefit of such policy to the Trustee;
 - (b) the Trustee shall cause all premiums under such policy to be duly paid under this Division.
- 20.3.4 Where, before the maturity of any such policy, the person who assigned the policy to the Trustee requests the Trustee in writing in the form prescribed to release the same to the person and pays to the Trustee the amount of the premiums paid by it with compound interest thereon at the prescribed rate from the respective dates of payment, the Trustee shall release such policy to such person.
- 20.3.5 On the maturity of such policy (such policy not having been released pursuant to the provisions of subrule 20.3.4) the Trustee shall hand over to the person entitled thereto all moneys received under such policy less the amount of the premiums paid by it with compound interest thereon at the prescribed rate from the respective dates of payment.
- 20.3.6 In this rule 20.3, a reference to the prescribed rate is a reference to the rate of interest for the time being fixed by the Trustee under rule 24.5 for the purposes of this rule 20.3.
- 20.3.7 The right of an Employee or pensioner under subrule 20.3.1 to request the Trustee to accept a transfer of a policy of assurance ceased on 21 April 1983.

21. AUTOMATIC ADJUSTMENT OF PENSIONS

21.1 Definitions

- 21.1.1 In this Part 21, except in so far as the context or subject-matter otherwise indicates or requires:

adjustment date, in relation to a year, means the first day of the pension pay period that ends on the first pension pay day in the October that next follows that year;

adjustment percentage, in relation to a year, means (subject to subrule 21.2.2) the percentage for that year, calculated in accordance with rule 21.2;

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 published by the Australian Statistician under the *Census and Statistics Act 1905-1966* of the Parliament of the Commonwealth or that Act as amended from time to time or any Act of that Parliament passed in substitution therefor;

June quarter, in relation to a year, means the period commencing on and including 1st April in that year and ending on and including 30th June in that year;

pension

- (a) subject to paragraph (b), means:
- (i) pension payable under these Rules; and
 - (ii) pension wholly paid or recouped from the Consolidated Revenue Fund or the funds of an Employer; and
- (b) does not include:
- (i) pension that has been commuted under rule 12.4; or
[amended by Deed of Amendment No.4 operative 1/1/00]
 - (ii) pension payable in respect of a Child or a student;

quarter, in relation to a year, means:

- (a) the period commencing on and including 1st July in that year and ending on and including 30th September in that year;
- (b) the period commencing on and including 1st October in that year and ending on and including 31st December in that year;
- (c) the period commencing on and including 1st January in that year and ending on and including 31st March in that year; or
- (d) the period commencing on and including 1st April in that year and ending on and including 30th June in that year;

suspended part of a pension, in relation to an adjustment date, means, where any part of an increase in pension was not payable at that adjustment date by reason only of the operation of section 33A of the *Superannuation Act 1916*, the unpaid part of that increase or, where any part of a pension was not payable at that adjustment date by reason only of the operation of section 31B of the *Superannuation Act 1916* the unpaid part of that pension;

suspended pension, in relation to an adjustment date, means:

- (a) a pension that was not payable under rule 13.5 or 13.6 at that adjustment date by reason only of the marriage of a person; or
- (b) a pension that was not payable at that adjustment date by reason only of the operation of rule 15.3;

year means a period commencing on and including 1st July and ending on and including the next following 30th June.

21.1.2 Where a pension is to be adjusted under this Part 21 by reference to the adjustment percentage for a year, a reference (however expressed) in this Part 21 to adjusting the pension is a reference to:

- (a) where the adjustment percentage is calculated in accordance with the formula set out in subrule 21.2.1(a) increasing the pension; or

- (b) where the adjustment percentage is calculated in accordance with the formula set out in subrule 21.2.1(b) reducing the pension.

21.2 Calculation of adjustment percentage

21.2.1 For the purposes of the definition of *adjustment percentage* in subrule 21.1.1, the percentage for a year shall be calculated:

- (a) if the Index number for the June quarter in that year is greater than the Index number for the immediately preceding June quarter in accordance with the following formula:

$$P = \frac{100(C - L)}{L}$$

- (b) if the Index number for the June quarter in that year is less than the Index number for the immediately preceding June quarter in accordance with the following formula:

$$P = \frac{100(L - C)}{L}$$

where:

P is the percentage to be obtained;

C is the Index number for the June quarter in that year; and

L is the Index number for the immediately preceding June quarter.

21.2.2 Where:

- (a) the percentage calculated for a year in accordance with this rule 21.2 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 year is the same as the Index number for the immediately preceding June quarter,

there shall be deemed to be no adjustment percentage for that year.

21.2.3 Where there is deemed to be no adjustment percentage for a year, then, for the purposes of calculating the percentage for the next year:

- (a) the Index number for the June quarter in the firstmentioned year shall be deemed not to have been published; and
- (b) the Index number for that quarter shall be deemed to be the same as the Index number for the June quarter in the last year for which there was an adjustment percentage.

21.2.4 If at any time, the Australian Statistician has published in respect of a particular June quarter an Index number in substitution for an Index number previously published in respect of that quarter, the publication of the later Index number shall be disregarded unless the Trustee otherwise determines for the purposes of this Part 21.

21.2.5 Notwithstanding subrule 21.2.4, if the Australian Statistician changes the reference base for the Consumer Price Index (All Groups Index) for Sydney, then, for the purposes of the application of this Part 21 after the change takes place, regard shall be had only to Index numbers published in terms of the new reference base.

21.3 Adjustment of pensions: general cases

21.3.1 Subject to this Part 21, where there is an adjustment percentage for a year (in this rule 21.3 referred to as *the particular year*), the pension payable on the adjustment date for that year to a person to whom this rule 21.3 applies is hereby adjusted, on and from that adjustment date, by that percentage.

21.3.2 This rule 21.3 applies to:

- (a) a person who last became a pensioner on or before 1st July in the particular year;
- (b) a person who is the Spouse of a pensioner, where that pensioner last became a pensioner on or before 1st July in the particular year and died before the adjustment date for that year; and
- (c) a person who is the Spouse of a Contributor, being a Contributor who died, on or after 1st July in the particular year but before the adjustment date for that year, within five years of having again become a Contributor following a retirement under rule 12.7 on or before 1st July in that year.

21.3.3 A reference in subrule 21.3.1 to a pension payable to a person includes a reference to the pension that would have been payable to the person as if the provisions referred to in the definition of *suspended part of a pension* in subrule 21.1.1 did not apply .

21.4 Adjustment of pensions: partial adjustment

21.4.1 Subject to this Part 21, where there is an adjustment percentage for a year (in this rule 21.4 referred to as *the particular year*), the pension payable on the adjustment date for that year to a person to whom this rule 21.4 applies is hereby adjusted, on and from that adjustment date, by the percentage calculated in accordance with the formula set out in subrule 21.4.3.

21.4.2 This rule 21.4 applies to:

- (a) a person who last became a pensioner after 1st July in the particular year but on or before 1st April in that year, other than a person referred to in paragraph (c);

- (b) a person who is the Spouse of a pensioner, where that pensioner last became a pensioner after 1st July in the particular year but on or before 1st April in that year and died before the adjustment date for that year; and
- (c) a person who is the Spouse of a Contributor, being a Contributor who died, after 1st July in the particular year but before the adjustment date for that year, within five years of having again become a Contributor following a retirement under rule 12.7 after 1st July in that year but on or before 1st April in that year,

but does not apply to a person to whom rule 21.3 applies.

21.4.3 The formula referred to in subrule 21.4.1 is:

$$A = P \times \frac{Q}{4}$$

where:

- A is the percentage by which the pension is to be adjusted;
- P is the adjustment percentage for the particular year; and
- Q is the number of whole quarters of the particular year, being the whole quarters after, and (if applicable) the whole quarter on the first day of which:
 - (a) in the case of a person referred to in subrule 21.4.2(a), the person last became a pensioner;
 - (b) in the case of a person referred to in subrule 21.4.2 (b), the person's late pensioner Spouse last became a pensioner; or
 - (c) in the case of a person referred to in subrule 21.4.2(c):
 - (i) where the person's late Spouse had been retired under rule 12.7 once only, the person's late Spouse was so retired; or
 - (ii) where the person's late Spouse had been so retired more than once, the person's late Spouse was last so retired, disregarding any retirement of the person's late Spouse to which subrule 15.4.2(b) applied.

21.5 Application of rules 21.3 and 21.4 to breakdown pensions and suspended pensions

21.5.1 In determining when a pensioner last became a pensioner for the purposes of rule 21.3 or 21.4, regard shall not be had to any retirement to which subrule 15.4.2(b) applied.

21.5.2 Rule 21.3 or 21.4, as the case may require, applies to and in respect of a suspended pension in the same way as it applies to and in respect of a pension referred to therein, and so applies as if:

- (a) the marriage by reason of which the pension is a suspended pension had not taken place; or
- (b) rule 15.3 did not exist,

as the case may require, but nothing in this subrule 21.5.2 operates so as to authorise or require the payment at any time of that suspended pension or any part thereof.

21.6 Minimum amount to which pensions may be reduced

Notwithstanding anything in this Part 21:

- (a) a pension (other than a pension payable to a person by virtue of the person being a Spouse of a pensioner) shall not be reduced below the fortnightly amount that would, if this Part 21 had not been enacted, have been payable; and
- (b) a pension payable to a person by virtue of the person being a Spouse of a pensioner shall not be reduced below the fortnightly amount that would have been payable to the person by reference to the pension that would, if this Part 21 had not been enacted, have been payable to the pensioner.

21.7 Calculation of percentages

Where a percentage that is to be calculated under this Part 21 is or includes a fraction of one-tenth of 1%:

- (a) if that fraction is less than one-half of one-tenth, that fraction shall be disregarded; and
- (b) if that fraction is not less than one-half of one-tenth, that fraction shall be treated as one-tenth.

22. AUTOMATIC ADJUSTMENT OF CHILDREN'S PENSIONS

22.1 Definitions

In this Part 22, except in so far as the context or subject-matter otherwise indicates or requires, *adjustment date*, *adjustment percentage* and *year* have the meanings respectively ascribed to those expressions by subrule 21.1.1.

22.2 Children's pensions

- 22.2.1 For the purposes of rule 13.12 and subrule 13.27.4(b), the appropriate amount of pension in respect of a Child or student is, subject to this rule 22.2, \$4 per week.
- 22.2.2 Subject to this Part 22, the appropriate amount of pension under this rule 22.2 is \$41.20 per fortnight.
- 22.2.3 Subject to this Part 22, where pensions are increased or decreased under Part 21 by a percentage for any year, the appropriate amount of pension, as previously adjusted, under this rule 22.2 is, as from the adjustment date for that year, increased or decreased, as the case may be, by that percentage.

22.2.4 If the Trustee has made a determination under rule 23.1 in respect of a pension under this rule 22.2, the amount of the pension is reduced by the amount specified in the Trustee's determination.

22.3 Orphans' pensions

22.3.1 For the purposes of rule 13.13 and subrule 13.27.4(a), the appropriate amount of pension in respect of a child or student is, subject to this rule 22.3, \$10 per week.

22.3.2 Subject to this Part 22, the appropriate amount of pension under this rule 22.3 is \$97.85 per fortnight.

22.3.3 Subject to this Part 22, where pensions are increased or decreased under Part 21 by a percentage for any year, the appropriate amount of pension, as previously adjusted, under this rule 22.3 is, as from the adjustment date for that year, increased or decreased, as the case may be, by that percentage.

22.3.4 If the Trustee has made a determination under rule 23.1 in respect of a pension under this rule 22.3, the amount of the pension is reduced by the amount specified in the Trustee's determination.

22.4 Minimum amounts to which pensions may be reduced

Notwithstanding anything in this Part 22, the appropriate amount of pension under:

- (a) rule 22.2 shall not be reduced below \$4 per week; or
- (b) rule 22.3 shall not be reduced below \$10 per week.

22.5 Operation of Part

An increase or decrease of the appropriate amount under rule 22.2 or 22.3 operates in relation to pensions being paid as at the date of the increase or decrease, as well as to pensions that become payable thereafter.

23. CIRCUMSTANCES IN WHICH BENEFITS MAY BE REDUCED

23.1 Power of the Trustee to reduce pensions and other Benefits to offset certain Tax liabilities of this Division

23.1.1 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 23.1.2:

- (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 Benefit by the amount so assessed.

23.1.2 Subrule 23.1.1 does not authorise the reduction of a Benefit under these Rules, unless:

- (a) the Benefit is of a kind to which rule 23.3 applies; and
- (b) the method of calculating the reduction is set out in rule 23.3; and
- (c) the reduction is calculated according to that method.

23.2 Power of the Trustee to adjust Benefits to comply with certain Commonwealth standards relating to occupational superannuation

23.2.1 If:

- (a) a Contributor or former Contributor becomes entitled to receive a pension under these Rules, other than a pension under rule 13.5; and
- (b) payment of the pension to the Contributor or former Contributor would, but for this subrule 23.2.1, not comply with Superannuation Law,

the Contributor or former Contributor may, by notice in writing given to the Trustee before the pension starts to be paid, elect to receive the pension:

- (c) in a form that complies with Superannuation Law; or
- (d) in a form that is in accordance with these Rules (apart from this rule 23.2).

23.2.2 Even after such a pension has started to be paid in a form that does not comply with Superannuation Law, the Contributor or former Contributor concerned is, by notice in writing given to the Trustee at any time before the Trustee is required to take the action referred to in subrule 23.3.1, entitled to make an election or a further election to receive payment of the pension in a form that complies with Superannuation Law.

23.2.3 An election made and notified to the Trustee in accordance with this rule 23.2 is sufficient authority for the Trustee to pay a pension in accordance with the election of the Contributor or former Contributor concerned.

23.2.4 An election under this rule 23.2 to receive a pension in a form that complies with Superannuation Law is irrevocable.

- 23.2.5 A Contributor or former Contributor who does not notify the Trustee of the election of the Contributor or former Contributor under this rule 23.2 before the pension concerned starts to be paid is, subject to subrule 23.2.3, to be regarded as having elected to receive payment of that pension in the form provided by these Rules (apart from this rule).
- 23.2.6 If a Contributor or former Contributor makes an election under this rule 23.2 to receive a pension in a form that complies with Superannuation Law, the Trustee must ensure that the pension is varied only to the extent necessary to comply with Superannuation Law.
- 23.2.7 An election under this rule 23.2 to receive a pension in a form that complies with Superannuation Law is binding not only on the Contributor or former Contributor who made the election but also on any person claiming a Benefit under these Rules through that Contributor or former Contributor.
- 23.2.8 If an election is made under this rule 23.2 to receive a pension in a form that complies with Superannuation Law, the pension is payable in that form despite any other provision of these Rules to the contrary.
- 23.2.9 In this rule 23.2 a reference to a Benefit or pension is a reference to the Benefit or pension after reducing it in accordance with rule 23.1 where appropriate.

23.3 Reduction of Benefit

- 23.3.1 This rule 23.3 applies to the Benefits provided under the following provisions:
- (a) rule 13.1 (Amount of pension payable on retirement);
 - (b) rule 13.3 (Pension on retirement before reaching 60 years of age);
 - (c) rule 13.4 (Pension on retirement before age 60 component pension);
 - (d) rule 13.5 (Breakdown pensions);
 - (e) rule 13.6 (Pensions to Spouse on death of Contributor);
 - (f) rule 13.16 (Retrenchment Benefits payable to an Employee who is Retrenched after completing 10 years' Service);
 - (g) rule 13.17 (Retrenchment Benefits payable to Contributors having not less than 3 years' contributing Service);
 - (h) rule 13.19 (Withdrawal Benefit);
 - (i) rule 14.2 (Benefits payable in respect of Reduced Value Units);
 - (j) Part 16 (Deferred Benefits).

- 23.3.2 For the purposes of rule 23.1, the reduction in a Benefit to which this rule 23.3 applies (other than a Benefit under rule 13.19 or rule 14.2) is the amount calculated in accordance with the following formula:

$$R = M \times \frac{A}{B} \times Q$$

- 23.3.3 For the purposes of rule 23.1, the reduction in a Benefit under rule 13.19 (other than a Benefit arising as a result of the death of a person) is the amount calculated in accordance with the following formula:

$$R = A \times Q$$

- 23.3.4 For the purposes of rule 23.1, the reduction in a Benefit under rule 14.2 is the amount calculated in accordance with the following formula:

$$R = T \times Q$$

- 23.3.5 In this rule 23.3:

- R represents the amount of the reduction;
- M is calculated in accordance with subrule 23.3.6 and represents the amount of the pension or lump sum being reduced;
- A represents the portion of the Benefit payable from the appropriate Employer's reserve in accordance with subrule 13.15.2(b);
- B represents the relevant amount in respect of the Benefit determined in accordance with subrule 13.6.3;
- Q represents the sum of such number of terms as is determined in accordance with the formula prescribed by subrule 23.3.7 to reflect the number of times the rate of Tax has changed;
- T represents the total amount of Benefit derived under rule 14.2.

- 23.3.6 In subrule 23.3.5, the symbol "M" represents:

- (a) in the case of a Benefit arising under rule 13.1, 13.3, 13.4 or 13.5 the Benefit that would be payable under that rule, but for rule 23.1 and this rule 23.3; or
- (b) in the case of a Benefit arising under rule 13.6 in respect of a Contributor who dies before reaching the age of 60 in the case of a man, or the Maturity Age in the case of a woman, two-thirds of the pension that, but for rule 23.1 and this rule 23.3, would have been payable to the Contributor under rule 13.5 if the Contributor had been retired immediately before death; or
- (c) in the case of a Benefit arising under rule 13.6 in respect of a Contributor who dies on or after reaching the age of 60 in the case of a man, or the

Maturity Age in the case of a woman, two-thirds of the pension that, but for rule 23.1 and this rule 23.3, would have been payable under rule 13.1 if the Contributor had retired, or had been retired, immediately before death; or

- (d) in the case of a Benefit arising under rule 13.16 or 13.17, the lump sum Benefit that would be payable under that section but for rule 23.1 and this rule 23.3; or
- (e) in the case of a Benefit arising under Part 16 the total component pension preserved in accordance with rule 16.1.

23.3.7 For the purposes of the symbol "Q" in subrule 23.3.5, the formula prescribed by this subrule is:

$$\frac{C}{D \times L}$$

where:

C represents the number of days of continuous Contributory Service that the person in respect of whom the pension is payable has had with one or more Employers in each period during which the rate of Tax payable on Employer contributions is L;

D represents:

- (a) in the case of Benefits arising under rule 13.5 or 13.6 the number of days of continuous Contributory Service that the person in respect of whom the pension is payable has had with one or more Employers during the period beginning with the date when the person last became a Contributor and ending with the later of the Exit Day and the date on which the person would have been eligible to retire under subrule 12.1.1 if the person's employment had continued to that date; or
- (b) in all other cases the number of days of continuous Contributory Service that the person in respect of whom the pension is payable has had with one or more Employers during the period beginning with the date on which the person last became a Contributor and ending with the person's Exit Day;

L represents the rate of Tax payable on Employer Contributions or such lesser rate as may be determined by the Trustee having regard to the most recent actuarial valuation in respect of the Division.

23.3.8 For the purposes of the symbols "C" and "D" in subrule 23.3.7, the period of a person's continuous Contributory Service does not include any period during which the person is treated by rule 15.1, as being on leave without pay.

23.3.9 For the purposes of rules 13.7 and 16.7, the Benefit that emerges upon the death of the member is not to be reduced as it would already have been reduced in

accordance with rule 23.1 when the member retired or when the Benefit was preserved.

23A Superannuation Interest under the Family Law Act

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

23A.1 Where a Family Court Order, a Superannuation Agreement or Flag Lifting Agreement applies, the Trustee shall ensure that, 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.

23A.2 the Member'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.

24. COMPLIANCE WITH SUPERANNUATION GUARANTEE LEGISLATION

24.1 Minimum Benefits

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.

24.2 Increase in Benefits

So much of a pension component of a Benefit or lump sum as is Employer-financed is, despite any other provision of these Rules **[or any Act]**, not to be less than the minimum Benefit determined under rule 24.1. The Benefit that would otherwise be payable under these Rules is increased to the extent necessary for the purpose of complying with this rule 24.2.

24.3 Increase in Benefit to be paid from non-Contributory scheme

The amount of any increase in Benefit is to be debited by the Trustee from the Employer Reserve of the Employer concerned established under Division C of the Deed.

24.4 Definition

In this Part 24, ***employer-financed Benefit*** means the sum of so much of a pension component of a Benefit or lump sum as is Employer-financed under these Rules, any basic Benefit under the State Authorities Non-Contributory Superannuation Act 1987 and any Employer-financed Benefit of a kind provided by Division C of the Deed.

24.5 The Trustee empowered to fix interest rates for the purposes of these Rules

24.5.1 Whenever the Trustee considers it necessary to do so, the Trustee may, by resolution, fix a rate of interest for the purposes of rule 11.7, 12.6, 13.21, 20.2 or 23.3.

24.5.2 A rate fixed under subrule 24.5.1 for the purposes of rule 13.21, 21.3 or 21.4 has effect on and from:

- (a) the date on which the resolution of the Trustee fixing the rate is made; or
- (b) if a later date is specified in the resolution, that later date.

24.5.3 A rate fixed under subrule 24.5.1 for the purposes of rule 11.7 or 12.6 has effect on and from:

- (a) such date as is specified in the resolution of the Trustee fixing the rate (whether that date is before or after the date of the resolution); or
- (b) if no such date is specified in the resolution, the date on which the resolution is made.

24.5.4 Subject to this rule 24.5, the Trustee has power, and shall be regarded as always having had power, when paying a Benefit under these Rules, to pay interest at such rates, for such periods and in such circumstances as in its absolute discretion it thinks appropriate.

24.5.5 The Trustee may fix different rates for the provisions mentioned in rule 24.5.1.

25. TRANSITIONAL AND OTHER PROVISIONS ARISING FROM THE SUPERANNUATION (AMENDMENT) ACT 1988

25.1 Certain persons to continue to be liable to make payments that were due under the *Superannuation Act 1916* before the commencement of the *Superannuation (Amendment) Act 1988*:

- (a) a provision of the *Superannuation (Amendment) Act 1988* repealed or amended a provision of the *Superannuation Act 1916*; and
- (b) immediately before the commencement of the repealing or amending provision a person was liable to make a payment under the repealed or amended provision which has not been satisfied,

the liability continues under these Rules despite the repeal or amendment.

25.2 Equation of payments

Any agreement entered into under section 90 of the *Superannuation Act 1916* and in force immediately before 1 July 1988 continues in force as if that section had not been repealed by the *Superannuation (Amendment) Act 1988*.

26. SAVINGS AND TRANSITIONAL

26.1 Contributions while on leave without pay or working minimum hours

Rules 6.3, 11.3 and 11.5 apply to a period of leave without pay or part-time work commenced before 1 January 1994 and not completed immediately before that date.

26A SAVINGS AND TRANSITIONAL

26A.1 Definitions

[inserted by Deed of Amendment No.4 operative 30/6/99]

In this rule:

“amending deed” means the Deed of Amendment No. 4 Schedule A.

“eligible pensioner” means a person who is in receipt of a pension under these Rules and who, on the repeal of rule 12.2 by the amending Deed:

- (a) has not attained the age of 60 years and 6 months; and
- (b) has not made an election to commute any part of that pension under rule 12.2 or whose election to commute under that rule has not taken effect.

26A.2 Amendments do not confer new commutation rights on persons who are not eligible pensioners

[inserted by Deed of Amendment No.4 operative 1/1/00]

- (a) Rule 12.4, as substituted by the amending deed, does not apply to or in respect of any pension to which a person became entitled under this Division before 1 July 1985 if the person who is in receipt of that pension is not an eligible pensioner and, accordingly, rule 12.4 does not confer on such a person an entitlement to commute the whole or part of that pension.
- (b) The repeal of rule 12.2 by the amending deed does not affect any election made by a person (not being an eligible pensioner) under rule 12.2 before that repeal, and these Rules continues to apply in respect of such an election as if it had not been amended by the amending deed.
- (c) This rule is subject to rule 26A.3.

26A.3 Commutation of mandatory residual pension under rule 12.4

[inserted by Deed of Amendment No.4 operative 1/1/00]

- (a) If a person who became entitled to a pension under these Rules before 1 July 1985 elected to commute the whole of his or her pension (other than the mandatory residual pension) in accordance with these Rules, before the repeal of rule 12.2 by the amending deed:

- (i) rule 12.4, as amended by the amending deed, extends to that mandatory residual pension; and
 - (ii) the person may make one election under rule 12.4 in respect of that mandatory residual pension within the period of 6 months after the commencement of this rule (despite rule 12.5).
- (b) The Trustee may, subject to such terms and conditions as it may impose, accept an election that is made after that period of 6 months and deal with it as if that time had been indefinitely extended if:
- (i) it is proved to the satisfaction of the Trustee that an election was not made because:
 - (1) the person entitled to make the election did not know of the person's right to make the election; or
 - (2) circumstances substantially beyond the person's control prevented the person's making an election; and
 - (ii) The Trustee is satisfied that in the circumstances of the case it is desirable that the election should be accepted.
- (c) This rule does not authorise the commutation of a pension payable in respect of children.
- (d) In this rule:

“mandatory residual pension” means any amount of pension per fortnight that a person was not entitled to commute under rule 12.2.1, 12.2.2, or 12.2.3 as in force immediately before the repeal of those rules by the amending deed.

26A.4 Saving of commutation entitlements of eligible pensioners

[inserted by Deed of Amendment No.4 operative 1/1/00]

- (a) Subrule 12.4.1, as substituted by the amending deed, applies to or in respect of a pension to which a person became entitled under these Rules before 1 July 1985 if the person who is in receipt of that pension is an eligible pensioner.
- (b) Accordingly, an eligible pensioner may commute the whole or part of that pension in accordance with rules 12.4 and 12.5.
- (c) If an eligible pensioner attained the rule 12.4 commutation age before the commencement of this rule:
 - (i) the eligible pensioner is taken, for the purposes of subrules 12.5.1 and 12.5.2, to have attained the rule 12.4 commutation age on the commencement of this rule; and

- (ii) the reference in subrule 12.5.3 to the time prescribed is taken to be a reference to the time prescribed by that section as modified by this rule.
- (d) If an eligible pensioner made an election to commute any part of his or her pension under rule 12.2 before the repeal of that rule by the amending deed (being an election that has not taken effect):
 - (i) that election is to be treated as an election under rule 12.4; and
 - (ii) the eligible pensioner may, without the approval of the Trustee being necessary, make a further election under rule 12.4 in accordance with rule 12.5 (as modified by subrule 12.5.3, if applicable).
- (e) In this rule the "**rule 12.4 commutation age**" means:
 - (i) in the case of a person who is in receipt of a pension payable under rule 13.5, the maturity age; or
 - (ii) in any other case, 55 years.

26A.5 References to amounts commuted under repealed provisions

[inserted by Deed of Amendment No.4 operative 1/1/00]

- (a) The reference in subrule 12.4.18 to the spouse of a person who dies, having commuted the whole or part of any pension payable to the person pursuant to rule 12.4, extends to the spouse of a person who dies on or after the commencement of this rule, having commuted the whole or any part of any pension payable to the person pursuant to rules 12.2 (before the repeal of the rule by the amending deed or in accordance with an election referred to in subrule 26A.2(b)).
- (b) A reference in rule 13.11 or 21 to any lump sum paid, or any pension that has been commuted, under rule 12.4 extends to any lump sum paid, or pension that has been commuted, under rule 12.2 (before the repeal of that rule by the amending deed or in accordance with an election referred to in subrule 26A.2(b)).

26A.6 Changes to method of calculation

[inserted by Deed of Amendment No.4 operative 30/6/99]

- (a) The amendment made to rule 13.17 by the amending Act does not apply to the calculation of a benefit payable to a contributor who became entitled to the benefit before the commencement of that amendment. Rule 13.17, as in force immediately before the commencement of that amendment, continues to apply in respect of such a calculation.
- (b) The amendments made to rule 13.19 by the amending Act do not apply to the calculation of any amount payable to a contributor who became entitled to the amount before the commencement of the amendments. Rule 13.19, as in force immediately before the commencement of those amendments, continues to apply in respect of such a calculation.

26B Transitional Provisions

[26B inserted by Deed of Amendment No.4 operative various]

26B.1 Definitions:

[26B.1 inserted by Deed of Amendment No.4 operative 30/6/99]

In this rule 26B:

commencement day means the day the rule is amended as stated in clause 2 of this Deed of Amendment.

26B.2 Amendments to rule 12.5 – no application to persons of or over the age of 60 years

[26B.2 inserted by Deed of Amendment No.4 operative 1/1/00]

The amendments made to rule 12.5 as a result of the Amending Deed do not apply in respect of any person who is entitled to a pension payable under rule 13.5 and who attains the age of 60 years on or before the commencement day.

26B.3 Amendments to rule 12.5 – application to certain persons between 55 and 60 years of age

[26B.3 inserted by Deed of Amendment No.4 operative 1/1/00]

26B.3.1 This rule 26B.3 applies in respect of a person who has a maturity age of 60 years, and who, on the commencement day:

- (a) is entitled to a pension payable under rule 13.5, and
- (b) has attained the age of 55 years but has not yet attained the age of 60 years.

26B.3.2 Rule 12.5, as amended as a result of the amendments made to these Rules that took effect on the commencement day applies in respect of such a person as if the person had attained the age of 55 years on the commencement day. Accordingly:

- (a) the person may make an election under rule 12.4 or under rule 12.10 (if applicable to the person), at any time within the period of 6 months after the appointed day, and
- (b) the reference in subrule 12.5.3 to the time prescribed by subrule 12.5.1 and 12.5.2 is a reference to the time prescribed by those subrules, as amended by amendments that took effect on the commencement day.

26B.4 Application of rule 13.7A and amendments to rule 13.8

[26B.4 inserted by Deed of Amendment No.4 operative 30/6/99]

26B.4.1 Rule 13.7A, as inserted as a result of the amendments made to these Rules that took effect on the commencement day, does not apply to or in respect of a pensioner who died before the commencement of rule 13.7A.

- 26B.4.2 Rules 13.8.4 and 13.8.5, as inserted as a result of the amendments made to these Rules as a consequence of the amendments that took effect on the commencement day do not apply to or in respect of an employee who died before the commencement of 13.8.4 and 13.8.5.

26B.5 Application of rule 13.17A

[26B.5 inserted by Deed of Amendment No.4 operative 30/6/99]

Rule 13.17A, as inserted as a result of the amendments made to these Rules as a consequence of the amendments that took effect on the commencement day, applies only in respect of a Contributor referred to in subrule 13.17A.1 who is retrenched on or after the commencement of rule 13.17A.

26C Transitional Provisions

Rule 13.5, as amended by Deed of Amendment 7, applies to any person entitled to a pension on 1 July 1999 but who was, immediately before that date, not entitled (because of subrule 13.5.9) to payment of that pension.

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

27. PROVISIONS APPLICABLE IN RESPECT OF FOREIGN CONTRIBUTORS

27.1 Definitions

27.1.1 In this Part 27:

conversion ratio, in relation to a foreign currency, means:

- (a) in the case of sterling the ratio of 1 pound sterling to 2 Australian dollars; or
- (b) in the case of Japanese currency the ratio of 400 Japanese yen to 1 Australian dollar;

foreign Contributor means a Contributor who:

- (a) was recruited in a country other than Australia and is employed in such a country; and
- (b) is paid a Salary at a rate expressed in a currency other than Australian currency;

foreign currency in relation to a foreign Contributor means the currency in which his rate of Salary is expressed.

27.1.2 A reference in this Part 27:

- (a) to a foreign Contributor shall be construed as including a reference to a former foreign Contributor; and
- (b) to an Employer of a foreign Contributor shall be construed as including a reference to the person who was the Employer of the former foreign Contributor.

27.2 Certain calculations to be made by means of a conversion ratio

Where:

- (a) an amount expressed in a foreign currency is required for the purposes of these Rules to be expressed in Australian currency that amount expressed in Australian currency; or
- (b) an amount expressed in Australian currency is required for the purposes of these Rules to be expressed in a foreign currency that amount expressed in the foreign currency,

shall be calculated by means of the conversion ratio in relation to that foreign currency.

27.3 Certain amounts to be expressed in foreign currency

27.3.1 This rule 27.3 shall not apply in respect of a foreign Contributor unless a conversion ratio applies in relation to the currency of the country in which the foreign Contributor is employed.

27.3.2 For the purpose of determining the number of units of pension that, pursuant to subrule 11.1.1, is appropriate for the Salary actually being paid to a foreign Contributor, the amount of the Salary shall be expressed in Australian currency in accordance with rule 27.2.

27.3.3 Any amount payable under these Rules by or to a foreign Contributor shall be expressed in foreign currency in accordance with rule 27.2.

27.4 Employer to pay under or receive under this Division any difference between actual amount paid under this Part and amount otherwise payable

27.4.1 Where:

- (a) an amount that, but for subrule 27.3.3, would be payable under these Rules by a foreign Contributor is greater than the amount that is paid by that person; or
- (b) an amount that, but for subrule 27.3.3, would be payable under these Rules to a foreign Contributor is less than the amount that is paid to that person,

the Employer of the foreign Contributor shall pay under this Division an amount equal to the difference between the amount that, but for subrule 27.3.3, would be payable and the amount that is paid.

27.4.2 Where:

- (a) an amount that, but for subrule 27.3.3, would be payable under these Rules by a foreign Contributor is less than the amount that is paid by that person; or

- (b) an amount that, but for subrule 27.3.3, would be payable under these Rules to a foreign Contributor is greater than the amount that is paid to that person,

the Trustee shall pay under this Division to the Employer of the foreign Contributor an amount equal to the difference between the amount that, but for subrule 27.3.3, would be payable and the amount that is paid.

27.5 Payments to be made as if conversion ratio always applied

Where a conversion ratio applies to the currency of a country in which, immediately before the conversion ratio first applied to that currency, there was employed a foreign Contributor to whom rule 27.3 did not apply:

- (a) the Trustee may pay to the foreign Contributor such amount or make such allowance in respect of future contributions payable by the Contributor;
- (b) the Employer shall pay under this Division such amount; and
- (c) the foreign Contributor shall pay under this Division such amount,

as in the opinion of the Trustee would place this Division, the foreign Contributor and the Employer of the foreign Contributor in the financial position in which they would have been if the conversion ratio had always applied.