

**COMMONWEALTH BANK OF AUSTRALIA**  
**ACN 123 123 124**

AND

**COMMONWEALTH BANK OFFICERS SUPERANNUATION  
CORPORATION PTY LIMITED**  
**ACN 074 519 798**

(formerly Commonwealth Bank Officers Superannuation Corporation)

**COMMONWEALTH BANK GROUP SUPER  
TRUST DEED**

**CONSOLIDATED DEED**

**WORKING COPY ONLY**

Consolidated version of original Commonwealth Bank Group Super (Formerly Officers' Superannuation Fund) Trust Deed dated 11 July 1996, that was amended by deeds dated:

25 September 1997	10 June 2004	29 June 2007
19 February 1998	6 December 2004	30 June 2008
23 July 1999	18 February 2005	30 December 2008
23 February 2000	18 April 2005	21 December 2009
31 July 2000	5 May 2005	23 March 2010
15 May 2001	18 August 2005	26 May 2011
15 May 2002	3 March 2006	30 April 2012
1 April 2003	7 July 2006	14 February 2013
2 October 2003	8 November 2006	

**THIS DEED** is made on the 11th day of July 1996.

**BETWEEN**

**COMMONWEALTH BANK OF AUSTRALIA** ACN 123 123 124 of the first part (the Bank)

**AND**

**COMMONWEALTH BANK OFFICERS SUPERANNUATION CORPORATION** of the second part (the Corporation)

**RECITALS**

- A. The Corporation conducts a superannuation fund established under the Commonwealth Banks Act 1959 known as the Commonwealth Bank Group Super.
- B. The Commonwealth Bank Group Super is governed by the Commonwealth Banks (Officers' Superannuation) Rules, being rules in force under Section 110 of the Commonwealth Banks Act 1959.
- C. By operation of item 34 of the schedule to the Commonwealth Bank Sale Act 1995, with effect at the Transfer Time, Section 110 of the Commonwealth Banks Act 1959 is to be repealed and the following new section substituted:
- "110. (1) The Corporation's superannuation fund that was in existence immediately before the commencement of this section:
- (a) continues in existence; and
- (b) is to be governed by the Trust Deed.
- (2) All the rights and liabilities of members and beneficiaries of the fund that existed immediately before the commencement of this section continue after the commencement of this section, subject to the Trust Deed.
- (3) In this section:
- Trust Deed*** means the trust deed made before the commencement of this section between the Corporation and the Commonwealth Bank, and includes any amendments to that deed."
- D. This Deed is entered into between the parties as the Trust Deed referred to in the substituted Section 110 of the Commonwealth Banks Act 1959 referred to in Recital C above, for the purpose of governing the Commonwealth Bank Group Super at and from the Transfer Time.

## OPERATIVE PART

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### 1 Definitions and Interpretation

#### 1.1 Definitions

In this Deed unless the contrary intention appears or the context requires otherwise:

**"Deed"** means this Trust Deed, including without limitation the recitals and the Rules, as amended, added to, revoked or replaced from time to time in accordance with this Trust Deed.

**"Employer"** means the Principal Employer and an "Associated Employer" as provided for in the Rules.

**"Fund"** means the superannuation fund of the Trustee known as "Commonwealth Bank Group Super" with effect from 28 May 2012 and formerly known as the "Officers' Superannuation Fund", being the superannuation fund continued in existence under the terms of the Commonwealth Banks Act 1959, to be governed by this Deed at and from the Transfer Time, and being the same superannuation fund as was governed by the Commonwealth Bank (Officers' Superannuation) Rules immediately before the Transfer Time.

**"Power"** means a power, right, discretion, authority, duty and function of any nature and howsoever arising (including without limitation the formation of an opinion) and, wherever a Power is exercisable by a person, the relevant provision of this Deed is to be read as if the words "at any time and from time to time" were added to that provision.

**"Principal Employer"** means the Bank or any successor to it.

**"Relevant Law"** means:

- (a) the SIS Act; and
- (b) any other present or future law of the Commonwealth of Australia or any State or Territory of Australia that:
  - (1) applies to the Fund, this Deed, the Trustee or an Employer by force of law; or
  - (2) without limiting (1) above, the Trustee and the Principal Employer may agree from time to time to be a Relevant Law for the purposes of the whole or any particular provision of this Deed,

to the extent that the Fund, this Deed, the Trustee or an Employer must comply with that law in order to secure a concession or relief in respect of any Tax, avoid a penalty, detriment or disadvantage in connection with the Fund or ensure that (as far as lawfully possible) this Deed is valid and enforceable.

**"Rules"** means the Rules of the Fund set out in the Appendix to this Deed as amended, added to, revoked or replaced from time to time.

"**SIS Act**" means the Superannuation Industry (Supervision) Act 1993 and includes any regulations and other subordinate legislation made under that Act.

"**Tax**" means any governmental impost (including without limitation a tax, duty or levy) that is or might become payable in connection with the Fund, income of the Fund, payment or transfer of any money or property to or from the Fund, this Deed or anything done or that may be done under this Deed.

"**Transfer Time**" means the "transfer time" as defined in the Commonwealth Bank Sale Act 1995.

"**Trustee**" means the Corporation or any other trustee appointed under this Deed for the time being, whether original or substituted.

## 1.2 Interpretation

In this Deed, unless the contrary intention appears or the context requires otherwise:

- (a) **contents and headings:** the list or index of contents and the headings are used for convenience only and are not to be construed as in any way affecting or qualifying the substance of this Deed;
- (b) **singular, plural and genders:** words importing the singular include the plural and words importing a gender include all genders;
- (c) **statutory enactments:** a reference to a law or provision of a law ("**specified law**") includes:
  - (1) the specified law as amended or re-enacted;
  - (2) any other law to the extent it replaces the specified law, whether or not passed or approved by the same legislative body or other authority and whether or not incorporating or adopting a law previously in force; and
  - (3) any other law (and any enforceable determination or ruling) made or laid down in accordance with the specified law,

where "**law**" means a statute, regulation, proclamation, ordinance, statutory rule, by-law or industrial award.;

- (d) **defined terms:** whilst for convenience particular words or groups of words defined in this Deed commence with capital or lower case letters:
  - (1) failure to use capital or lower case letters in those words or groups of words elsewhere in this Deed does not of itself mean that those words or groups of words bear meanings different from the meanings assigned to them in the relevant definition; and
  - (2) any other part of speech or other grammatical form in respect of that word or group of words has a corresponding meaning;
- (e) **conflicts within Deed:** if and to the extent that there is a conflict between a clause in the body of this Deed and a provision of the Rules, that clause shall prevail and, if and to the extent that there is a conflict between Division A of the Rules and any provision of the Rules that is not in Division A, Division A prevails except where a Rule expressly provides to the contrary;

- (f) **amended provisions:** a reference to a Subclause, Clause, Rule, Division, Part or other provision of this Deed is a reference to that Subclause, Clause, Rule, Division, Part or other provision as amended, added to, revoked or replaced from time to time;
- (g) **persons:** a word or expression importing a natural person includes a body corporate and any other person recognised at law, a partnership and any other group or association of persons but the words "natural person" have their normal meaning;
- (h) **power of revocation implied:** where power is conferred by this Deed on an Employer or the Trustee to make any decision, determination, declaration or direction, the power includes a power exercisable in like manner and subject to like conditions (if any) to revoke, amend or vary that decision, determination, declaration or direction, and for the purposes of clarity only, and without limiting any other provision of this Deed, it is confirmed that this power includes power to revoke, amend or vary any decision, determination, declaration or direction in force under the Commonwealth Banks (Officers' Superannuation) Rules immediately before the Transfer Time; and
- (i) **Schedules to Rules:** reference in any Division of the Rules to a Schedule is taken to be a reference to a Schedule to that Division.

### 1.3 Questions of interpretation

Without limiting the jurisdiction of any competent court or tribunal, if a question arises as to the meaning or effect of this Deed, the Trustee may decide the question and its decision is final.

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## 2. Continuance of the Fund

### 2.1 Fund to be governed by this Deed

This is the Trust Deed referred to in the substituted Section 110 of the Commonwealth Banks Act 1959 referred to in Recital C.

### 2.2 Continuance of rights and liabilities

In accordance with the substituted subsection 110(2) of the Commonwealth Banks Act 1959 referred to in Recital C, all the rights and liabilities of or in respect of members and beneficiaries of the Fund that existed immediately before the Transfer Time under the Commonwealth Banks (Officers' Superannuation) Rules will, subject to this Deed, continue after the Transfer Time as rights and liabilities under this Deed.

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## 3 Continuance of Conditions

Any conditions, limitations and restrictions affecting a member or beneficiary of the Fund, or the benefits applicable to any member or beneficiary of the Fund, immediately before the Transfer Time under the Commonwealth Banks (Officers'

Superannuation) Rules (including, without limitation, conditions regarding membership classification, contributions or benefits) will, subject to this Deed, continue in force after the Transfer Time as conditions, limitations or restrictions affecting that member or beneficiary under this Deed.

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## **4 Effect of the Former Rules**

### **4.1 Replacement of Former Rules from Transfer Time**

At and from the Transfer Time, the terms of this Deed shall govern the Fund and shall replace the terms of the Commonwealth Banks (Officers' Superannuation) Rules.

### **4.2 Continuance of the Former Rules**

This Deed shall be construed as if the Commonwealth Banks (Officers' Superannuation) Rules in force immediately before the Transfer Time were, subject to the replacement provided for in Subclause 4.1 and otherwise to the terms of this Deed, incorporated into this Deed.

### **4.3 Deed to be construed without regard to changes at Transfer Time**

Except to the extent that the terms of this Deed as in force from time to time differ from the terms of the Commonwealth Banks (Officers' Superannuation) Rules in force immediately before the Transfer Time, no regard shall be had in construing this Deed to the fact that, prior to the Transfer Time, the rules governing the Fund were rules in force under the Commonwealth Banks Act 1959 and that at and from the Transfer Time the Fund is governed by this Deed.

### **4.4 No alteration of benefits**

Subject to this Deed, the terms of this Deed shall not be construed so as to:

- (a) increase or reduce from the Transfer Time the amount of any benefit (or alter the terms and conditions applying to that benefit) which would have applied under the Commonwealth Banks (Officers' Superannuation) Rules; or
- (b) require the payment of any benefit additional to the benefit which would have applied under the Commonwealth Banks (Officers' Superannuation) Rules,

had the Fund continued to be governed, from the Transfer Time, by those Rules and not by this Deed.

### **4.5 Continuance of past exercise of Powers**

Any delegation, appointment, direction, determination, approval, election or other action or exercise of Power made, taken or exercised under the Commonwealth Banks (Officers' Superannuation) Rules which remains in force immediately before the Transfer Time will, subject to this Deed, continue in force after the Transfer Time as a delegation, appointment, direction, determination, approval,

election or other action or exercise of Power made, taken or exercised under this Deed.

#### **4.6 Continuance of exemptions from liability and indemnities**

Subject to this Deed and to the extent not otherwise covered by this Deed, each exemption from liability or right to indemnity under the Commonwealth Banks (Officers' Superannuation) Rules in favour of the Corporation or any director relating to any cost, loss, damage, claim or liability caused or incurred before the Transfer Time shall continue on the same terms after the Transfer Time as an exemption from liability or an indemnity relating to that cost, loss, damage, claim or liability under this Deed.

#### **4.7 Continuance of past actions and circumstances**

The terms of any rule under the Commonwealth Banks (Officers' Superannuation) Rules in force immediately before the Transfer Time which (whether in general terms or terms specific to a particular matter) related to the doing of any thing, the taking of any action, the making of any payment, the exercise of any Power, the occurrence of any event or the existence of any situation or circumstance at some past time (including, where relevant, under or in connection with the Commonwealth Banks (Officers' Superannuation – Vesting Scheme) Rules or the Trust Deeds for the CBA Staff Superannuation Fund or the SBV Staff Superannuation Fund) shall continue in force as provided for in this Deed.

#### **4.8 No revival or change of membership**

Nothing contained in this Deed shall be construed as:

- (a) reviving the membership in the Fund of a person who ceased to be a member of the Fund before the Transfer Time under the Commonwealth Banks (Officers' Superannuation) Rules, except upon that person again becoming a member of the Fund as provided for in the Rules; or
- (b) causing a person who is a member of the Fund at the Transfer Time to be or become a member of the Fund under any Division of the Rules other than the Division or Divisions corresponding to the Division or Divisions of the Commonwealth Banks (Officers' Superannuation) Rules in respect of which the person was a member immediately before the Transfer Time, except where by operation of this Deed the person would become a member under another Division by reference to events occurring after the Transfer Time.

#### **4.9 Deed not to be construed as affecting status of existing decisions etc**

Nothing contained in this Deed shall be construed as altering the status of any decision, determination, declaration, direction, nomination, consent, election or acceptance of eligibility which has been made, revoked, amended or varied before the Transfer Time under the Commonwealth Banks (Officers' Superannuation) Rules, from the status of the decision, determination, declaration, direction, nomination or acceptance of eligibility applying immediately before the Transfer Time. This Subclause 4.9 does not limit the power of any relevant person, under this Deed, to revoke, amend or vary any decision, determination, declaration, direction, nomination, consent, election or acceptance of eligibility in force

immediately before the Transfer Time under the Commonwealth Banks (Officers' Superannuation) Rules.

#### **4.10 No duplication of benefits**

Nothing in this Deed shall be construed as requiring the payment of any benefit under this Deed, to the extent that the obligation to pay the corresponding benefit under the Commonwealth Banks (Officers' Superannuation) Rules has been discharged by payment under those Rules.

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## **5 Rules of the Fund**

### **5.1 Rules to form part of Deed**

The Rules of the Fund form part of this Deed.

### **5.2 Construction of particular Rule references**

Unless the context requires otherwise, a reference in the Rules to a defined term, Rule, Part, Division, Schedule or other provision will be construed as including reference to the corresponding defined term, Rule, Part, Division, Schedule or other provision, if any, of the Commonwealth Banks (Officers' Superannuation) Rules in force immediately before the Transfer Time. For the purpose only of clarity, it is confirmed that any reference in the Rules to the doing of any thing, the taking of any action, the making of any payment, the exercise of any Power, the occurrence of any event or the existence of any situation or circumstance under, pursuant to or otherwise referable to any Rule, Part, Division, Schedule or other provision of the Rules shall be construed as including a reference to the doing of any thing, the taking of any action, the making of any payment, the exercise of Power, the occurrence of any event or the existence of any situation or circumstance before the Transfer Time under, pursuant to or otherwise referable to the corresponding Rule, Part, Division, Schedule or other provision of the Commonwealth Banks (Officers' Superannuation) Rules in force immediately before the Transfer Time.

### **5.3 Construction of general Rule references**

Unless the context requires otherwise, a general reference in the Rules to the Rules or to this Deed shall be construed as including reference to the Commonwealth Banks (Officers' Superannuation) Rules in force from time to time before the Transfer Time.

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## **6 Variation**

### **6.1 Power**

Subject to Subclauses 6.3, 6.4 and 6.5, the Principal Employer may, by deed or oral or written resolution (including a resolution of the board of directors of the Principal Employer or of any committee of the board of directors of the Principal Employer), amend, add to, revoke or replace from time to time all or any of the



provisions of this Deed (including without limitation this Subclause 6.1) as the Principal Employer sees fit.

## **6.2 Effective date**

Any amendment, addition, revocation or replacement made in accordance with this Deed takes effect on the effective date specified in the relevant deed or resolution or, if no effective date is so specified, the date of that deed or resolution.

## **6.3 Restriction on exercise of power**

The provisions of this Deed must not be amended in a way that would have the effect of reducing benefits accrued or payable under this Deed if and to the extent that, by making the amendment the Fund or the Trustee would fail to comply with the Relevant Law.

## **6.4 Important provisions of the SIS Act**

Without limiting Clause 8, it is acknowledged by the parties that the SIS Act imposes conditions concerning the amendment of the governing rules of superannuation schemes, which must be observed when making amendments under this Clause 6. In particular, no amendment may be made under this Clause 6 without the consent of the Trustee where that consent is required under the SIS Act.

## **6.5 Protection of certain benefits**

Any amendments to the provisions of this Deed will not permit the transfer or payment to an Employer in any circumstances of any part of the Fund which represents the “Surplus” as defined in Rule CM8.3.

## **6.6 Construction of Deed**

Without limiting Clause 8, nothing contained in any other provision of this Deed is to be construed as limiting the powers conferred under this Clause 6.

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# **7 The Trustee**

## **7.1 Trustee to be constitutional corporation**

The Trustee of the Fund for the time being must be a constitutional corporation in terms of the SIS Act.

## **7.2 Vacancy in office of Trustee**

In the event of any vacancy in the office of Trustee of the Fund, the Principal Employer may by instrument in writing or by resolution (including a resolution of the board of directors of the Principal Employer or of any committee of the board of directors of the Principal Employer) from time to time appoint a new Trustee of the Fund. Any such appointment may be made in advance of the vacancy occurring, to take effect at the time the vacancy occurs.

### **7.3 Effect of appointment**

A new Trustee appointed under this Clause 7 shall assume or undertake any liabilities or obligations of the former Trustee and shall by virtue of this Deed have all the property of the Fund whether real or personal vested in and held by it as the new Trustee. The former Trustee shall take all such action as is necessary by law to cause title to the property of the Fund to be transferred to the new Trustee. The new Trustee shall upon appointment exercise all the Powers and enjoy all the rights and be subject to all the duties and obligations of the former Trustee.

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## **8 Compliance with Relevant Law**

### **8.1 Paramount effect of Clause**

Notwithstanding anything expressed or implied to the contrary in any other provision of this Deed, if and to the extent that there is a conflict between this Clause 8 and any other provision of this Deed (including any provision that purports to override this Clause 8), this Clause 8 prevails. All other provisions of this Deed are equally subject to this Clause 8, even though some provisions may expressly refer to this Clause 8 and others may not.

### **8.2 Powers of Trustee and Employer**

The Trustee and each Employer has all of the Powers necessary to satisfy a Relevant Law and, without limiting the Powers of the Trustee, the Trustee may:

- (a) do, or cause to be done, any matter or thing necessary in order to satisfy a Relevant Law; and
- (b) refrain from doing any matter or thing that would cause a breach of or non-compliance with a Relevant Law.

### **8.3 Severance**

Each provision of this Deed, and each Power exercisable by the Trustee, an Employer or any other person under this Deed, must be severed, read down or limited (as the case may require) to the extent necessary to:

- (a) avoid any provision of this Deed being rendered void, invalid or unenforceable under a Relevant Law and generally to ensure observance of a Relevant Law; and
- (b) ensure that, as far as lawfully possible, this Deed is valid and enforceable.

### **8.4 Prohibited directions to Trustee**

No person is permitted to engage in conduct that, but for this Clause 8, would render the Trustee subject, in the exercise of any of the Trustee's Powers under this Deed, to direction by that person in terms of and to an extent not permitted under the Relevant Law, where "engage in conduct" includes refusing or failing to do an act or exercise a Power.

### **8.5 Consent of Trustee**

To the extent that the exercise of, or ability to exercise, a Power under this Deed by a person other than the Trustee without the consent of the Trustee would, but for this Clause 8, render a provision of this Deed void, invalid or unenforceable under the Relevant Law, then that other person may only exercise that Power with the consent of the Trustee.

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## **9 Governing Law**

This Deed shall be construed and take effect in accordance with the law of the State of New South Wales (called "the proper law") and the enforcement of, construction of and validity of this Deed and all matters affecting the Fund and the rights of the parties to this Deed, shall be governed by the proper law and be subject to the jurisdiction of the Courts of New South Wales.



**APPENDIX**

**Rules  
of the  
Commonwealth Bank Group Super  
Division A**

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**General Provisions**

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**Part A1 Preliminary**

**A1.1 Divisions**

These Rules are divided into Divisions, as follows:

- Division A - General Provisions
- Division B - CBA Old Scheme Members
- Division C - CBA Vesting Scheme Members
- Division D - Former Division B SBV Members
- Division E - Former Division C SBV Members
- Division F - Accumulation Members, including former CGSSS members of Divisions I, J, L and P
  
- Division CB1 - Former CGSSS Division Part 1 members
- Division CB2 - Former CGSSS Division Part 2 members
- Division CC - Former CGSSS Division C members
- Division CD - Former CGSSS Division D members
- Division CE - Former CGSSS Division E members
- Division CF - Former CGSSS Division F members
- Division CH - Former CGSSS Division H members
- Division CK - Former CGSSS Division K members
- Division CM - Former CGSSS Division M members
- Division CN - Former CGSSS Division N members
- Division CO - Former CGSSS Division O members

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## Part A2 Definitions and interpretation

### A2.1 Definitions

In these Rules, unless the contrary intention appears or the context requires otherwise:

“**Account**” of a CGSSS DB Member, a Division F Member or an Allocated Pensioner, for the purposes of this Division A, means as appropriate:

- (a) the Contributor’s Account referred to in Rule A24.4;
- (b) the account maintained in respect of a Division F Member or Allocated Pensioner in accordance with Part F5;
- (c) the Voluntary Contribution Account or the Transfer Account referred to in Division CH;
- (d) the Employee Contribution Account referred to in Divisions CK and CM;
- (e) the Voluntary Contribution Account referred to in Division CN;
- (f) the Voluntary Contribution Account referred to in Division CO; and
- (g) such other Accounts as are established in accordance with this Deed.

“**Accrued Benefit Points**”, in relation to a CGSSS DB Member to whom Division CB1, CC or CE applies, has the meaning given to that term in the applicable Division.

“**Actuary**” means a Fellow or an Accredited Member of the Institute of Actuaries of Australia or any other person permitted to act as an actuary for the purposes of this Deed under the Relevant Law.

“**Administration Expenses**” means in relation to a Member or Allocated Pensioner, the Member's or Allocated Pensioner's share from time to time of the costs and expenses of the operation, management, administration and investment of the Fund, as determined by the Trustee after obtaining the advice of an Actuary, and for this purpose:

- (a) the Trustee may make any allowance the Trustee considers appropriate for the inclusion of all or any of these costs and expenses in the periodic determination and allocation of the Declared Rate or, where the Trustee determines to adopt a unitisation method for calculating all or part of the value of a Member’s or Allocated Pensioner’s Division F benefits, for their inclusion in the determination of the relevant unit prices;
- (b) the Trustee and the Principal Employer may agree to the Trustee determining that during any particular period no Administration Expenses, or an amount less than the full amount of Administration Expenses which would otherwise apply, will apply in respect of a particular class or category of Members or Allocated Pensioners; and
- (c) the Trustee may set fees to be applied to Members and Allocated Pensioners or to different classes or categories of Members or Allocated Pensioners, including without limitation withdrawal fees, investment switching fees, roll-in fees, Family Law fees payable by Members under Rule A23.6, irregular contribution fees, pension alteration fees and fees

relating to investment management, brokerage, custody and other investment related expenses.

“**Allocated Pensioner**” has the same meaning as in Rule F1.2.

“**Annual Review Date**” in relation to a CGSSS Member means the first day of July each year or such other date in each year as the Principal Employer and the Trustee may from time to time agree upon.

“**Amendment Date**” means 23 June 1995.

“**Approved Benefit Arrangement**” means a fund, scheme or arrangement, other than the Fund, to which a payment or transfer may be made from the Fund, or from which a payment or transfer may be made to the Fund, without causing a breach of the Relevant Law.

“**Associated Employer**” means a person admitted to participation in the Fund as an Associated Employer in accordance with Part A19 (including its successor or assignee) but not including a person prior to that person so becoming an Associated Employer and not including a person who has ceased to participate in the Fund by agreement with (and on terms and conditions determined by) the Principal Employer and the Trustee.

“**Attributed Salary**” in relation to a CGSSS DB Member at any time, means:

- (a) where the CGSSS DB Member is a full-time Employee at that time – the Salary of the CGSSS DB Member at that time; or
- (b) where the CGSSS DB Member is a part-time Employee at that time – the Salary that would be payable to the CGSSS DB Member at that time if employed as a full-time Employee,

as certified by the CGSSS DB Member’s Employer.

“**Auditor**” means the person appointed for the time being as the Auditor of the Fund under Rule A6.3, being a person who is permitted to act in that capacity under the Relevant Law.

“**Beneficiary**”:

- (a) in relation to Rule A24.12, A24.20 and A24.21, means a person presently and absolutely entitled to receive a benefit in respect of a CGSSS Member at the relevant time but does not include a person who is a Member at the said time;
- (b) in relation to other provisions of this Division A, means a Member or other person who is for the time being beneficially entitled to receive a benefit from the Fund; and
- (c) for the purposes of Divisions CK and CM, has the meaning set out in the applicable Division.

“**Board**” means the directors of the Trustee.

“**CBA Staff Fund Deed**” means the trust deed (including the rules) dated 28 June 1993, as amended, governing the CBA Staff Fund from time to time up to the CBA Staff Transfer Date.

“**CBA Staff Fund**” means the superannuation fund known before the CBA Staff Transfer Date as the CBA Staff Superannuation Fund.

“**CBA Staff Transfer Date**” means 21 July 1995.

“**CGSSS**” means the Colonial Group Staff Superannuation Scheme.

“**CGSSS Deed**” means the trust deed dated 29 December 1987, as amended, governing CGSSS from time to time up to the CGSSS Transfer Date.

“**CGSSS DB Divisions**” means Divisions CB1, CB2, CC, CD, CE, CF, CH, CK, CM, CN and CO (each a “**CGSSS DB Division**”).

“**CGSSS AF Member**” means a person who immediately before the CGSSS Transfer Date was a member of CGSSS under Divisions I, J, L or P of the CGSSS Deed, who last became a Member of the Fund as at the CGSSS Transfer Date and who has not ceased to be a Member under Division F.

“**CGSSS DB Member**” means a person who immediately before the CGSSS Transfer Date was a member of CGSSS under Division B-Part 1, B-Part 2, C, D, E, F, H, K, M, N, or O of the CGSSS Deed, who last became a Member of the Fund as at the CGSSS Transfer Date and who has not ceased to be a Member under Rule A24.2 or under the applicable CGSSS DB Division.

“**CGSSS DB Non-Employee Member**” means a CGSSS DB Member who has ceased to be an Employee.

“**CGSSS AF Non-Employee Member**” means a CGSSS AF Member who has ceased to be an Employee.

“**CGSSS Member**” means a Member who is either a CGSSS DB Member or a CGSSS AF Member.

“**CGSSS Transfer Date**” means the date the benefits of members of CGSSS were transferred to the Fund by way of successor fund transfer, being 3 October 2003.

“**CGSSS Trustee**” means SBSBS Pty Limited ABN 64 008 659 390, in its capacity as the trustee of CGSSS prior to the CGSSS Transfer Date and any other entity acting as the trustee of CGSSS from time to time.

“**Child**”:

(a) in relation to a CGSSS DB Member and:

(1) for the purposes of this Division A, means a child within the meaning of the SIS Act, and any person who in the opinion of the Trustee is or was actually maintained as his or her child by the Member and whom the Trustee decides in its discretion to recognise as the child of the Member for the purposes of the Deed; and

(2) for the purposes of Divisions CF, CK and CM has the meaning given to that term in the applicable Division; and

(b) in relation to a Division B Member, a Division C Member, a Division D Member and a Division E Member and for the purposes of the corresponding Division, has the meaning given to that term in the applicable Division.

“**Commonwealth Banks Service**” means the Commonwealth Banks Service within the meaning of that expression in section 88 of the Commonwealth Banks Act 1959 immediately before the Transfer Time.



**“Complying Superannuation Arrangement”** in relation to a CGSSS DB Member, means a superannuation, pension or other retirement fund or arrangement including without limitation a superannuation fund, approved deposit fund, registered organisation and an eligible rollover fund to or from which some or all of a Member’s superannuation entitlements may be transferred in compliance with the Relevant Law.

**“Contributions”**:

- (a) in relation to a CGSSS DB Member means payments to the Fund for or by a Member under the Division that applies to that Member; and
- (b) in relation to a Division D Member, Division E Member and a Division F Member and for the purposes of the corresponding Division, has the meaning given to that term in the applicable Division.

**“Contributor’s Account”** means the account established and maintained under Rule A24.4 in respect of a CGSSS DB Member.

**“Corporation”** means the Commonwealth Bank Officers Superannuation Corporation, formerly called the Commonwealth Banking Corporation.

**"DB Divisions"** means Division B, C, D, E, CB1, CB2, CC, CD, CE, CF, CH, CK, CM, CN and CO (each a **"DB Division"**).

**"DB Member"** means a Member under a DB Division of the Deed.

**"DB Non-Employee Member"** means a DB Member who has ceased to be an Employee and includes a Member who makes a nomination under Rule A25.1 which is accepted by an Employer.

**“Declared Rate”** means the rate of interest (which may be positive or negative) determined by the Trustee, after obtaining the advice of an Actuary and consulting the Principal Employer, in respect of any period for the purposes of the whole or any particular provision of this Deed, and (without limiting the Powers of the Trustee) for this purpose the Trustee may:

- (a) allow for costs and expenses of and incidental to the operation, management, administration and investment of the Fund on any basis the Trustee considers appropriate;
- (b) apply any basis of averaging or smoothing the Trustee considers appropriate;
- (c) determine a different Declared Rate, or basis of determination of the Declared Rate, in respect of a particular group or category of Member;
- (d) prospectively determine a Declared Rate on an interim basis in respect of a particular period and for a particular purpose; and
- (e) subsequently and retrospectively determine a Declared Rate on a final or declared basis in respect of that period and for that purpose, **provided that,**

for a Division CN Member and Division CO Member and for the purposes of the corresponding Division, has the meaning given to that term in the applicable Division.

**“Deed”** means the Trust Deed of which these Rules form part.

**“Dependant”:**

- (a) in respect of a CGSSS DB Member (other than a Division CN Member or Division CO Member) means a person who is or immediately prior to the time of his or her death was:
  - (1) the Spouse of that person;
  - (2) any Child of or in relation to that person, and any person who, in the opinion of the Trustee, is or was actually maintained by the firstmentioned person as his or her child; and
  - (3) any other person who, in the opinion of the Trustee, was substantially financially dependent on the firstmentioned person at the relevant time;
- (b) in respect of a Member to whom Divisions D, E, F, CN or CO applies, has the meaning given to that term in the applicable Division.

**“Division”** means a Division of these Rules;

**“Division F Transfer Date”** means, with respect to an Eligible Transferring Member, or each of the members of a class of Eligible Transferring Members, a date determined by the Principal Employer with the consent of the Trustee as the date on which that Eligible Transferring Member, or each of the members of that class of Eligible Transferring Members, will become a Division F Transferred Member, subject to the Eligible Transferring Member:

- (a) having made a Division F Transfer Election which continues to be in effect before that date; and
- (b) continuing to be an Eligible Transferring Member immediately before that date.

**“Division F Transfer Election”** means an election made by:

- (a) an Eligible Transferring Member under Division B, C, D or E, in accordance with such requirements as are determined by the Principal Employer with the consent of the Trustee, including without limitation requirements relating to the form to be used, the method and timing for lodgement of such form and any method of revocation, withdrawal or variation of or to such form; or
- (b) an Eligible Transferring Member who is a CGSSS DB Member, in accordance with Rule A14A.1A(a),

for such Eligible Transferring Member to become a Division F Transferred Member in lieu of continuing as a Member under Division B, C, D or E or a CGSSS DB Division.

**“Division F Transferred Member”** means a Member under Division F who is, as applicable to the circumstances, a “Transferred Ordinary Member” or a “Transferred Post-Employment Member”, each as defined in Rule F1.2.

**“Eligible Transferring Member”** means:

- (a) a Member under any of Divisions B, C, D or E who is classified in (and for so long as the Member continues to be classified in) a category of Members established under Rule A14A.1 as being Members eligible to

become Division F Transferred Members in lieu of continuing as Members under Division B, C, D or E; or

- (b) a CGSSS DB Member who, pursuant to Rule A14A.1A, is a Member eligible to make an election to become a Division F Transferred Member in lieu of continuing as a Member under the relevant CGSSS DB Division, during the period prescribed in Rule A14.1A(a)(3).

**“Employee”:**

- (a) in respect of a CGSSS DB Member to whom Division CB1, CC, CD, CE, CF, CH, CK or CM applies, means:
  - (1) a person who is in permanent employment with an Employer (including a salaried director of an Employer and any person as aforesaid on special leave);
  - (2) a person whom the Principal Employer may determine to be an Employee for the purposes of the whole or any particular provision of the Deed; or
  - (3) with respect to a particular Employer, means an Employee of that Employer; but

does not include a person employed by an Associated Employer where the Associated Employer ceases to be an Associated Employer.

- (b) in respect of a CGSSS DB Member to whom Division CN or CO applies, has the meaning given to that term in the applicable Division but does not include a person employed by an Associated Employer where the Associated Employer ceases to be an Associated Employer.
- (c) where used in this Division A in respect of a Member to whom Division B, C, D, E or F applies, means a person who is for the time being an “Officer” as defined in Division B or Division C, or an “Employee” as defined in Division D, Division E or Division F.

**“Employer”** means the Principal Employer and an Associated Employer and, in relation to an Employee, means the Employer by which the Employee is for the time being employed or, in relation to a former Employee, means the Employer by which the former Employee was last employed. Where the context requires, a reference in this Deed to an “Employer” in connection with a person's period of membership or contributions made during such period:

- (a) within CGSSS, includes an "Employer" as defined in the CGSSS Deed; and
- (b) within another Approved Benefit Arrangement from which the person's benefits were transferred to CGSSS (either directly or by first being transferred to one or more other Approved Benefit Arrangements from which the benefits were transferred to CGSSS) (**“Other Fund”**), means a participating employer in that Other Fund,

unless the Principal Employer otherwise determines.

**“External Choice Fund”** means a chosen fund under section 32F of the SGA Act other than this Fund, which the Employer has not refused to accept under section 32FA of the SGA Act and which has not ceased to be a chosen fund under section 32H. For the purposes of these Rules, a fund does not cease to be an External

Choice Fund in cases where section 32C(2) of the SGA Act does not apply because of the operation of section 32C(2A).

**“Former CBA Staff Fund Member”** means a person who (having previously been a member of the CBA Staff Fund) last became a Member in accordance with Rule F2.2.

**“Former Rules”** means the Commonwealth Banks (Officers’ Superannuation) Rules as in force under the Commonwealth Banks Act 1959 from time to time up to the Amendment Date, except where used in Division CO, has the meaning given to that term in that Division.

**“Former SBV Staff Fund Member”** means a person who (having previously been a member of the SBV Staff Fund) is for the time being a Member under Rule D1.2 or Rule E1.2.

**“Former VS Rules”** means the rules which were in force under the Commonwealth Banks Act 1959 between 5 October 1990 and the Amendment Date and known as the Commonwealth Banks (Officers’ Superannuation – Vesting Scheme) Rules.

**“Fund”** has the meaning set out in Clause 1.1 of this Deed.

**“Group Super MySuper Product”** means the MySuper Product established and maintained in terms of Part F10 and, subject to Rule F10.3, forming such part of Division F as the Trustee determines from time to time.

**“Insurance Benefit”** has the same meaning as that term defined in the rules relating to Division F.

**“Insurance Costs”** when used in this Division A and Division F means in relation to a Member the amounts that the Trustee, after obtaining the advice of an Actuary, determines to be:

- (a) the Member’s share of the premiums in respect of any insurance policies effected or acquired by the Trustee to provide Insurance Benefits; and
- (b) if and to the extent that the Trustee elects under Rule F8.4(d) to self insure with respect to the Insurance Benefits of Members, the cost of so self insuring,

but not including any part of those amounts that the Principal Employer and the Trustee agree is not to be borne by the Member as Insurance Costs.

**“Managing Director”** means:

- (a) before the commencement of paragraph 8(5)(a) of the Commonwealth Banks Restructuring Act 1990, the Managing Director of the Corporation; and
- (b) from the commencement of that paragraph, the Managing Director of the Commonwealth Bank of Australia.

**“Member”**:

- (a) when used in this Division A, means a natural person who is for the time being:
  - (1) a Member under Division B, C, D, E, or F; or
  - (2) a CGSSS DB Member; and

(b) when used in a subsequent Division, has the meaning given to that term in the applicable Division.

“**Membership Period**”, in relation to a CGSSS DB Member, has the meaning given in the Division applicable to that Member.

“**MySuper Product**” means a “MySuper product” as defined in the SIS Act.

“**Non-Member Spouse**” means a person who is a non-member spouse within the meaning of that term under Part VIII B of the Family Law Act 1975.

“**Ordinary Member**” has the meaning given to that term in Rule F2A.2.

“**Original Interest**” means a superannuation interest of a Member in the Fund to which Part VIII B of the Family Law Act 1975 applies.

“**Part**” means a Part within a Division.

“**Payment Split**” has the meaning ascribed to the term “payment split” in Part VIII B of the Family Law Act 1975.–

“**Power**” has the meaning set out in Clause 1.1 of this Deed.

“**Preferred Beneficiary**” means a Dependant or legal personal representative who is the subject of a current nomination as a preferred beneficiary by a CGSSS DB Member under Rule A24.13(b).

“**Preserved Benefit**” when used in this Division A and in the applicable Division in respect of a CGSSS DB Member:

(a) means a benefit for which the CGSSS DB Member has made provision under Rule C1B9, Rule CC9 or Rule CE9; and

(b) has the meaning set out in Section 38B of the Superannuation Act 1916 as that Act was in force as at 21 November 1984 (which is the “Completion Date” as defined in Rule CF1.2) the provisions of which have been incorporated into the Deed as provided in Part CF2.

“**Principal Employer**” has the meaning set out in Clause 1.1 of this Deed.

“**Reasonable Benefit Limits**” in relation to a CGSSS DB Member, means the limits from time to time announced or implemented by the Commonwealth Government or a Relevant Authority being limits placed on the amount of benefits which will be subject to concessional taxation treatment and includes any announced proposals to alter such limits which when introduced are to have retrospective effect.

“**Relevant Authority**” means as the case may require any one or more of the Australian Prudential Regulation Authority, the Australian Securities and Investments Commission, the Commissioner of Taxation or any other government authority responsible for administering any Relevant Law or requirement of a Relevant Law.

“**Relevant Law**” has the meaning set out in Clause 1.1 of this Deed.

“**Rules**” has the meaning set out in Clause 1.1 of this Deed.

“**SASF Member**” means a Division CB2 Member and who was previously a member of the State Authorities Superannuation Fund (established under the State Authorities Superannuation Fund) immediately prior to becoming a member of

CGSSS pursuant to the provisions of Section 16 of the State Bank (Privatisation) Act 1994.

**“Salary”:**

- (a) in relation to a CGSSS DB Member to whom Division CB1, CC or CE applies, means an amount advised by the Employer of an Employee to the Trustee as the annual rate of remuneration of that Employee for the purpose of determining benefit payments and Contributions excluding, unless the Employer otherwise directs, any overtime payments, director’s fees, special grants, allowances and other amounts;
- (b) in relation to a CGSSS DB Member to whom Division CD, CF, CH, CK, CM, CN or CO applies, “Salary” shall have the meanings referred to therein; and
- (c) in relation to a Member to whom Division B, C, D, E or F applies, has the meaning set out in the Division applicable to that Member.

**“Salary Ratio”** in relation to a CGSSS DB Member at any time, means the number ascertained by dividing the Salary of the CGSSS DB Member at that time by the Attributed Salary of the CGSSS DB Member at that time or subject to the determination of the Trustee, the number ascertained by similar method in respect of any period of time.

**“SBV Staff Fund Deed”** means the trust deed (including the rules) dated 28 December 1990, as amended, governing the SBV Staff Fund from time to time up to the SBV Staff Transfer Date.

**“SBV Staff Fund”** means the superannuation fund known before the SBV Staff Transfer Date as the SBV Staff Superannuation Fund.

**“SBV Staff Transfer Date”** means 21 July 1995.

**“Service”:**

- (a) in relation to a Member to whom Division D or E applies, has the meaning give to that term in the applicable Division, and:
- (b) in relation to a CGSSS DB Member:
  - (1) means continuous employment with one or more of the Employers (whether concurrently or successively); and
  - (2) for the purpose of determining the length of a Member’s Service, means the most recent uninterrupted period during which the Member has been so employed,

**provided that:**

- (3) unless otherwise determined by the Principal Employer, employment with an Associated Employer before the date at which it became an Associated Employer shall not count as Service; and
- (4) a Member’s Service shall include the period (as advised by the CGSSS Trustee to the Trustee) which counted as his or her continuous service under and for the purposes of CGSSS immediately prior to the CGSSS Transfer Date;

- (5) in any particular case the Principal Employer and the Trustee may agree to increase a Member's Service by any period they see fit;
- (6) to the extent that any decision to deem Service by the Principal Employer is not permitted by the Relevant Law then to that extent it shall only take effect with the consent of the Trustee;
- (7) in relation to a Division CH Member, "Service" after the CGSSS Transfer Date:
  - (i) only includes the period during which the Division CH Member:
    - (A) has contributed to the Fund; or
    - (B) is or was not required to contribute to the Fund, but excludes any period during which the Division CH Member is or was on Leave of Absence (as defined in Division CH); and
  - (ii) excludes any Service in respect of which benefits have already been paid from the Fund;
- (8) in relation to a Division CM Member, "Service" means permanent and continuous service with any one or more of the Employers and includes any period:
  - (i) during which the Division CM Member has been or may be absent with any of Her Majesty's services or engaged on work of national importance with the consent of the Employer or pursuant to the provisions of any Act of Parliament for the time being in force; and
  - (ii) at the Trustee's discretion, any period of membership of any other fund, benefits in respect of which are transferred to the Fund in accordance with Rule A24.9; and
- (9) for the purposes of Division CF, "Service" has the meaning given to that term in that Division.

**"SGA Act"** means the Superannuation Guarantee (Administration) Act 1992 and includes any regulations and other subordinate legislation made under that Act.

**"SIS Act"** has the meaning set out in Clause 1.1 of this Deed.

**"Spouse"**:

- (a) for the purposes of Divisions B, C, D, E, F or CF, has the meaning given to that term in the applicable Division; and
- (b) for other purposes, means in relation to a person, that person's spouse within the meaning of the SIS Act.

**"State Bank of Victoria"** means a body corporate established under the State Bank Act 1988 (Victoria).

**"Subsidiary"** means a subsidiary within the meaning of the Corporations Act.

**"Superannuation Entity"** has the meaning set out in the SIS Act.

“**Supplementary Benefit**”, in relation to a CGSSS Member to whom Division CB1, CC or CE applies has the meaning given to that term in the applicable Division.

“**Supplementary Levy**” in relation to a CGSSS DB Member to whom Division CB1, CC, or CE applies, means the levy, if any, that is paid by transfer from a Contributor’s Account under Rule A24.14.

“**Surcharge**” includes superannuation contributions surcharge or surcharge under the Surcharge Act and any advance instalment, increased surcharge, additional surcharge, interest, late payment penalty and any other amount in respect of which the Trustee is at any time liable under the Surcharge Act.

“**Surcharge Account**” means, in relation to a Member (other than a Member under Division F), an account relating to that Member as a Member under a particular Division:

- (a) to which there must be debited:
  - (1) each Surcharge Payment Amount relating to that Member as a Member under that Division, paid prior to the time the benefits to which the Surcharge Payment Amount relates are paid or commence to be paid to or in respect of the Member under that Division (including any payment by way of rollover or transfer); and
  - (2) the amount of any lump sum benefit paid to or in respect of the Member under Rule A10A.3 in the circumstances described in Rule A10A.3(a); and
- (b) to which there must be credited:
  - (1) each Surcharge Refund Amount relating to that Member which the Trustee determines is referable to that Member as a Member under that the applicable Division; and
  - (2) the amount of each Surcharge Offset Contribution made by the Member as a Member under the applicable Division; and
  - (3) amounts of the Surcharge Account Debit Balance included in the determination of any Surcharge Aggregate or Surcharge Reduction applied in reduction of benefits paid, or which commence to be paid, to or in respect of the Member under that Division (including any payment by way of rollover or transfer)

and interest compounded in respect of periods as determined from time to time by the Trustee must be allocated to the Surcharge Account at the Declared Rate (by debit or credit, as the case may be).

“**Surcharge Account Debit Balance**” means, if there is a debit balance in a Surcharge Account maintained in respect of a Member at any time, that debit balance.

“**Surcharge Act**” means the Superannuation Contributions Tax (Assessment and Collection) Act 1997 and includes any regulations and other subordinate legislation made under that Act.

“**Surcharge Aggregate**” means, at any time in relation to a Member as a Member under a particular Division other than Division F, the sum of A and B, **where**:



“A” is the Surcharge Unpaid Balance (if any) applicable to that Member as a Member under that Division; and

“B” is:

- (a) if there is a Surcharge Account Debit Balance at that time, the Surcharge Account Debit Balance; and
- (b) if there is no Surcharge Account Debit Balance at that time, zero.

“**Surcharge Commutation Factor**” means:

- (a) in relation to a Member under Division B, a factor determined in accordance with Schedule VII of Division B; and
- (b) in relation to a Member under Division D, the same commutation factor as is determined by the Trustee on the advice of an Actuary under Rule D11.1 for the purpose of commuting pension benefit to lump sum benefit, as applies to the age of the Member at the initial date as at which Surcharge Reduction is to be determined under these Rules with respect to that Member, or where Surcharge Reduction is to be determined in order to calculate benefits payable on the death of a Member, as applies to the Member’s age at the date of death or to such age as would apply in corresponding circumstances under Rule D11.1, subject to the following:
  - (i) the factor to be used with respect to a Member who becomes a Disability Retiree is the factor applying to age 60 years; and
  - (ii) if, in any case, there is no relevant factor determined under Rule D11.1, the factor to apply shall be as determined by the Trustee on the advice of an Actuary having regard to the requirements of Rule A10A.5.

“**Surcharge Offset Contribution**” means, in relation to a Member as a Member under a particular Division other than Division F, a contribution made by the Member under Rule A10A.7.

“**Surcharge Payment Amount**” means, in relation to a Member as a Member under a particular Division other than Division F, the amount of any payment of Surcharge by the Trustee under the Surcharge Act in respect of that Member as a Member under that Division.

“**Surcharge Reduction**” means:

- (a) with respect to the calculation of the annual amount of any pension or allowance in relation to a Member under Division B, an amount determined initially as being the result of dividing the Surcharge Aggregate applicable to the Member as a Member under Division B on the date as at which the initial annual amount of the pension or allowance commences to be payable, by the applicable Surcharge Commutation Factor, and subsequently by increasing the amount determined initially, and each subsequent increased amount applying under this paragraph (a), using the same method and timing as is provided for in determining “Indexed Final Salary” under Rule B3.1; and
- (b) with respect to the calculation of the annual amount of pension in relation to a Member under Part D6 of Division D, an amount being the result of dividing the Surcharge Aggregate applicable to the Member as a Member

under that Division, on the date as at which the initial annual amount of the pension commences to be payable or, if the pension otherwise payable is commuted to lump sum, the date as at which the calculation of the initial amount of pension otherwise payable is required to be made, by the applicable Surcharge Commutation Factor.

**“Surcharge Reduction Provision”** means a provision of this Deed, whether in general terms or in terms specific to a Division, having the effect of requiring or permitting provision to be made for the Surcharge applicable to a Member in determining the benefits of or in respect of that Member.

**“Surcharge Refund Amount”** means, in relation to a Member as a Member under a particular Division other than Division F, the amount of any refund or repayment of Surcharge paid to the Trustee in respect of that Member as a Member under that Division, including without limitation, any repayment of excess advance instalment under section 17 of the Surcharge Act, any payment consequent upon a reduction in Surcharge resulting from an amended assessment under section 19 of the Surcharge Act, any payment consequent upon a reduction in Surcharge resulting from a new assessment under section 20 of the Surcharge Act and any payment consequent upon a remission of interest or late penalty under the Surcharge Act, and any amount of interest paid to the Trustee relating to any amount of Surcharge.

**“Surcharge Unpaid Balance”** means, at any time in relation to a Member as a Member under a particular Division other than Division F, the aggregate amount of Surcharge in respect of that Member as a Member under that Division which the Trustee is liable to pay but which remains unpaid at that time.

**“Tax”** has the meaning set out in Clause 1.1 of this Deed.

**“Tax Expenses”** means in relation to a particular Account of a Member or an Allocated Pensioner the amount of any Tax that is or may become payable in respect of an amount that is or would otherwise be credited to that Account and includes, in the case of an Account of an Ordinary Member, the amount of any Tax that would have been or become payable if the Employer had contributed to the Fund for credit to that Account amounts equal to the Employer Credits (as defined in Rule F1.2) in respect of that Account.

**“Transfer Time”** has the meaning set out in Clause 1.1 of this Deed.

**“Trust Bank Fund”** means the Trust Bank Staff Superannuation Fund established by Trust Deed dated 6 August 1982.

**“Trustee”** has the meaning set out in Clause 1.1 of this Deed.

## **A2.2 Questions of interpretation**

Without limiting the jurisdiction of any competent court or tribunal:

- (a) subject to Part A17 and Part A18 and without limiting Clause 1.3 of this Deed, the Trustee has all of the Powers necessary to resolve any issue concerning the interpretation and application of any provisions of the Former Rules, the Former VS Rules, the SBV Staff Fund Deed, CBA Staff Fund Deed or the CGSSS Deed; and

- (b) a receipt given by a person for a payment made from the Fund in accordance with a decision of the Trustee under Clause 1.3 of this Deed or under paragraph (a) above is an absolute discharge to the Fund.

### **A2.3 Avoidance of duplication in determining benefits**

Except to the extent this Deed provides otherwise (either expressly or by necessary implication) or the Trustee and the Principal Employer agree otherwise, to the extent that a period of time, an amount or any other relevant matter is taken into account in determining the amount of a benefit payable, or a person's entitlement to a benefit, under a Division, that period, amount or other matter shall not be taken into account for any corresponding purpose under another Division, and the Trustee has all of the Powers necessary in avoiding what the Trustee considers to be an unintended double counting or duplication of a period, amount or other matter under more than one Division.

### **A2.4 Special Interpretation Provision**

Without limiting the terms of this Deed which otherwise apply to assist in interpreting this Division A, where it is necessary to interpret the provisions of this Division A in relation to any thing done, action taken, payment made, Power exercised, event occurring or situation or circumstance existing under the Commonwealth Banks (Officers' Superannuation) Rules during or referable to the period commencing on the Amendment Date and ending at the Transfer Time, this Division A shall, unless its terms require otherwise expressly or by necessary implication, be construed so as to achieve the same effect with respect to the doing of that thing, the taking of that action, the making of that payment the exercise of that Power, the occurrence of that event or the existence of that situation or circumstance as if the Commonwealth Banks (Officers' Superannuation) Rules had continued in force as the rules governing the Fund.

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## **Part A3 Fund**

### **A3.1 Name**

The Fund formerly known as the "Officers' Superannuation Fund" shall be known as "Commonwealth Bank Group Super" with effect from 28 May 2012.

### **A3.2 Contributions**

There shall be paid into the Fund:

- (a) the contributions from time to time made to the Fund by or in respect of Members in accordance with this Deed; and
- (b) the payments from time to time made to the Fund by the Principal Employer and any Associated Employer in accordance with this Deed.

### **A3.3 Investment Income**

Income derived from the investment of the moneys of the Fund forms part of the Fund.

### **A3.4 Benefits to be paid out of Fund**

Benefits payable under this Deed are payable out of the Fund.

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## **Part A4 Powers of Trustee**

### **A4.1 Powers of Trustee**

Except to the extent that this Deed provides otherwise, either expressly or by necessary implication:

- (a) **absolute discretions:** the Trustee has in the exercise, non-exercise or partial exercise of each Power of the Trustee an absolute and uncontrolled discretion and is not bound to give to any person any reason for or explanation of the exercise, non-exercise or partial exercise of a Power;
- (b) **general Powers in relation to Fund:** the Trustee has complete management and control of all proceedings, matters and things in connection with the Fund and in addition to the Powers vested in a trustee by law, the Trustee's Powers include all Powers which the Trustee considers necessary, desirable or expedient for the proper administration, maintenance and preservation of the Fund and in order to give effect to this Deed in accordance with its terms; and
- (c) **specific Powers of Trustee:** without limiting the preceding provisions of this Rule A4.1, the Trustee may:
  - (1) **accounts:** with the consent of the Principal Employer, establish and maintain within the Fund such accounts (including sub-accounts) as it considers necessary or convenient for the management and administration of the Fund under this Deed;
  - (2) **bank accounts:** open any bank accounts the Trustee thinks desirable and operate those bank accounts in any manner the Trustee sees fit;
  - (3) **negotiable instruments etc:** draw, make, accept, endorse, discount, issue or otherwise deal with any promissory note, bill of exchange, cheque or other negotiable or transferable instrument, with all such promissory notes, bills of exchange, cheques and other negotiable or transferable instruments being signed, drawn, accepted, endorsed or otherwise executed as the case may be by such person or persons and in any manner the Trustee determines;
  - (4) **receipts, releases and discharges:** give valid and effective receipts, releases and other discharges for any moneys received by or on behalf of the Trustee for the claims and demands of the Trustee or otherwise relating to acts, matters and things provided for under this Deed and determine who shall be entitled to sign on the Trustee's behalf receipts, acceptances, endorsements, releases, contracts and documents;
  - (5) **benefit payments:** determine, authorise and arrange payment of benefits out of the Fund to entitled persons without being responsible for seeing to the application of any benefit payment;

- (6) **contracts:** enter into all negotiations, arrangements, deeds, contracts, indemnities and documents and execute and do all acts, deeds and things in connection with the Fund as the Trustee considers expedient for the purposes of the Fund;
- (7) **insurance:** generally insure or re-insure any risks, contingencies or liabilities of the Trustee in relation to the Fund and, without limiting the preceding words, enter into any contracts with any insurance or re-insurance company or make arrangements with the trustees or administrators of any superannuation or like scheme to provide for all or any part of the benefits that become or may become payable under this Deed and pay from the Fund all payments to be made under those contracts or arrangements;
- (8) **advice:** seek and act on the advice or opinion of, and remunerate from the Fund, any professional person, or any other person the Trustee believes to be an expert (including without limitation any consultant, banker, accountant, auditor, actuary, barrister, solicitor, broker or medical practitioner);
- (9) **servants:** subject to Rules A4.2, A7.5, A7.6 and A8.1, appoint servants, agents, attorneys and representatives upon conditions determined by the Trustee, including without limitation conditions as to Powers, remuneration, rights of indemnity and term of appointment, and revoke or vary an appointment;
- (10) **administrative flexibility:** make rules and adopt procedures in relation to the calculation and rounding-off of contributions, benefits and interest, to the determination of periods of time and to any other matters the Trustee considers appropriate for the convenient administration of the Fund;
- (11) **Tax:** take any action the Trustee considers expedient in taking account of any actual or possible liability for Tax, including without limitation:
  - (i) adjusting the amount or basis of determination of any benefit to be provided from the Fund; and
  - (ii) establishing reserves and making provisions in the accounts of the Fund and payments from the Fund to relevant governmental authorities;
- (12) **legal proceedings:** institute, conduct, defend, compound or abandon any legal proceedings by or against the Fund, or the directors or other officers of the Trustee in connection with matters relating to the Fund, or otherwise concerning the affairs of the Fund and also compound and allow time for payment or satisfaction of any debts due and of any claims or demands by or against the Fund; and
- (13) **arbitration:** refer any claims or demands by or against the Fund to arbitration and observe and perform the awards made in respect of any such referral; and

- (14) **non-lapsing nominations:** formulate requirements as to form and such instructions, guidelines or criteria as the Trustee considers appropriate in relation to Non-Lapsing Nominations.

#### **A4.2 Delegation of Powers by Trustee**

The Trustee may:

- (a) delegate a Power of the Trustee (other than the power of delegation under this Rule A4.2, Rule A7.5 or Rule A8.1) to any person in any manner and upon any terms and conditions;
- (b) grant to a delegate any indemnity the Trustee considers appropriate; and
- (c) vary or revoke a delegation or indemnity and exercise a Power in conjunction with or to the exclusion of a delegate.

Nothing in this Rule A4.2 shall be taken as limiting the Powers conferred on the Trustee under Rule A7.6.

#### **A4.3 Trustee to have regard to interests of Principal Employer**

In the exercise of its Powers under this Deed, the Trustee must have regard to the interests of the Principal Employer and, in particular, to the effect of the exercise of any of its Powers on the long term cost to the Principal Employer of providing the benefits under this Deed.

#### **A4.4 Transfer into Fund**

At the request of or with the consent of the Principal Employer and subject to any conditions imposed by the Trustee and approved by the Principal Employer, the Trustee may arrange with the person responsible for a Superannuation Entity or a person who is or was a participant in a Superannuation Entity that:

- (a) an agreed cash amount or other property will be paid or transferred to the Fund; and
- (b) a person who is or was a participant in the Superannuation Entity, if not already a Member or a Beneficiary, is admitted as a Member or a Beneficiary with the rights and obligations (whether additional or in lieu of the rights or obligations otherwise provided for under this Deed) determined by the Trustee and approved by the Principal Employer.

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### **Part A5 Liability and Indemnity of Trustee**

#### **A5.1 Protection and indemnification of Trustee**

The Trustee and each director of the Trustee is exempted from liability, and is to be indemnified out of the Fund, in respect of any cost, loss, damage, claim or liability caused or incurred in any manner (including without limitation negligence) in connection with the Powers of the Trustee or a director, as the case may be, to the maximum extent (but only to the maximum extent) permissible under the Relevant Law and, without limiting the preceding words, the Trustee may:

- (a) effect insurance in respect of a potential cost or liability of the Trustee or a director of the Trustee including without limitation a liability under an indemnity granted by the Trustee to such director; and
- (b) pay from the Fund premiums and other outgoings in respect of insurance effected by the Trustee or a director of the Trustee in respect of a potential cost or liability of the Trustee or that director.

To the extent that the Fund is insufficient to indemnify the directors of the Trustee under this Rule A5.1, the directors must be indemnified by the Principal Employer. For the purposes of this Rule A5.1, “director” includes an alternate director.

#### **A5.2 Reliance by Trustee**

For the purposes of this Deed:

- (a) the Trustee may regard a written direction, instruction, authorisation, declaration, determination or notification signed by an authorised representative of an Employer as a valid direction, instruction, authorisation, declaration, determination or notification of the Employer; and
- (b) the Trustee may rely on any information supplied to it by an Employer, the trustee of the SBV Staff Fund, the trustee of the CBA Staff Fund and the CGSSS Trustee.

#### **A5.3 Discharge for payment of benefits in good faith**

Payment of a benefit in good faith to a person believed by the Trustee to be entitled to receive it is deemed for the purposes of this Deed to be payment to a person entitled to receive it and is a valid discharge to the Trustee of its obligations in respect of the payment of that benefit.

#### **A5.4 Relationship between Employer and Trustee**

- (a) Subject to the Relevant Law, nothing in this Deed shall prevent an Employer, any related body corporate (as defined in the Corporations Act) of an Employer or any director or officer of an Employer or related body corporate, from at any time contracting with or acting for the Trustee in any capacity as delegate, investment manager, administration manager, nominee, custodian, banker, insurer, professional adviser, representative or agent, or entering into any financial, banking, insurance, development, agency or any other transaction whatsoever with the Trustee or from being interested in any such contract or transaction or other arrangement, and none of them shall be in any way liable to account to the Trustee or to the Members or Beneficiaries or any of them for any profits or benefits made or derived in connection with any such contract, transaction or other arrangement.
- (b) This Rule A5.4 is subject, in the case of any contract, transaction or other arrangement involving a director or officer of an Employer or of a related body corporate of an Employer who is a director of the Trustee, or in which such director or officer is in any way interested, to the terms of Part A20.

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## Part A6 Actuarial and accounting requirements

### A6.1 Actuarial investigation

- (a) **General:** An actuarial investigation having been made into the Fund as at 30 June 1994, actuarial investigations must thereafter be made at intervals of not more than 3 years. An actuarial investigation must further be made as at any other date required by the Trustee to ensure compliance by the Fund with the Relevant Law.
- (b) **Actuary:** Each investigation under Rule A6.1(a) must be made by an Actuary agreed between the Trustee and the Principal Employer.
- (c) **Report of Actuary:** The Actuary must report to the Trustee the result of the Actuary's investigation and state in the Actuary's report whether, in the Actuary's opinion:
  - (1) any alteration of the provisions of this Deed; or
  - (2) in view of the state of the Fund, any alteration in the rate of the contributions or the payments made to the Fund by Members or by the Principal Employer or any Associated Employer,is necessary or desirable.
- (d) **Provision of actuarial report to the Principal Employer:** The Trustee must immediately upon receipt provide a copy of each actuarial report to the Principal Employer.
- (e) **Additional actuarial reports:** The Principal Employer may, for its own purposes, require additional actuarial investigations as nominated by the Principal Employer and at its expense and the Trustee must provide to the Actuary all information necessary in the conduct of that investigation.

### A6.2 Accounts and information for Members

- (a) **Accounts:** The Trustee must prepare all financial accounts required to ensure compliance by the Trustee and the Fund with the Relevant Law.
- (b) **Information for Members:** The Trustee must provide or ensure that there is provided to each Member, former Member and persons entitled to receive payment of benefits from the Fund all information, statements, reports, certificates and notices required to be provided under the Relevant Law.

### A6.3 Auditor

- (a) **General:** An Auditor must be appointed to the Fund by agreement between the Trustee and the Principal Employer.
- (b) **Frequency of audits:** An audit of the accounts and records of the Fund must be carried out by the Auditor after the end of each year of income of the Fund and otherwise in accordance with the Relevant Law.
- (c) **Report of Auditor:** The Trustee must require the Auditor to supply to it a report in respect of each audit carried out in satisfaction of the requirements set out in Rule A6.3(b).



- (d) **Provision of Auditor's report to Principal Employer:** The Trustee must immediately upon receipt provide a copy of each audit report to the Principal Employer.

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## Part A7 Investment

### A7.1 General Power of Trustee

Subject to this Part A7, the Trustee may from time to time in the name or otherwise under the control of the Trustee invest the whole or any part of the assets of the Fund (including all moneys received by the Trustee on account of the Fund and for the time being constituting the Fund) not immediately required for payment out in accordance with the provisions of this Deed, in or upon any investments of whatsoever kind or nature anywhere in the world (not limited to investments authorised by law for the investment of trust funds and including any investments with an Employer) and with full power to sell, vary, transpose or convert such investments into or for other investments.

### A7.2 Particular Powers of Trustee

Without limiting Rule A7.1, the Trustee may:

- (a) **various permitted transactions:** investigate, negotiate for, promote, create, acquire, underwrite, sub-underwrite, dispose of, transfer, exchange, collect, realise, alter, convert, improve, exploit, insure, extend, reconstruct, develop, manage and otherwise deal with and turn to account any property anywhere in the world, any direct or indirect interest in property and any right, contract, option or the like in respect of property in any manner, with or without security or liability, and subject to any conditions acceptable to the Trustee;
- (b) **exercise all incidental powers:** exercise all Powers appertaining or incidental to any manner or form of property and discharge from the Fund all costs of and incidental to the Powers of the Trustee under this Part A7, including without limitation costs of the investigation of and negotiation for property that does not become part of the Fund;
- (c) **synthetics and derivatives:** enter into, grant or participate in any futures or option contract, or any synthetic or derivative arrangement or transaction or other arrangement or transaction whereby liabilities or obligations are exchanged or assumed, whether or not related to any other property forming or prospectively forming part of the Fund;
- (d) **borrowing and mortgaging:** borrow or raise money from any person (including without limitation an Employer) on any terms and conditions as to interest return and otherwise as the Trustee thinks fit and to secure repayment thereof or any other indebtedness of the Trustee pursuant to this Deed by mortgage, charge or other encumbrance over any part or parts of the assets of the Fund as the Trustee thinks fit;
- (e) **joint investment:** invest any moneys of the Fund either alone or jointly with another person; and

- (f) **nominees and custodians:** cause or allow any property to be acquired or held in the name of the Trustee or of any nominee or custodian (including any sub-nominee or sub-custodian) as provided for in Rule A7.6,

and any reference to property in this Rule A7.2 is a reference to real and personal property of any nature.

### **A7.3 No loans to Members**

The Trustee must not lend moneys of the Fund, or otherwise provide financial assistance using the resources of the Fund, to a Member or other person in respect of whom lending or other financial assistance is prohibited under the Relevant Law.

### **A7.4 Exercise of investment Powers**

Without limiting Rule A4.3, the Powers of the Trustee under Rules A7.1 and A7.2 must be exercised so as to maximise the net earnings of the Fund, having regard to:

- (a) the need to make provision for payments out of the Fund under this Deed;
- (b) the need for equity among Members or among the members of particular groups or categories of Members;
- (c) the need to exercise reasonable care and prudence in order to maintain the integrity of the Fund; and
- (d) any written guidelines notified to the Trustee by the Principal Employer.

### **A7.5 Investment managers**

- (a) **Appointment by agreement:** The Trustee and the Principal Employer may agree to the Trustee appointing a body corporate as an investment manager in respect of any part of the Fund in any manner and upon any conditions the Trustee considers appropriate.
- (b) **Powers of Trustee:** The Trustee may:
  - (1) delegate any of the Powers of the Trustee (other than the power of delegation under Rule A4.2, this Rule A7.5 or Rule A8.1) to any investment manager, including without limitation the Trustee's Powers relating to the appointment of nominees or custodians provided for in Rule A7.6;
  - (2) grant to an investment manager any indemnity that the Trustee considers appropriate;
  - (3) allocate and re-allocate moneys and assets of the Fund to and between investment managers; and
  - (4) revoke or vary the conditions of the appointment of an investment manager.

## **A7.6 Custodians**

- (a) **Appointment of nominee or custodian:** The Trustee may appoint a person as nominee or custodian upon any terms and conditions the Trustee determines.
- (b) **Subcustodians:** The Trustee may appoint any such nominee or custodian (respectively a “head nominee” and a “head custodian”) on the basis that the head nominee or head custodian may itself act through nominees or custodians (respectively “sub-nominees” and “sub-custodians”) whether appointed by the head nominee or head custodian or by any sub-nominee or sub-custodian.
- (c) **Further Powers of Trustee:** The Trustee may:
  - (1) delegate to any nominee or custodian such Powers relating to custody and valuation of that part of the assets of the Fund entrusted to such nominee or custodian as the Trustee shall think fit;
  - (2) grant to any nominee or custodian any indemnity that the Trustee considers appropriate; and
  - (3) revoke or vary the conditions of the appointment of a nominee or custodian.

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## **Part A7A Investment options**

### **A7A.1 Investment options**

- (a) The Trustee must, unless the Trustee and the Principal Employer agree otherwise, make available to:
  - (1) Division F Members;
  - (2) Allocated Pensioners; and
  - (3) CGSSS DB Members (other than Division CK Members, Division CM Members and CGSSS DB Non-Employee Members) in relation to such of their accumulation accounts as the Trustee and the Principal Employer from time to time agree,a choice of investment options in accordance with rules determined by the Trustee, relating to:
  - (A) the number and type of investment options from which a Member or Allocated Pensioner may, from time to time, choose;
  - (B) the making available of new investment options and the variation or termination of any existing investment option;
  - (C) the actual number of investment options which a Member or Allocated Pensioner may choose for his or her benefits at any one time and the method by which the Member or Allocated Pensioner may make that choice;
  - (D) the extent, if any, to which a Member or Allocated Pensioner may nominate an investment strategy comprising a combination of

- investment options and the method by which the Member or Allocated Pensioner may make that nomination;
- (E) the extent to which and frequency with which a Member or Allocated Pensioner may switch between investment options and the method by which the Member or Allocated Pensioner may make any such switch;
  - (F) limitations on the number of options to which Contributions, and payments and transfers into the Fund under Rule A24.9 and Rule F8.9, may be directed by a Member or Allocated Pensioner;
  - (G) the default investment option, or combination of options, to apply if a Member or Allocated Pensioner fails to nominate a choice of investment option or combination of options in accordance with the rules for such nomination as determined by the Trustee;
  - (H) the basis of determination of and allocation of interest at the Declared Rate for each investment option or, where the Trustee determines under Rule A7A.2 to adopt a unitisation method for calculating the value of a Member's or Allocated Pensioner's benefits in connection with any or all of the investment options provided for under this Rule A7A.1, the allocation of investment earnings and losses in accordance with the rules determined for such unitisation method under Rule A7A.2;
  - (I) the fees to apply in connection with the investment options, as part of the Administration Expenses;
  - (J) the asset allocation and investment strategy referable to each investment option;
  - (K) the apportionment between investment options of debits and credits to an Account of a Member or Allocated Pensioner, where more than one investment option applies to the same Account of that Member or Allocated Pensioner; and
  - (L) such other matters as shall be agreed from time to time between the Trustee and the Principal Employer.
- (b) The Trustee may reallocate an Account of a Member or Allocated Pensioner to investment option(s) which the Trustee considers appropriate.

### **A7A.2 Unitisation**

The Trustee may determine to adopt a unitisation method for calculating the value of the benefits of a Member or an Allocated Pensioner under this Part A7A in connection with any or all of the investment options provided for under Rule A7A.1, subject to the following:

- (a) any allocation of units by the Trustee to a Member or Allocated Pensioner, in relation to an investment option, will be notional and references to units and to unitisation will be made only for the purposes of calculating the value of a Member's or Allocated Pensioner's benefits in relation to the investment option to which the units relate; and

- (b) the Trustee shall determine rules for calculating the number of units to be allocated to a Member or Allocated Pensioner in relation to an investment option and for calculating the unit prices for the units referable to the investment option, as follows:
- (1) rules relating to the frequency and method of calculation of unit prices, including rules for determining issue prices applying to the units, to be used in connection with the crediting of amounts to an Account to the extent that the relevant investment option relates to that Account, and rules for determining redemption prices applying to the units, to be used in connection with the debiting of amounts to an Account, to the extent that the relevant investment option relates to that Account;
  - (2) where applicable, rules relating to the frequency and method of calculation of the value of assets referable to the investment option to which the unit prices relate;
  - (3) rules relating to the treatment of current and future investment earnings and losses, Administration Expenses, Insurance Costs and Tax Expenses; and
  - (4) rules relating to such other matters as shall be agreed from time to time between the Trustee and the Principal Employer.

#### **A7A.3 No interest in specific asset**

Nothing expressed or implied in this Part A7A gives any person a right to receive any particular, discrete asset of the Fund.

#### **A7A.4 MySuper Product**

This Part A7A shall be subject to the terms of Part F10 in connection with any investment option comprised in the Group Super MySuper Product.

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## **Part A8 Administration**

### **A8.1 Administration managers**

- (a) **Appointment by agreement:** The Trustee and the Principal Employer may agree to the Trustee appointing a person as an administration manager in respect of any part of the Fund in any manner and upon any conditions the Trustee considers appropriate.
- (b) **Powers of Trustee:** The Trustee may:
- (1) delegate any of the Powers of the Trustee (other than the power of delegation under Rule A4.2, Rule A7.5 or this Rule A8.1) to any administration manager;
  - (2) grant to an administration manager any indemnity that the Trustee considers appropriate; and
  - (3) revoke or vary the conditions of the appointment of an administration manager.

## **A8.2 Expenses of Fund**

All costs and expenses of and incidental to the operation, management, administration and investment of the Fund must, to the extent that full liability therefor is not assumed by the Principal Employer, be paid from the Fund. Without limiting the operation of this Rule, the Trustee may pay out of the Fund all reasonable costs and expenses that are incurred by an Employer, any related body corporate (as defined in the Corporations Act) of an Employer or any director or officer of an Employer or related body corporate and approved by the Trustee in relation to the operation, management, administration and investment of the Fund.

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## **Part A9 Contributions by Principal Employer and Associated Employers**

### **A9.1 Principal Employer to contribute as necessary**

The Principal Employer shall contribute to the Fund such amounts at such times as the Principal Employer, on the advice of an Actuary, determines as being necessary to fund pensions and other benefits payable under this Deed.

### **A9.2 Associated Employers obligation to contribute**

Each Associated Employer shall contribute to the Fund such amounts at such times as shall be determined under the agreement between the relevant Associated Employer, the Principal Employer and the Trustee entered into under Part A19.

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## **Part A10 Benefits**

### **A10.1 Time and manner of payment**

A benefit payable from the Fund is payable at the time and place and in the manner (including in specie or in kind) the Trustee determines or approves.

### **A10.2 Beneficiary under disability**

If a Beneficiary is under a legal disability or, in the opinion of the Trustee, it is otherwise appropriate that this Rule A10.2 should apply in respect of a Beneficiary, the Trustee may pay or apply the whole or part of any amount otherwise payable from the Fund to the Beneficiary under this Deed for or towards the maintenance, education, advancement or otherwise for the benefit or advantage of the Beneficiary in any manner and form, and upon any conditions, determined by the Trustee, including without limitation to a person who, in the opinion of the Trustee:

- (a) is a trustee for the Beneficiary, including without limitation a trustee of a trust established by the Trustee upon the trusts and with the Powers determined by the Trustee; or
- (b) has the custody or care (or the financial expense of the custody or care) of the Beneficiary.

### **A10.3 Benefit supplement**

- (a) **Determination of Principal Employer:** Where any State, Territory or Commonwealth law:
- (1) requires an Employer to provide a certain minimum level of superannuation support in respect of Members; or
  - (2) would impose a penalty, charge or tax on an Employer if that minimum level of superannuation support were not provided,
- the Principal Employer may determine that the benefits otherwise payable from the Fund in respect of any Members or any class of Members will be increased so that the value of the benefits payable from the Fund will provide not less than the said minimum level of superannuation support or a part of the said minimum level of superannuation support as the Principal Employer specifies.
- (b) **Notification of determination:** Where the Principal Employer makes a determination under Rule A10.3(a), the Principal Employer must notify the Trustee in writing of the terms of the determination and of the amount of the adjustment to benefits or the terms of a formula by reference to which the adjustment to benefits will be calculated (as appropriate) and the benefits must, subject to any revocation or amendment as permitted in Rule A10.3(c), be adjusted accordingly.
- (c) **Amendment and revocation of determination:** At any time after making a determination in accordance with Rule A10.3(a) above, the Principal Employer may by written notice to the Trustee revoke or amend that determination. A revocation or amendment under this Rule A10.3(c) shall not in any way reduce the benefits payable from the Fund in accordance with the previous determination to the extent that those benefits:
- (1) relate to any period during which the relevant person was a Member before the date of the revocation or amendment; or
  - (2) have otherwise accrued or become payable to a Member before the date of the revocation or amendment.
- (d) **Retrospective effect of determination:** Subject to the limitation set out in Rule A10.3(c) above, a determination, revocation or amendment made by the Principal Employer under Rule A10.3(a) or (c) above may have retrospective effect, in which case benefits that were paid or became payable since the date of effect to Members covered by the determination (including any person who ceased to be a Member before the date of the determination) may be increased or supplemented.

### **A10.4 Receipt for Benefits**

Any person to whom a benefit is payable shall, if requested, furnish the Trustee with a receipt and release in the form from time to time required by the Trustee.

### **A10.5 Benefit limits under corporate law**

If the Trustee forms the opinion that the payment of a Member's benefit is or will contravene any law relating to corporations, the Trustee may:

- (a) reduce the contributions payable in respect of the Member; or
  - (b) reduce the benefit if the Relevant Law permits; or
  - (c) apply a combination of (a) and (b),
- as the Trustee considers appropriate.

#### **A10.6 Transfer of employment between Employers**

Where a Member transfers from the employ of one Employer to another Employer:

- (a) the Member shall be deemed to have continued to be employed and not to have left Service, resigned, terminated employment or ceased to be employed unless the Principal Employer and the Trustee determine otherwise; and
- (b) no benefit is payable to, or in relation to, the Member as a result of such transfer.

#### **A10.7 Transfer of lump sum benefits to Division F**

- (a) In circumstances where a lump sum benefit has become payable to a DB Non-Employee Member under the Rules of a DB Division and the Rules of that DB Division do not permit the lump sum benefit to be retained in the Fund, the DB Non-Employee Member may apply in writing to the Trustee in such form as shall be approved by the Trustee to transfer the lump sum benefit wholly or in part to the Account maintained for the DB Non-Employee Member as a Post-Employment Member in Division F of the Fund or to an Allocated Pension Account in Division F of the Fund in respect of the DB Non-Employee Member.
- (b) A transfer under Rule A10.7(a) is:
  - (1) subject to Relevant Law; and
  - (2) subject to such conditions and requirements as the Trustee determines from time to time; and
  - (3) in circumstances where the DB Non-Employee Member is not a Member or Allocated Pensioner under Division F Rules, subject to the DB Non-Employee Member satisfying all applicable requirements as determined by the Trustee from time to time and completing such forms as may be approved by the Trustee to become a Member or Allocated Pensioner as the case may be.

#### **A10.8 Payments permitted by the Relevant Law - DB Members**

- (a) If a DB Member seeks release of all or part of his or her benefits on the grounds of financial hardship or compassion, as those terms are referred to in the Relevant Law, the Trustee may pay all or part of the benefit to the Member.
- (b) If a DB Member other than a CGSSS DB Member seeks release of all or part of his or her benefits in circumstances other than financial hardship or compassion, the Trustee may, with the Principal Employer's consent, pay all or part of the benefit to the Member.



- (c) Any payment made under this Rule will be made after obtaining the advice of an Actuary in relation to the reduction of future entitlements otherwise payable under this Deed to the Member.

### **A10.9 Payments required by the Relevant Law - Release Authority**

If the Trustee is given a release authority in relation to contributions made by or in respect of a Member to the Fund, it must pay the amount of Tax stated in the release authority in accordance with the Relevant Law and debit the Member's Account accordingly.

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## **Part A10A Superannuation Surcharge**

### **A10A.1 Surcharge Account**

The Trustee must cause a Surcharge Account to be maintained in respect of each Member under any of Divisions B, C, D or E. The Trustee must also cause a Surcharge Account to be maintained in respect of each member under a CGSSS DB Division, such account being maintained in this case solely for the purpose of calculating the Surcharge Account Debit Balance applicable to the Member in determining the limit from time to time of the Surcharge Offset Contributions which the Member is permitted to make under Rule A10A.7.

### **A10A.2 Surcharge Adjustment**

If, with respect to a Member, the operation of a Surcharge Reduction Provision has the effect of reducing benefits accrued or payable under this Deed, at the date on which this Part A10A was inserted into this Deed, to or in respect of that Member, that reduction in benefits must, if necessary, be limited to such extent as shall, having regard to the terms of any Relevant Law, ensure that, other than to the extent of that limitation, full effect is given to the Surcharge Reduction Provision.

### **A10A.3 Application of Surcharge Refund Amount and Reductions in Surcharge**

- (a) If, in respect of a Member under any of Divisions B, C, D or E:
  - (1) the Surcharge Account maintained in respect of the Member comprises a credit balance at the time when benefits under that Division are paid or commence to be paid to or in respect of that Member;
  - (2) the Trustee receives any Surcharge Refund Amount, which the Trustee determines is referable to that Member as a Member under that Division and in respect of which no amount is, by operation of these Rules, to be credited to a Surcharge Account applicable to the Member; or
  - (3) there is any reduction in an amount of Surcharge Unpaid Balance, where that amount of Surcharge Unpaid Balance has been used to

determine any Surcharge Aggregate or Surcharge Reduction which has been taken into account in determining an amount of benefit paid or which has commenced to be paid under these Rules to or in respect of the Member,

then, subject to Rule A10A.6, the amount of each such credit balance, Surcharge Refund Amount or reduction is payable to or in respect of that Member, in lump sum form, in addition to any other benefits payable or paid under that Division.

- (b) In respect of CGSSS Members, subject to the Relevant Law, to avoid doubt, and without limiting any other provision of this Deed, the Trustee may, in accordance with Rule A4.1(c), establish one or more accounts in relation to Surcharge liabilities, and deduct the amount of any such liability from any benefit or payment in respect of a CGSSS DB Member. That account will include an adjustment for interest in respect of the period between the payment of the relevant Surcharge and the time of payment determined on a basis that the Trustee considers appropriate. In determining the amount of any liability to be deducted from any benefit or payment in respect of a CGSSS DB Member, the Trustee must take into account any Surcharge Offset Contribution made by the Member.

#### **A10A.4 Operation of Part A10A**

Subject to the terms of this Part A10A, if there is any inconsistency between the operation of a Surcharge Reduction Provision and the terms of any other provision of this Deed, including without limitation Part A17, Rule C1.3, Rule D1.3 and Rule E1.3, the Surcharge Reduction Provision shall prevail.

#### **A10A.5 General requirement for Surcharge Reduction**

Subject to the terms of this Part A10A and Rule A10.3, if:

- (a) upon the application of any other Surcharge Reduction Provision in determining the benefits of or in respect of a Member, the amount of any reduction in benefits is insufficient to ensure that the full amount of any Surcharge applicable to that Member (including interest compounded at the Declared Rate in respect of periods as determined by the Trustee from time to time on any amount of Surcharge paid by the Trustee), is taken into account by the reduction; or
- (b) apart from this Rule A10A.5, there is no other Surcharge Reduction Provision which applies in determining the benefits of or in respect of a Member,

the Trustee must, after obtaining advice of an Actuary, reduce the benefits otherwise payable under this Deed to or in respect of the Member, so as to ensure that the full amount of any Surcharge applicable to that Member (including interest compounded at the Declared Rate in respect of periods as determined by the Trustee from time to time on any amount of Surcharge paid by the Trustee), is taken into account by the reduction.

### **A10A.6 No duplication of refunds**

Any provision in this Deed which has the effect of increasing benefits to take account of Surcharge Refund Amounts or of the reduction in amounts of Surcharge Unpaid Balance must be construed in such a way as to ensure that there is no resultant duplication in benefits.

### **A10A.7 Surcharge Offset Contributions**

In addition to any other contributions a Member is permitted to make as a Member under any of the Divisions, a Member may, as a Member under a particular Division other than Division F, from time to time contribute amounts to the Fund for the purpose of those amounts being credited to the Member's Surcharge Account for that Division, subject to satisfying the following requirements:

- (a) the Member will only be eligible to make such a contribution if, at the time the contribution is made:
  - (i) in the case of a Member of Division B, the Member is an Officer, a Resigned Member or a Retrenched Member;
  - (ii) in the case of a Member of Division C, the Member is an Officer;
  - (iii) in the case of a Member of Division D, the Member is an Employee, a Member in respect of whom a "Vested Amount" continues to be retained in the Fund under Rule D9.2 or a Member aged less than 60 years in respect of whom a "preserved benefit" continues to be retained in the Fund under Rule D9.3(a);
  - (iv) in the case of a Member of Division E, the Member is an Employee or is a Member aged less than 60 years in respect of whom a benefit continues to be retained in the Fund under Rule E10.1(b)(1); and
  - (v) in the case a CGSSS DB Member, the Member is an Employee or is a Member aged less than 55 years (or such greater age as the Trustee and the Principal Employer agree) in respect of whom a benefit continues to be retained in the Fund;
- (b) subject to paragraph (c) of this Rule, the amount of any such contribution shall be as determined by the Member but must not exceed the Member's Surcharge Account Debit Balance for that Division at the time the contribution is made; and
- (c) each such contribution must be made in accordance with such rules as the Trustee shall determine from time to time, including without limitation rules as to frequency of payment, maximum and minimum amount of payment and method of payment.

### **A10A.8 Other contribution rules not to apply to Surcharge Offset Contributions**

Notwithstanding anything else in these Rules, but subject to Clause 8 of the Deed, any Surcharge Offset Contribution by a Member as a Member under a particular Division of these Rules:

- (a) shall have effect on the Member's benefits as a Member under any of Divisions B, C, D or E only to the extent of the credit of such Surcharge Offset Contribution to the Member's Surcharge Account applicable to that Division and the resultant adjustment of interest applying to the Surcharge Account, and any resultant adjustment of interest applying to those Accounts and on the Member's benefits as a Member under a CGSSS DB Division only to the extent that the Surcharge Offset Contribution is taken into account by the Trustee under Rule A10A.3(b); and
- (b) shall not be, or be taken as, a contribution or payment to the Fund under the Rules relating to contributions or payments in that Division including, without limitation, Rules relating to eligibility to make contributions, Rules relating to method, timing and amount of contributions and Rules defining or describing benefits by reference to contributions under the relevant Division or any part or Rule in the Division; and
- (c) shall not be subject to the terms of Part A15.

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## **Part A11 Provision of information**

### **A11.1 Members, Beneficiaries and claimants**

Each Member and Beneficiary, and each person appearing, purporting or claiming to be entitled to a benefit, must provide all information and evidence, sign all documents, undergo all medical examinations and tests and generally satisfy all standards and requirements as and when reasonably required by the Trustee in properly giving effect to this Deed.

### **A11.2 Employer**

Each Employer must provide information to the Trustee as and when the Trustee reasonably requires in order to properly give effect to this Deed.

### **A11.3 Proofs**

Whenever it is necessary under this Deed for the Trustee, an Employer or any other person to decide a question of fact, that person may:

- (a) rely on any information or evidence; and
  - (b) make and rely on any presumption;
- that person bona fide considers appropriate.

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## **Part A12 Surplus amounts**

### **A12.1 Transfer of surplus**

The Trustee, if requested to do so by the Principal Employer, will appropriate to the Principal Employer from the Fund from time to time (whether by means of cash payment or the transfer of other assets) such amounts as the Principal Employer, on the advice of an Actuary, determines as being the whole or part of any surplus to amounts required to fund pensions or other benefits payable under

this Deed. The cash or assets so appropriated shall vest in the Principal Employer absolutely at the time of such payment or transfer.

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## **Part A13 Employer's rights concerning Employees**

### **A13.1 Powers not affected**

Nothing in this Deed affects the Powers of an Employer in relation to the appointment, dismissal, promotion, demotion, remuneration or control of, or any other dealings with, any Employee.

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## **Part A14 Categories of Members**

### **A14.1 Categorisation by Principal Employer**

Subject to Rule A14.3, the Principal Employer may by written notice given to the Trustee and subject to any conditions specified in the notice:

- (a) establish a category of Members and define the terms and conditions governing:
  - (1) entry to and exit from that category; and
  - (2) the contributions to be payable to the Fund and the benefits to be provided from the Fund for and in respect of a Member during and in respect of any period when the Member is classified in that category; and
- (b) amend, revoke or replace a notice previously given by the Principal Employer under this Rule A14.1 either generally or in any particular case;

and a Member is classified in a category established under this Part A14 during any period when the Member is classified in that category by a notice given to the Trustee by the Principal Employer or falls within a group or class of Members defined in respect of that category in a notice given to the Trustee by the Principal Employer.

### **A14.2 Effect of categorisation**

Subject to Rule A14.3, a notice given by the Principal Employer under Rule A14.1 is binding on all interested persons without the need to amend this Deed, and the rights, interests and obligations of a Member (and of any other person otherwise entitled to claim in respect of a Member or on the occurrence of an event or circumstance affecting the Member) must be adjusted in the manner and to the extent necessary in taking account of such a notice.

### **A14.3 Restrictions on categorisation**

- (a) **Only prospective:** Unless otherwise agreed between the Trustee and the Principal Employer either generally or in any particular case, a Member may not be retrospectively classified into or out of a category established under this Part A14.

- (b) **Protection of accrued benefits:** Neither:
- (1) a notice given by the Principal Employer to the Trustee under Rule A14.1; nor
  - (2) the classification or reclassification of a Member into or out of a category of Members pursuant to such a notice;
- may adversely affect the rights of a Member to accrued benefits under the Fund as at the date that notice is received by the Trustee or the date of that classification or reclassification, as the case may be, including without limitation:
- (3) in the case of a benefit calculated on the basis of contributions to the Fund and earnings on those contributions, the amount of the benefit that has accrued, or become payable, to the Member before the relevant date; or
  - (4) in the case of a benefit other than a benefit referred to in (3) above, the amount of the benefit that is, or may become, payable to the Member to the extent that benefit has accrued in relation to a period before the relevant date.

#### **A14.4 Non-exclusive application of this Part**

This Part A14 does not restrict any other provision of this Deed that permits or otherwise provides for the classification of persons into categories.

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### **Part A14A Transfer of Members to Division F**

#### **A14A.1 Categorisation of Eligible Transferring Members who are members of Divisions B C, D and E**

The Principal Employer may, by written notice given to the Trustee and subject to the terms and conditions specified in the notice:

- (a) establish one or more categories of Members of any one or more of Divisions B, C, D and E, as being Members who shall be eligible to become Division F Transferred Members in lieu of continuing as Members under Division B, C, D or E; and
- (b) amend, revoke or replace a notice previously given by the Principal Employer under this Rule A14A.1 either generally or in any particular case,

and a Member is classified in a category established under this Part A14A during any period when the Member is classified in that category by a notice given to the Trustee by the Principal Employer or falls within a group or class of Members defined in respect of that category in a notice given to the Trustee by the Principal Employer.

#### **A14A.1A Eligible Transferring Members who are CGSSS DB Members**

- (a) **CGSSS Members may be able to transfer to Division F:** If the Principal Employer and the Trustee agree either generally or in any particular case,

each CGSSS DB Member who is an Employee shall be entitled to make an election:

- (1) within the time prescribed by agreement between the Trustee and the Principal Employer; and
  - (2) to the effect that the CGSSS DB Member shall, subject to Rule A24.2, be entitled to become a Division F Transferred Member (in lieu of continuing as a Member of the CGSSS DB Division which applied to that Member at the time of the Member's election.
- (b) **Effect of election under (a):** An election made under paragraph (a) of this Rule:
- (1) shall have the effect that the electing CGSSS DB Member will, from the Division F Transfer Date become entitled to benefit under Division F only and will cease to be a Member under any CGSSS DB Division(s) and not be entitled to any benefit under any CGSSS DB Division(s) of this Deed;
  - (2) shall be:
    - (i) irrevocable unless otherwise agreed between the Trustee and the Principal Employer either generally or in any particular case; and
    - (ii) subject to the terms and conditions agreed between the Trustee and the Principal Employer; and
  - (3) shall have the effect of terminating any guarantees provided under the Division which applied to the Member prior to transfer.

#### **A14A.2 Transfer Rules**

The provisions of Rule A14A.1A, Rule B6.1, Rule C5.1, Rule D19.1 or Rule E20.1, as applicable, shall have effect in relation to an Eligible Transferring Member.

#### **A14A.3 Effect of transfer on rights, benefits and entitlements in Division A**

- (a) **Cessation of rights under Division A:** Without limiting the operation of Rules B6.1, C5.1, D19.1 and E20.1, upon an Eligible Transferring Member becoming a Division F Transferred Member, that Member shall cease to have any right to benefits arising under this Division A, other than by virtue of that Member being a Member under Division F.
- (b) **Cessation of rights under Rule A17.1:** Without limiting the generality of paragraph (a) of this Rule A14A.3, any right, benefit or entitlement of an Eligible Transferring Member under either of paragraphs (a) or (b) of Rule A17.1 shall cease upon a Member becoming a Division F Transferred Member.

## **Part A15 Deemed Member contributions**

### **A15.1 Categories of Members**

For the purposes of this Part A15, there are 2 categories of Members, being:

- (a) those to whom Rule A15.2 applies for the time being (“**Category A Members**”), as determined by the Principal Employer and notified to the Trustee from time to time in a manner reasonably satisfactory to the Trustee; and
- (b) those to whom Rule A15.3 applies for the time being (“**Category B Members**”), and a Member shall be deemed to be classified as a Category B Member whenever he or she is not classified as a Category A Member.

The Principal Employer may revoke a notice previously given by it under (a) above by a further notice given to the Trustee in a manner reasonably satisfactory to the Trustee.

### **A15.2 Category A Members**

During any period when a Member is a Category A Member, all of the contributions otherwise payable by the Member are waived but are deemed to have been paid by the Member for the purpose of determining the amount of or eligibility for a benefit the amount of or eligibility for which depends on the amount of contributions paid or required to be paid by the Member or the period for which the Member has contributed or is required to contribute.

### **A15.3 Category B Members**

By notice given to the Trustee in a manner reasonably satisfactory to the Trustee, the Principal Employer may (subject to Clause 8 of this Deed):

- (a) subject to any conditions included in the notice and in respect of a Member identified in the notice or then or thereafter falling within a group of Members described in the notice, waive all or part of the contributions otherwise payable by the Member; and
- (b) amend, add to, revoke or replace any such notice previously given by the Principal Employer either generally or in any particular case;

and (except to the extent that such a notice provides otherwise or the Trustee and the Principal Employer agree otherwise) for the purpose of determining the amount of or eligibility for a benefit the amount of or eligibility for which depends on the amount of contributions paid or required to be paid by the Member or the period during which the Member has contributed or is required to contribute, a Member will be considered to have paid as and when due any contributions that would have been payable by the Member but for the waiver by the Principal Employer.

### **A15.4 Effective dates of notices**

Subject to Clause 8 of this Deed, a notice given by the Principal Employer under Rule A15.1 or Rule A15.3 takes effect on the effective date specified in the notice (“**specified date**”), which may be:



- (a) in the case of a notice that has the effect of initially waiving contributions in respect of a Member or of increasing the extent of that waiver in respect of a Member:
  - (1) before the date the notice is given to the Trustee (“**notice date**”), subject to any conditions imposed by the Trustee either generally or in any particular case; or
  - (2) on or after the notice date;or
- (b) in the case of a notice that has the effect of revoking a waiver of contributions in respect of a Member or of reducing the extent of that waiver in respect of a Member, on or after the notice date,  
or, if there is no specified date, the notice date.

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## **Part A16 Notices**

### **A16.1 Normal procedures**

A notice, cheque or other written matter (collectively called “**notice**”) may be given to any person by handing it to that person personally, by leaving it at that person’s address last known to the person giving the notice or by sending it to that address by ordinary prepaid post (including, in the case of a body corporate, the registered office or principal place of business of that body).

### **A16.2 Other procedures**

Without limiting Rule A16.1, notification of any matter may also be given:

- (a) to an Employee (whether or not a Member) by a notice addressed to the Employee at a normal workplace of the Employee or any other place the Employee could reasonably be expected to visit in the course of the Employee’s normal duties and sent to the Employee through the Employer’s internal mail system; and
- (b) to any person, by way of a notice placed in a newspaper circulating in those places the Trustee considers appropriate in the circumstances.

### **A16.3 Receipt of notices**

A notice is deemed to have been received:

- (a) in the case of a notice given by hand, at the time of delivery;
- (b) in the case of a notice given by post, at the expiration of 2 normal working days (in the location at which the notice is posted) after posting;
- (c) in the case of a notice given as provided in Rule A16.2(a), at the expiration of 2 normal working days (in the location from which the notice is sent) after the notice is sent;
- (d) in the case of a notice published in a newspaper as provided in Rule A16.2(b), 2 calendar days after the date the newspaper is published;

or, in any case, at any later date that the Trustee considers appropriate in the circumstances.

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## Part A17 Continuation

### A17.1 Continuation of existing benefits

Except to the extent the Trustee and the Principal Employer agree otherwise or this Deed provides otherwise (either expressly or by necessary implication):

(a) **existing rights and obligations under Former Rules and Former VS Rules continued:** to the extent that:

- (1) any of the rights, benefits, entitlements, liabilities and obligations of and in respect of a person in connection with the Fund under the Former Rules or the Former VS Rules immediately before the Amendment Date; and
- (2) any restriction, limitation and condition applying under the Former Rules or the Former VS Rules in respect of any of those rights, benefits, entitlements, liabilities or obligations immediately before the Amendment Date,

is not provided for, either expressly or by necessary implication, in Division B (in the case of the Former Rules) or Division C (in the case of the Former VS Rules), that right, benefit, entitlement, liability, obligation, restriction, limitation or condition, as the case may be, is continued unaltered under this Deed;

(b) **existing rights and obligations under SBV Staff Fund Deed and CBA Staff Fund Deed continued:** in the case of a person who:

- (1) either:
  - (i) immediately before the SBV Staff Transfer Date had a vested or contingent beneficial interest in the SBV Staff Fund by virtue of the SBV Staff Fund Deed; or
  - (ii) immediately before the CBA Staff Transfer Date had a vested or contingent beneficial interest in the CBA Staff Fund by virtue of the CBA Staff Fund Deed; and
- (2) for and in respect of whom all entitlements to benefits from the SBV Staff Fund or the CBA Staff Fund, as the case may be, have ceased;

to the extent that:

- (3) any of the rights, benefits, entitlements, liabilities and obligations of and in respect of that person under the SBV Staff Fund Deed or the CBA Staff Fund Deed immediately before the SBV Staff Transfer Date or the CBA Staff Transfer Date, as the case may be; and
- (4) any restriction, limitation and condition that applied in respect of any of those rights, benefits, entitlements, liabilities or obligations under the relevant deed immediately before the relevant date;

is not provided for, either expressly or by necessary implication, in Division D or Division E (in the case of the SBV Staff Fund) and Division F (in the case of the CBA Staff Fund), that right, benefit, entitlement, liability, obligation, restriction, limitation or condition, as the case may be, is continued unaltered and is enforceable under this Deed and is secured by the Fund in lieu of the SBV Staff Fund and the CBA Staff Fund; and

- (c) **no alteration of rights:** nothing in this Deed shall be taken to increase or reduce the amount of any benefit (or alter the terms and conditions applying to that benefit):
- (1) where the benefit was or became payable from the Fund pursuant to the Former Rules before the Amendment Date, from the amount or the terms and conditions which would have applied under the Former Rules, but for the amendments to the Former Rules which became effective on the Amendment Date;
  - (2) where the benefit was or became payable from the Fund pursuant to the Former VS Rules before the Amendment Date, from the amount or the terms and conditions which would have applied under the Former VS Rules had the Former VS Rules not been repealed with effect on the Amendment Date and the rights to benefits under the Former VS Rules not been replaced with rights to benefits under the Commonwealth Banks (Officers' Superannuation) Rules on that date;
  - (3) where the benefit was or became payable from the SBV Staff Fund before the SBV Staff Transfer Date and a corresponding benefit was or commenced to be payable from the Fund under the Commonwealth Banks (Officers' Superannuation) Rules on that date, from the amount or the terms and conditions which would have applied under the SBV Staff Fund Deed, had the SBV Staff Fund continued in operation; and
  - (4) where the benefit was or became payable from the CBA Staff Fund before the CBA Staff Transfer Date and a corresponding benefit was payable from the Fund under the Commonwealth Banks (Officers' Superannuation) Rules on that date, from the amount or the terms and conditions which would have applied under the CBA Staff Fund Deed, had the CBA Staff Fund continued in operation.

#### **A17.2 Retrospective court or tribunal decisions**

- (a) **SBV Staff Fund:** The Trustee has all of the Powers necessary to give effect to a decision made by a competent court or tribunal on or after the SBV Staff Transfer Date in respect of an event, situation or circumstance that occurred or existed (or was held in that decision to have occurred or existed) before that Date under the SBV Staff Fund Deed, including without limitation the Power to determine that Division D or Division E, as the case may be, takes effect as if the trustee of the SBV Staff Fund, or any other relevant person or office holder under the SBV Staff Fund Deed, had taken a particular action or exercised a particular Power before that Date under that Deed.

- (b) **CBA Staff Fund:** The Trustee has all of the Powers necessary to give effect to a decision made by a competent court or tribunal on or after the CBA Staff Transfer Date in respect of an event, situation or circumstance that occurred or existed (or was held in that decision to have occurred or existed) before that Date under the CBA Staff Fund Deed, including without limitation the Power to determine that Division F takes effect as if the trustee of the CBA Staff Fund, or any other relevant person or office holder under the CBA Staff Fund Deed, had taken a particular action or exercised a particular Power before that Date under that Deed.
- (c) **CGSSS:** The Trustee has all of the Powers necessary to give effect to a decision made by a competent court or tribunal on or after the CGSSS Transfer Date in respect of an event, situation or circumstance that occurred or existed (or was held in that decision to have occurred or existed) before that Date under the CGSSS Deed, including without limitation the Power to determine that the applicable Division takes effect as if the CGSSS Trustee, or any other relevant person or office holder under the CGSSS Deed, had taken a particular action or exercised a particular Power before that Date under that Deed.

### **A17.3 Powers of Trustee**

Subject to Rule A17.1, the Trustee has all of the Powers necessary to give effect to this Part A17.

### **A17.4 Former VS Rules**

Notwithstanding anything contained in this Deed, all rights, privileges, obligations and liabilities acquired, accrued or incurred under the Former VS Rules before the Amendment Date are continued under and become subject to this Deed to the entire exclusion of the Former VS Rules but no benefit is payable under this Deed to the extent that the obligation to pay the benefit has been discharged by payment under the Former VS Rules.

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## **Part A18 Transfer of Funds**

### **A18.1 SBV Staff Fund: Relevant contingencies and conditions**

- (a) **Rights and interests contingent:** The rights and interests of:
  - (1) a Former SBV Staff Fund Member; and
  - (2) a person claiming an entitlement in respect of a former “Member” of the SBV Staff Fund or on the occurrence of an event or circumstance affecting a former “Member” of the SBV Staff Fund (“**Continuing SBV Staff Fund Claimant**”),under this Deed are contingent upon:
  - (3) the SBV Staff Fund having been terminated in accordance with Rule A19 of the SBV Staff Fund Deed with effect on a date not later than the SBV Staff Transfer Date;

- (4) all of the benefits that would otherwise have been provided from the SBV Staff Fund under that Rule A19 being provided by way of the Fund in accordance with the Commonwealth Banks (Officers' Superannuation) Rules with effect on and from the SBV Staff Transfer Date and with this Deed on and from the Transfer Time to the exclusion of the SBV Staff Fund and any other Approved Benefit Arrangement; and
  - (5) all of the moneys and assets of the SBV Staff Fund available under that Rule A19 being transferred to the Fund as soon as practicable after the SBV Staff Transfer Date but not later than 12 months (or any longer period agreed between the Principal Employer, the Trustee and the trustee of the SBV Staff Fund) after that Date.
- (b) **Reduction of benefits:** If, notwithstanding Rule A18.1(a), a benefit is provided from the SBV Staff Fund in respect of a Former SBV Staff Fund Member or a Continuing SBV Staff Fund Claimant after the SBV Staff Transfer Date ("**post-transfer benefit**"), the amount of the corresponding benefit under this Deed must be reduced by an amount equal to that post-transfer benefit.

#### **A18.2 CBA Staff Fund: Relevant contingencies and conditions**

- (a) **Rights and interests contingent:** The rights and interests of:
- (1) a Former CBA Staff Fund Member; and
  - (2) a person claiming an entitlement in respect of a former "Member" of the CBA Staff Fund or on the occurrence of an event or circumstance affecting a former "Member" of the CBA Staff Fund ("**Continuing CBA Staff Fund Claimant**"),
- under this Deed are contingent upon:
- (3) the CBA Staff Fund having been terminated in accordance with Part 6 of the CBA Staff Fund Deed with effect on a date not later than the CBA Staff Transfer Date;
  - (4) all of the benefits that would otherwise have been provided from the CBA Staff Fund under that Part 6 being provided by way of the Fund in accordance with the Commonwealth Banks (Officers' Superannuation) Rules with effect on and from the CBA Staff Transfer Date and with this Deed on and from the Transfer Time to the exclusion of the CBA Staff Fund and any other Approved Benefit Arrangement; and
  - (5) all of the moneys and assets of the CBA Staff Fund available under that Part 6 being transferred to the Fund as soon as practicable after the CBA Staff Transfer Date but not later than 12 months (or any longer period agreed between the Principal Employer, the Trustee and the trustee of the CBA Staff Fund) after that Date.
- (b) **Reduction of benefits:** If, notwithstanding Rule A18.2(a), a benefit is provided from the CBA Staff Fund in respect of a Former CBA Staff Fund Member or a Continuing CBA Staff Fund Claimant after the CBA Staff Transfer Date ("**post-transfer benefit**"), the amount of the corresponding

benefit under this Deed must be reduced by an amount equal to that post-transfer benefit.

### **A18.3 CGSSS: Relevant contingencies and conditions**

- (a) **Rights and interests contingent:** The rights and interests of:
- (1) a CGSSS Member; and
  - (2) a person claiming an entitlement in respect of a former member of CGSSS under the CGSSS Deed or on the occurrence of an event or circumstance affecting a former member of CGSSS (“**Continuing CGSSS Claimant**”),

under this Deed are contingent upon all of the moneys and assets of CGSSS supporting those rights and interests being transferred to the Fund on or as soon as practicable after the CGSSS Transfer Date but not more than 12 months (or any longer period agreed between the Principal Employer, the Trustee and the CGSSS Trustee) after that Date.

- (b) **Reduction of benefits:** If, notwithstanding Rule A18.3(a), a benefit is provided from CGSSS in respect of a former member of CGSSS or a Continuing CGSSS Claimant after the CGSSS Transfer Date (“**post-transfer benefit**”), the amount of the corresponding benefit under this Deed must be reduced by an amount equal to that post-transfer benefit.

### **A18.4 Powers of Principal Employer**

If, in the opinion of the Principal Employer, any contingency provided for in Rule A18.1, Rule A18.2 or Rule A18.3(a) is not satisfied, the rights and interests of any person under this Deed must (subject to Clause 8 of this Deed) be adjusted in the manner, to the extent and upon the conditions determined by the Principal Employer.

### **A18.5 Obligations and Powers of Trustee**

Subject to the preceding provisions of this Part A18, the Trustee has all of the Powers necessary to give effect to this Part A18 and the Trustee must use its best endeavours to effect the transfers provided for in Rule A18.1(a)(5), Rule A18.2(a)(5) and Rule A18.3(a) within the period provided in those Rules.

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## **Part A19 Associated Employers**

### **A19.1 Agreements with Associated Employers**

The Trustee and the Principal Employer may enter into an agreement with a person approved by the Principal Employer for that person to become an Associated Employer under this Deed. Subject to any conditions imposed under that agreement or this Deed, employees of an Associated Employer who are eligible as provided in that agreement or this Deed are eligible to become Members of the Fund.

## **A19.2 Form and Status of Agreements**

Any agreement made under Rule A19.1 may be in any form and subject to any conditions acceptable to the Trustee and the Principal Employer and may be amended or replaced by a subsequent agreement between the parties or in the manner provided in this Deed as if it was a part of this Deed. Except to the extent that the agreement expressly provides otherwise, if there is a conflict between this Deed and such an agreement, this Deed prevails.

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## **Part A20 Disclosure of Interests**

### **A20.1 General**

A director of the Trustee who has a direct or indirect material personal interest (whether pecuniary or otherwise) in a matter relating to the Fund that is being considered or about to be considered by the Board that could reasonably be expected to conflict with the proper performance by that person of that person's duties as a director must, as soon as possible after the relevant facts have come to the person's knowledge, disclose the nature of the interest at a meeting of the Board or to the company secretary of the Trustee.

### **A20.2 Record of disclosures**

The Trustee must maintain a record of any disclosure under this Part A20.

### **A20.3 Effects of disclosure**

A director who has disclosed under this Part A20 an interest in a matter that is being or is about to be considered by the Board may, unless the Board otherwise determines, be present during any deliberations of the Board and take part in any decisions of the Board, with respect to the matter.

### **A20.4 Determination of Board under Rule A20.3**

For the purpose of the making of a determination by the Board under Rule A20.3 in relation to a director who has made a disclosure under Rule A20.1, that director must not:

- (1) be present during any deliberations of the Board for the purpose of the making of the determination; or
- (2) take part in the making by the Board of the determination.

### **A20.5 Exempt interest**

Rule A20.1 does not apply to:

- (1) an interest that a director has as a customer (and in common with other customers) of the Principal Employer or any Subsidiary of the Principal Employer (collectively called a "**Relevant Body**" in this Rule); or
- (2) an interest arising as a result of a director being a Member or a Beneficiary or potential Beneficiary or an officer or employee of a Relevant Body,

and a director may exercise, or participate or concur in the exercise of, any Power of the Board, notwithstanding the existence of such an interest.

### **A20.6 Compliance with Constitution and Corporations Act**

This Part A20 has effect subject to the constitution of the Trustee and to the requirements of the Corporations Act.

### **A20.7 Alternate Directors**

All references in this Part A20 to directors of the Trustee include reference to alternate directors of the Trustee.

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## **Part A21 Remuneration of Directors**

### **A21.1 Remuneration of Directors**

Except as otherwise agreed between the Trustee and the Principal Employer, a director (including any alternate director) of the Trustee is not entitled to remuneration from the Fund for acting in that capacity, but the Trustee may pay from the Fund all reasonable expenses properly incurred by a director (including any alternate director) in the exercise of that person's Powers as a director (or alternate director). Those expenses must be paid by the Principal Employer where the Fund is insufficient.

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## **Part A22 Deed Binding on Members**

### **A22.1 Deed binding on Members**

Each Member and Beneficiary shall be bound by this Deed.

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## **Part A23 Family Law**

### **A23.1 Non-Member Spouse**

Except as specified in Rule A23.2, this Deed does not allow the creation of a new interest as a Member of the Fund for a Non-Member Spouse under Part 7A of the Superannuation Industry (Supervision) Regulations 1994.

### **A23.2 Non-Member Spouse an existing Member of Division B, C, D, E F or CGSSS DB Divisions**

In relation to an Original Interest, the Trustee may create a new interest for a Non-Member Spouse in accordance with Part 7A of the Superannuation Industry (Supervision) Regulations 1994, subject to the following conditions:

- (a) at the time of creation of the new interest in Division F, the Non-Member Spouse must already be a Member of Division B, C, D, E or F or a CGSSS DB Division of the Fund;



- (b) the Original Interest in respect of which the new interest is created must be in Division F; and
- (c) the new interest must be created in Division F.

### **A23.3 Benefits for Non-Member Spouse**

The Trustee may, subject to Relevant Law and in accordance with the provisions of this Deed, pay to a Non-Member Spouse or pay or transfer to another entity within the superannuation system (including an eligible rollover fund) any amount which becomes payable in respect of the Non-Member Spouse because the Original Interest of a Member is subject to a Payment Split. The receipt in those circumstances is a sufficient discharge for the Trustee of any obligation it has in respect of the Non-Member Spouse.

### **A23.4 Adjusting benefits for Payment Splits**

Notwithstanding any provisions in this Deed, the Trustee may adjust any benefit or other amount payable or which may become payable from the Fund in respect of a Member to take account of any Payment Split in respect of the Member or in respect of benefits payable from the Fund for or in respect of that Member. Subject to Relevant Law, any adjustment will be on such terms as the Trustee determines.

### **A23.5 Non-Member Spouse not a beneficiary**

To the maximum extent permitted by law, it is declared that a person is not a beneficiary of the Fund by virtue of his or her being a Non-Member Spouse in relation to an Original Interest and the Trustee owes no duties, fiduciary or otherwise, to a person by virtue of his or her being a Non-Member Spouse in relation to an Original Interest.

### **A23.6 Family Law fees**

The Trustee may charge fees as prescribed by regulation under Part VIIIB of the Family Law Act 1975. Subject to Relevant Law, the Trustee may debit the amount of any fee or portion of a fee payable by a Member from an Account of the Member and may debit the amount of any fee or portion of a fee payable by the Non-Member Spouse from the entitlement of the Non-Member Spouse in the Fund or from any amount that would otherwise be payable by the Trustee to the Non-Member Spouse.

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## **Part A24 Provisions applying to CGSSS Members**

### **A24.1 Admission and allocation of CGSSS DB Members and CGSSS AF Members**

Members of CGSSS immediately before the CGSSS Transfer Date are admitted as Members of the Fund on the CGSSS Transfer Date and are allocated to the following Divisions on that date:

Division	Corresponding Division in CGSSS Deed	Members to whom the CGSSS Division applied
CB1	Division B – Part 1	Members who joined CGSSS prior to 1 April 1988 and who had not elected to transfer to Division I of the CGSSS Deed in accordance with that Deed.
CB2	Division B – Part 2	SASF Members who had not elected to transfer to Division I of the CGSSS Deed in accordance with that Deed.
CC	C	Members who joined CGSSS and commenced Contributions (as defined in the CGSSS Deed) on or after 1 April 1988, but prior to 1 July 1992 and who had not elected to transfer to Division I of the CGSSS Deed in accordance with that Deed.
CD	D	<p>All CGSSS DB Members (contributory and non-contributory) of the Fund except:</p> <ul style="list-style-type: none"> <li>(a) Members to whom Division H of the CGSSS Deed applied (unless otherwise agreed between the “Principal Company” (as defined in the CGSSS Deed) and the CGSSS Trustee);</li> <li>(b) Members who last became members of CGSSS on or after 1 July 1997;</li> <li>(c) Members to whom Division I of the CGSSS Deed applied by virtue of an election to transfer to that Division in accordance with the CGSSS Deed; and</li> <li>(d) any other Member whom the “Employer” (as defined in the CGSSS Deed) classified as a Member to whom Division CD does not apply.</li> </ul>
CE	E	<p>Members who joined CGSSS and commenced contributing to CGSSS on or after 1 July 1992 except:</p> <ul style="list-style-type: none"> <li>(a) SASF Members;</li> <li>(b) Members to whom Division F or Division H of the CGSSS Deed applied;</li> <li>(c) Members to whom Division H of</li> </ul>

Division	Corresponding Division in CGSSS Deed	Members to whom the CGSSS Division applied
		<p>the CGSSS Deed applied (unless otherwise agreed between the “Principal Company” (as defined in the CGSSS Deed) the CGSSS Trustee);</p> <p>(d) Members who last became members of the CGSSS on or after 1 July 1997;</p> <p>(e) Members who elected to transfer from Division D of the CGSSS Deed to Division I of the CGSSS Deed in accordance with that Deed;</p> <p>(f) Members who elected to transfer from Division E of the CGSSS Deed to Division I of the CGSSS Deed in accordance with that Deed; and</p> <p>(g) any other Member whom the “Employer” (as defined in the CGSSS Deed), classified as a Member to whom Division E of the CGSSS Deed did not apply.</p>
CF	F	Members who were previously members of the State Superannuation Fund and who had not elected to transfer to Division I of the CGSSS Deed in accordance with that Deed
CH	H	Members who immediately before becoming members of the CGSSS were members of the Colonial Group Staff Superannuation Fund and who had not elected to transfer to Division I of the CGSSS Deed in accordance with that Deed.
F	I	<p>(a) Members who last became members of CGSSS on or after 1 July 1997; and</p> <p>(b) Members who were admitted to membership of CGSSS (or deemed to have become members of CGSSS) before 1 July 1997 who elected to transfer to Division I of the CGSSS Deed in accordance</p>

Division	Corresponding Division in CGSSS Deed	Members to whom the CGSSS Division applied
		<p>with that Deed.</p> <p>(c) Members of Divisions B Part 1, C, D, E, F, H, K, M, N or O of the CGSSS Deed in respect of whom a “Special Employer Credit” had been contributed in accordance with Clause A10.4(b) or allocated in accordance with Clause A10.4(c) of the CGSSS Deed.</p>
F	J	Members who immediately before becoming members of CGSSS were members of the Legal & General Australian Group Staff Superannuation Fund or an Employer - Supported member of the Legal & General Superannuation Fund.
CK	K	Members who immediately before becoming members of CGSSS were members of category A of the Prudential Australia Staff Pension Scheme.
F	L	Members who immediately before becoming members of CGSSS were members of category B of the Prudential Australia Staff Pension Scheme.
CM	M	Members who immediately before becoming members of CGSSS were members of category A of the Prudential Australia Superannuation Scheme No. 2.
CN	N	Members who immediately before becoming members of CGSSS were members of category A or category B of the Trust Bank Fund.
CO	O	Members who immediately before becoming members of CGSSS were members of Hobart Staff Fund category A or Hobart Staff Fund category B in the Trust Bank Fund.
F	P	Members who immediately before becoming members of CGSSS were members of category C of the Trust Bank Fund.

#### **A24.2 Status of CGSSS Members**

- (a) Each CGSSS DB Member shall be considered to have last become a Member of the Fund on the date as at which that person was considered to have last become a “Member” of CGSSS under the CGSSS Deed.
- (b) A person ceases to be a CGSSS DB Member on the date:
  - (1) when all benefits to which that person could become entitled under a CGSSS DB Division have been paid, provided, forfeited, forgone or terminated in accordance with this Deed; or
  - (2) where the Member is entitled to a pension in accordance with this Deed, when that pension commences to be paid.
- (c) For the avoidance of doubt, without limiting provisions dealing with the interpretation of this Deed, it is confirmed that nothing in this Part A24 shall be construed to mean that a person who had ceased to be a “Member” under the CGSSS Deed prior to the CGSSS Transfer Date is a Member at or after that time, except where that person again becomes a Member after the CGSSS Transfer Date.

#### **A24.3 Cessation and recommencement of employment**

- (a) Subject to such special terms and conditions as are agreed between the Principal Employer and the Trustee, either generally or in any particular case, a CGSSS Member whose employment with an Employer ceases and recommences at a later time:
  - (1) shall be treated as if that person had never been a CGSSS Member (as the case may be) before; but
  - (2) shall remain entitled to any Preserved Benefit retained in the Fund in respect of that Member’s previous period of membership.
- (b) Rejoining employment with an Employer shall have no effect on the CGSSS Member’s entitlement in respect of that previous period of membership.

#### **A24.4 Contributor's Account**

The Trustee shall establish and maintain a separate account for each Member who is provided with a benefit under Division CB1, Division CC or CE to be called the “Contributor's Account”

- (a) to which shall be credited:
  - (1) the amount received into the Fund from CGSSS being the balance in the Member’s “Contributor’s Account” maintained under the CGSSS immediately before the CGSSS Transfer Date;
  - (2) the Contributions made by the CGSSS DB Member to the Fund;
  - (3) the CGSSS DB Member’s component of a refund of benefit made by a Member pursuant to Rule A24.6 (resumption of Contributions after break in employment);
  - (4) contributions by an Employer which the Employer decides to make or the Member and the Employer agree that the Employer will

make in respect of the Member, in addition to the contributions that the Employer makes or is required to make under any other provision of this Deed; and

- (5) interest as provided by Rule A24.5; and
- (b) to which shall be debited:
  - (1) where the CGSSS DB Member is eligible for the Supplementary Benefit - the amount of the Supplementary Levy;
  - (2) the amount of the CGSSS DB Member's Component of any benefit paid to, or in relation to the CGSSS DB Member; and
  - (3) if required by the Principal Employer, one-third of the amount of the CGSSS DB Member's share of the costs and expenses under A8.2.

#### **A24.5 Investment returns**

Subject to Part A7A, the Trustee:

- (a) shall from time to time apply investment returns to:
  - (1) a CGSSS DB Member's Contributor's Account;
  - (2) such other Accounts of a CGSSS DB Member; and
  - (3) other amounts in respect of a CGSSS DB Member,as it sees fit at a rate determined by the Trustee (having regard to the advice of the Actuary) and in such manner as it decides;
- (b) shall each year report to CGSSS DB Members the effective rate(s) at which investment returns were applied to Accounts at the preceding Annual Review Date; and
- (c) for the purpose of applying investment returns to the relevant Accounts before paying out the balance standing to the credit of those Accounts, may determine a rate of investment returns for that purpose only.

#### **A24.6 Resumption of contribution after break in employment**

- (a) This Rule applies to a Member to whom Division CB1, CC or CE applies where:
  - (1) the employment of the Member with an Employer ceases in circumstances entitling the Member to be paid a benefit under:
    - (i) Rule C1B7, Rule CC7 or Rule CE7, (benefit on resignation, dismissal or discharge before Age 55) as the case requires;
    - (ii) Rule C1B8, Rule CC8 or CE8, as the case requires (benefit on retrenchment before Age 55);
  - (2) not later than the expiration of the period of 3 months that next succeeds that cessation of employment, the Member again commences employment as an Employee;
  - (3) the Member recommences Contributions; and

- (4) if the Member has been paid a benefit as a consequence of the cessation of employment - the amount of the benefit has been repaid to the Fund with interest as provided herein.
- (b) Interest referred to in Rule A24.6(a)(4) is payable at a rate specified by the Trustee on so much of the benefit so referred to as was not represented by the Member's Component (as defined in the applicable Division) and is so payable from the time of the payment of the benefit to the Member to the time of its repayment to the Fund.
- (c) A Member to whom this Rule applies shall recommence eligibility to previous benefits by continuation of his or her last Accrued Benefit Points and Membership Period subject to any conditions and variations that the Trustee thinks fit. For the purpose of determining benefits, the Member's Salary Ratio and rate of Contribution shall be deemed to be zero during the non-employment period. The Member's Contributor's Account on resumption date shall be set equal to its former amount when the Member ceased employment.

#### **A24.7 Contribution by Members**

- (a) **CGSSS DB Member's Contributions deducted from his or her Salary:** Unless the Employer otherwise determines or the law does not so allow, the Contributions payable by a CGSSS DB Member shall be deducted by the CGSSS DB Member's Employer from each payment of or on account of the CGSSS DB Member's Salary from the Contribution commencement date determined by the Trustee, and shall be paid by the Employer to the Fund forthwith, or as directed by the Trustee.
- (b) **CGSSS DB Members' Contributions paid direct to Fund:** If the Employer does not wish to make deductions pursuant to Rule A24.7(a) or if a CGSSS DB Member does not authorise the deduction of his or her Contributions by his or her Employer or if the law does not allow the deduction of Contributions, the CGSSS DB Member shall pay his or her Contributions as and when he or she receives each payment of or on account of his or her Salary to the Fund in such manner as the Trustee may determine.
- (c) **Period during which CGSSS DB Member shall make Contributions**

Unless otherwise provided by this Deed, a CGSSS DB Member shall continue his or her Contributions until he or she ceases to be a CGSSS DB Member or an Employee (whichever is the earlier).
- (d) **Contributions during Leave Without Pay**
  - (1) In this Rule A24.7(d):

**"Initial Period"** in relation to Leave Without Pay that is not Prescribed Leave, means the period that commences on the first day of the Leave Without Pay and ends:

    - (i) where the period of the Leave Without Pay does not exceed 3 months - on the day on which the period of Leave Without Pay ends; or

- (ii) where the period of Leave Without Pay exceeds 3 months - on the day that is 3 months after that first day.

**“Leave Without Pay”** means a period of leave from employment with an Employer (otherwise than on secondment to another Employer) during which the Member is not entitled to receive payment of Salary from the Employer.

**“Member”** means a Member to whom Division CB1, CC, CD, CE or CF applies.

**“Prescribed Leave”** means Leave Without Pay during which the Member on leave is absent from employment with an Employer:

- (i) pursuant to a grant of sick leave;
- (ii) for a period during which the Member receives periodic payments under an Act relating to workers compensation;
- (iii) pursuant to a grant of maternity leave;
- (iv) pursuant to an agreement with the Employer for the secondment of the Member to employment that is not employment with an Employer;
- (v) to enable the Member to perform union duties, unless, in a particular case, the Employer certifies that this paragraph is not to apply;
- (vi) to enable the Member to perform duties that the Employer certifies to be in the interests of the Employer or the State;
- (vii) on service with the naval, military or air forces of the Commonwealth; or
- (viii) in circumstances approved by the Trustee for the purposes of this Rule A24.7(d).

- (2) A Member who takes Leave Without Pay shall:

- (i) where the Leave Without Pay is not Prescribed Leave, during the Initial Period of the leave; or
- (ii) where the Leave Without Pay is Prescribed Leave, during the whole of the period of the leave,

pay to the Fund in accordance with directions given by the Trustee such Contributions as would have been deducted from the Salary of the Member in accordance with this Deed if the Member had continued to be paid Salary by the Employer during the Initial Period or period of Prescribed Leave, as the case may be, at the rate at which the Member would have been paid but for being on Leave Without Pay.

- (3) Except as provided by paragraph (2)(i) above, a Member is not liable or entitled to make a Contribution to the Fund in respect of a period that is included in a period of Leave Without Pay that is not Prescribed Leave.



- (4) For the purpose of determining the Initial Period in relation to a Member who is on part-time Leave Without Pay, a reference in the definition of “Initial Period” in paragraph (1) to 3 months shall be read as a reference to the number of months (rounded off to the nearest whole number) calculated in accordance with the formula:

$$EIP = 3 / (1 - S)$$

where:

**EIP** represents the number of months to be ascertained; and

**S** represents the Member’s Salary Ratio.

- (e) **Deduction of Unpaid Member’s Contributions and Interest:** On any benefits becoming payable to or in respect of a Member, the Trustee shall, unless otherwise directed by the Employer, deduct therefrom any unpaid Member’s Contributions together with interest at a rate determined by the Trustee.

#### **A24.8 CGSSS DB Member transfers**

(a) **CGSSS DB Member transfers to another Fund**

- (1) Except where a CGSSS DB Member has made a nomination on where their future superannuation contributions are to be made which their Employer has accepted and Part A25 operates, where a CGSSS DB Member joins or is eligible to join any other superannuation arrangement (hereinafter called the “**Other Fund**”) the Trustee, with the approval of the CGSSS DB Member and the Principal Employer, may pay to the trustee of the Other Fund an amount (hereinafter called the “**Transferred Amount**”) as determined by the Trustee after obtaining the advice of the Actuary **provided that** the approval of the Principal Employer shall not be required in respect of Division CN Members and Division CO Members.
- (2) The Trustee may request that the former Member be entitled to such rights in the Other Fund as it can agree with the trustee of the Other Fund to be just and equitable and to its allocation to him or her as employee contribution, of that portion of the Transferred Amount as is determined by the Trustee.
- (3) For the purposes of Rule A24.8(a)(1), where a CGSSS DB Member has made a nomination on where their future superannuation contributions are to be made, which their Employer has accepted, and Part A25 applies, their Transferred Amount will be limited to the benefit calculated in accordance with Part A25.

(b) **CGSSS DB Member transfers Benefit to a Complying Superannuation Arrangement**

- (1) Except where a CGSSS DB Member has made a nomination on where their future superannuation contributions are to be made which their Employer has accepted and Part A25 operates, where a CGSSS DB Member, including a CGSSS DB Non-Employee Member with a Preserved Benefit in the Fund, requests in writing

the payment of the Member's benefit to a Complying Superannuation Arrangement, the Trustee may, with the approval of the Principal Employer, pay to the trustee or the manager of such Complying Superannuation Arrangement the benefit (hereinafter called the "**Transferred Amount**") in respect of the Member **provided that** the approval of the Principal Employer shall not be required in respect of Division CN Members and Division CO Members.

- (2) The Trustee may request that the CGSSS DB Non-Employee Member be entitled to such rights in the Complying Superannuation Arrangement and that the former Member's entitlement to the Transferred Amount be subject to such restrictions on payment as it may agree with the trustee or manager of the Complying Superannuation Arrangement including without limitation with respect to a former Member's Preserved Benefit that the Preserved Benefit is subject to the same cashing restrictions as apply to preserved benefits under the Relevant Law.
  - (3) For the purposes of Rule A24.8(b)(1), where a CGSSS DB Member has made a nomination on where their future superannuation contributions are to be made, which their Employer has accepted, and Part A25 applies, their Transferred Amount will be limited to the benefit calculated in accordance with Part A25.
- (c) **Discharge of benefits:** Unless otherwise agreed between the Trustee and the CGSSS DB Member or CGSSS DB Non-Employee Member concerned, a CGSSS DB Member or CGSSS DB Non-Employee Member, as the case may be, in respect of whom a Transferred Amount is paid under this Rule and that Member's Dependents shall not be entitled to any other benefit or entitlement from the Fund and the full payment of the Transferred Amount shall be a complete discharge to the Trustee of all liability to and in respect of that Member or CGSSS DB Non-Employee Member as the case may be and except as provided in Rules A24.8(a)(2) and A24.8(b)(2) the Trustee shall have no responsibility to see to the application of the Transferred Amount.
- (d) **Transfer of assets:** The Trustee may, in its absolute discretion make any payment of a Transferred Amount payable pursuant to this Rule A24.8 to the Other Fund by way of a transfer of assets of equivalent value from the Fund appropriated in specie for that purpose.

#### **A24.9 CGSSS transfer Benefits**

Except to the extent that the Trustee does not permit, a CGSSS DB Member may pay or transfer to the Trustee for the credit of the Fund an amount or assets from a Complying Superannuation Arrangement at or after the date of the CGSSS DB Member's admittance to the Fund, and the Trustee after obtaining the advice of the Actuary shall provide the CGSSS DB Member with benefits (or additional benefits as the case may be) calculated having regard to the amount received under this Rule in such manner and form as it shall determine and notify the CGSSS DB Member in writing.

#### **A24.10 Limitation on benefits**

- (a) If in connection with any policy of insurance effected by the Trustee against death, total and permanent invalidity, total and permanent disablement or total and temporary disablement:
- (1) an insurance company refuses to insure or seeks to impose any limitations or special conditions in respect of a CGSSS DB Member or a group of CGSSS DB Members, notwithstanding the benefits payable pursuant to this Deed in respect of any of the aforesaid contingencies, the Trustee, after obtaining the advice of the Actuary, may impose limitations or special conditions in respect of the benefits otherwise payable in the event of the death, total and permanent invalidity of the CGSSS DB Member or group of CGSSS DB Members, as the case requires;
  - (2) an insurance company does not admit or pay all or part of a claim in respect of a CGSSS DB Member, the Trustee must reduce the benefit otherwise payable in the event of the death, total and permanent invalidity, total and permanent disablement or total and temporary disablement of the CGSSS DB Member by the same amount as the insurance company has reduced the amount payable with respect to the claim under the terms of the relevant insurance policy, unless the Principal Employer otherwise agrees.
- (b) If and to the extent that the Principal Employer and the Trustee agree that the benefits with respect to death, total and permanent invalidity and total permanent disablements or total and temporary disablement may be partly or wholly self-insured and the Trustee elects to self-insure against such benefits and the Trustee considers that:
- (1) insurance would not be obtained from an insurer in respect of some or all CGSSS DB Members on standard terms; or
  - (2) the level or scope of insurance would have been restricted in respect of some or all CGSSS DB Members; or
  - (3) an insurer would not admit or pay all or part of a claim in respect of a CGSSS DB Member,
- the Trustee must, after obtaining the advice of the Actuary, reduce the benefit otherwise payable in the event of the death, total and permanent invalidity, total and permanent disablement or total and temporary disablement of a CGSSS DB Member, unless the Trustee and the Principal Employer agree otherwise.
- (c) Paragraphs (a) and (b) shall not apply to CGSSS DB Members to whom Division CN or CO applies.

#### **A24.11 Moneys owing to Fund or an Employer**

Where a CGSSS Member at the time the Member ceases to be an Employee owes any moneys to the Fund or to an Employer (including costs of any prosecution or civil proceedings and interest on those moneys and costs at a rate decided by the Trustee) the Member shall be deemed to have forfeited a sum equal to the said moneys and any benefit payable to or in respect of him or her shall be reduced

accordingly and the Trustee may retain the said moneys in the Fund or pay them to the Employer, as the case requires **provided that** any such forfeiture of benefit is in accordance with the provisions of the Relevant Law.

#### **A24.12 Forfeiture of benefits**

(a) Any CGSSS Member or Division F Transferred Member who had been a CGSSS DB Member immediately before the relevant Division F Transfer Date (“former CGSSS Member”) or a Beneficiary in respect of any such Member or former CGSSS Member:

- (1) who assigns or charges or attempts to assign or charge any benefits;
- (2) whose benefits on cessation of employment whether by his or her own act, operation of law or otherwise become payable to or vested in any other person, company, government or other public authority;
- (3) who for any reason is unable personally to receive or enjoy the whole or any portion of his or her benefits or, in the opinion of the Trustee, is incapable of managing his or her affairs; or
- (4) who, in the opinion of the Principal Employer, commits any fraud or is guilty of dishonesty, defalcation or serious misconduct,

shall, subject to the Relevant Law, forfeit entitlement to all his or her benefits **provided that** this Rule shall have no effect to the extent that its operation would be contrary to the operation of the Bankruptcy Act 1966.

(b) **Application of forfeited benefits:** The Trustee shall hold and apply the benefits which would have been payable had they not been forfeited pursuant to Rule A24.12(a) upon trust to make any payments pursuant to Rule A24.11 and subject thereto to pay or apply the balance thereof to or for the benefit of the CGSSS Member or former CGSSS Member or the Beneficiary in relation to such a Member (as the case requires) and his or her Dependants or any one or more of them in such proportions between them and on such terms as the Trustee may from time to time in its absolute discretion determine, **provided that** no benefit shall be paid in respect of a CGSSS Member or former CGSSS Member while he or she remains an Employee other than for the support and maintenance of that Member or that Member’s Dependants in the case of hardship.

#### **A24.13 Benefit payable on the death of a Member**

(a) **Payment of death benefits:** Where this Deed provides for the payment of a benefit on the death of a CGSSS DB Member (and which is not required to be paid to or in respect of a particular person), the Trustee shall pay the benefit, in the Trustee’s absolute discretion, to any one or more of the following:

- (1) the Preferred Beneficiary of the deceased Member;
- (2) any one or more of the other Dependants of the deceased Member;
- (3) the legal personal representative of the deceased Member; or

- (4) if the Trustee is unable to locate to its satisfaction any person falling within (1), (2) or (3) above within the time determined by the Trustee, any other person or persons the Trustee determines,

either in a lump sum or by an annuity or by instalments, and if more than one person, then in such proportions between them as the Trustee may from time to time in its absolute discretion determine subject to any terms stipulated by the Trustee.

- (b) **Nomination of Preferred Beneficiary:** A Member wishing to nominate a Dependant or legal personal representative as a Preferred Beneficiary must do so in writing to the Trustee in a form the Trustee approves. Subject to this Deed and without limiting the Powers of the Member, any corresponding nomination by a CGSSS DB Member that was in force under the CGSSS Deed immediately before the CGSSS Transfer Date will also apply in respect of that Member under this Division A on and from the CGSSS Transfer Date as if made by the Member under this Division A, and any nomination may be changed or revoked from time to time but is not binding on the Trustee.
- (c) This Rule A24.13 is to be read subject to any other provisions of this Deed relating to payment of a benefit on the death of a CGSSS DB Member.
- (d) **Transfer of lump sum death benefits to Division F**
- (1) In circumstances where a lump sum death benefit has become payable to a Dependant under the Rules of a DB Division, (whether such benefit is payable in accordance with the Rules of the DB Division or in accordance with Rule A24.13(a)(1) or (2)), the Dependant may apply in writing to the Trustee, in such form as shall be approved by the Trustee, to transfer the lump sum death benefit wholly or in part to an Allocated Pension Account in Division F of the Fund in respect of the Dependant.
- (2) A transfer under Rule A24.13(d)(1) is:
- (i) subject to Relevant Law; and
- (ii) subject to such conditions and requirements as the Trustee determines from time to time; and
- (iii) in circumstances where the Dependant is not a Member or Allocated Pensioner under Division F Rules, subject to the Dependant satisfying all applicable requirements including the eligibility criteria of Rule F9.1(a) and completing such forms as may be approved by the Trustee to become an Allocated Pensioner.

#### **A24.14 Supplementary Benefit**

- (a) Unless otherwise agreed by the Principal Employer and the Trustee, eligibility for the Supplementary Benefit under Division CB1, CC or CE:
- (1) is restricted to Members who have not attained the age of 60 years; and

- (2) is subject to the Employee providing the Trustee with such information and health evidence as it sees fit.
- (b) Prior to obtaining and after evaluation of the information provided pursuant to Rule A24.14(a)(2) the Trustee may limit the amount of the Member's Supplementary Benefit under Division CB1, CC or CE in such manner and for such period as it considers reasonable.
- (c) At its discretion, the Principal Employer may require that the Trustee deduct a levy called the Supplementary Levy from the Member's Contributor's Account where:
  - (1) the Levy relates to a proportion not exceeding 25% of the cost of the Member's Supplementary Benefit under Division CB1, CC or CE where such proportion is determined from time to time by the Principal Employer;
  - (2) the Levy amount and the cost of the Member's Supplementary Benefit is determined from time to time by agreement between the Principal Employer and the Trustee after obtaining the advice of the Actuary;
  - (3) the Levy is deducted at such times and in such manner as the Trustee considers expedient; and
  - (4) the Levy shall cease when the Member ceases to be eligible for the Supplementary Benefit under Division CB1, CC or CE.

#### **A24.15 Purchase of annuity**

- (a) With the CGSSS DB Member's consent, the Trustee may use part or all of the amount of the CGSSS DB Member's lump sum benefit to purchase an annuity in the name of the Member from a life assurance company or registered organisation and in particular the Trustee shall insist if it sees fit, that the terms of the annuity meet any minimum standards required by relevant requirements or conditions on pension Reasonable Benefit Limits.
- (b) This Rule A24.15 is to be read subject to any other provisions of Divisions CN or CO (as applicable) relating to the purchase of an annuity in the name of a CGSSS DB Member.

#### **A24.16 Payments permitted or required by the Relevant Law**

- (a) In certain circumstances the Relevant Law may require or permit the Trustee to pay all or part of a benefit to a CGSSS DB Member notwithstanding that the CGSSS DB Member remains in employment and in those circumstances the Trustee will be empowered to pay all or part of that benefit.
- (b) Notwithstanding any other provision of the Deed to the contrary:
  - (1) if the Relevant Law permits or requires the Trustee to pay to a CGSSS DB Member the whole of the CGSSS DB Member's benefit during employment then that benefit, if paid, shall be in lieu of any other entitlement which the CGSSS DB Member may have had in the Fund. The CGSSS DB Member will cease to be a CGSSS DB Member from the date of payment.

- (2) if the Relevant Law permits or requires the Trustee to pay part of a CGSSS DB Member's benefit to the CGSSS DB Member during employment the Trustee may or shall (as the case requires) pay that partial benefit to the CGSSS DB Member. The CGSSS DB Member will remain a CGSSS DB Member of the Fund but the Trustee will adjust the CGSSS DB Member's future entitlements from the Fund to the extent which the Trustee decides is appropriate to take into account the partial payment.
- (c) If the Relevant Law permits, but does not require the Trustee to pay the whole or part of a CGSSS DB Member's benefit during employment, the Trustee may decline to pay or may impose such conditions on such payment as the Trustee in its absolute discretion may determine, including (without limiting the generality of the Trustee's discretion) any service charges to be deducted from the payment, the minimum or maximum amount of that payment or the number or frequency of such payments **provided that** this Rule A24.16(c) shall only apply to CGSSS DB Members other than Division CN Members or Division CO Members.

#### **A24.17 Special Arrangements**

- (a) Subject to Subclause 8.5 and paragraph (b) below, the Principal Employer and a CGSSS Member may vary by agreement any or all of:
  - (1) the benefits which are or may become payable to or in respect of that person from the Fund;
  - (2) the contributions which are otherwise payable by or in respect of that person to the Fund; and
  - (3) the other terms and conditions relating to membership of the Fund.
- (b) Before implementing the agreement referred to in paragraph (a):
  - (1) the Trustee may require an undertaking from the Principal Employer to contribute to the Fund such additional amounts or rates of contribution (if any) as the Trustee shall determine after seeking the advice of the Actuary; and
  - (2) if any undertaking required by the Trustee under paragraph (b)(1) is not given by the Principal Employer or if the Principal Employer does not fulfil the conditions of any such undertaking given by it, the Trustee may refuse to implement the agreement.

#### **A24.18 Augmentation**

- (a) At the direction of the Principal Employer and subject to paragraph (b) and Subclause 8.5, the Trustee shall augment the amount of any benefit entitlement of any Member or Beneficiary under the Deed or rescind or discontinue all or any part of such augmentation (as the case may be) as the Trustee considers appropriate. However, before augmenting any such entitlement, the Trustee may require an undertaking from the Principal Employer to contribute to the Fund such additional amounts or rates of contribution (if any) as the Trustee shall determine after seeking the advice of the Actuary.

- (b) If any undertaking required by the Trustee under paragraph (a) is not given by the Principal Employer or if Principal Employer does not fulfil the conditions of any such undertaking given by it, the Trustee may refuse to proceed with or discontinue the augmentation to which the undertaking relates.

#### **A24.19 Family Law**

The Trustee may adjust any benefit or other amount payable or which may become payable in respect of a CGSSS DB Member to take account of any Payment Split in respect of that CGSSS DB Member which occurred as a result of that benefit or amount being transferred to the Fund by way of successor fund transfer.

#### **A24.20 Continuance and revocation of existing determinations and other exercises of power**

- (a) **Continuance of existing matters for CGSSS Members:** Subject to this Deed and without limiting the powers of the Principal Employer or the Trustee under this Deed, any decision, determination, declaration, direction, election, benefit adjustment or arrangement made, applied or having affect under the CGSSS Deed which existed immediately before the CGSSS Transfer Date, and which related to a CGSSS Member or Beneficiary (each an “**Affected Beneficiary**”), to any class of Affected Beneficiaries, or to Affected Beneficiaries generally, shall continue from that date to apply to the Affected Beneficiary or Affected Beneficiaries in that capacity in the corresponding circumstances under this Deed.
- (b) **power of revocation implied:** Where power is conferred by this Deed on an Employer or the Trustee to make any decision, determination, declaration, direction election, benefit, benefit adjustment or arrangement in respect of an Affected Beneficiary, the power includes a power exercisable in like manner and subject to like conditions (if any) to revoke, amend or vary that decision, determination, declaration, direction, election, benefit adjustment or arrangement, and for the purposes of clarity only, and without limiting any other provision of this Deed, it is confirmed that this power includes power to revoke, amend or vary any corresponding decision, determination, declaration, direction, election, benefit, benefit adjustment or arrangement in force under the CGSSS Deed immediately before the CGSSS Transfer Date.
- (c) **Continuation of existing restrictions limitations and conditions:** Except to the extent that the Trustee and the Principal Employer agree otherwise:
  - (1) if and to the extent that any restriction, limitation or condition which applied under the CGSSS Deed immediately before the CGSSS Transfer Date in respect of any right, benefit or entitlement under the CGSSS Deed of any CGSSS Member or Beneficiary is not provided for either expressly or by necessary implication in this Deed, that restriction, limitation or condition is continued unaltered under this Deed; and
  - (2) unless otherwise expressly provided in this Deed, nothing in this Deed shall be taken to increase the amount of any benefit to which



any CGSSS DB Member or Beneficiary is or may become entitled under this Deed, or to apply more favourable terms and conditions in connection with any such benefit than:

- (i) the amount which would have applied under the CGSSS Deed; or
- (ii) the terms and conditions which would have applied under the CGSSS Deed,

had the benefits of members of CGSSS not been transferred to the Fund and relevant benefits continued to be provided under the CGSSS.

(d) **Continuation of entitlements from CGSSS:** If before the CGSSS Transfer Date an event or circumstance giving rise to a benefit under the CGSSS Deed had occurred or arisen in respect of a CGSSS Member but:

- (1) a conclusive decision had not been made under the CGSSS Deed as to whether a benefit was payable from CGSSS in respect of that event or circumstance;
- (2) even though it had been conclusively determined that a benefit was payable from CGSSS in respect of that event or circumstance, a conclusive decision had not been made under the CGSSS Deed as to whom that benefit or any part of that benefit was payable; or
- (3) a decision of the types referred to in paragraphs (a) or (b) above is subject to review,

the Trustee may resolve any relevant issue that remained unresolved under the CGSSS Deed as at the CGSSS Transfer Date and, if the Trustee determines that a person is entitled to a benefit in respect of the relevant event or circumstance, that benefit must be provided from the Fund in respect of the relevant CGSSS Member on the basis determined by the Trustee, subject to this Deed.

#### **A24.21 Continuation of entitlements**

- (a) Where a person, who, immediately before the CGSSS Transfer Date, was entitled to a pension (whether immediate, deferred or contingent) under the CGSSS Deed, that person shall, subject to the provisions of this Deed and in lieu of all other benefits, continue to be entitled under the corresponding Division this Deed as set out in the table in Rule A24.1, to the pension to which they were entitled immediately before the CGSSS Transfer Date.
- (b) Where a person, who, immediately before the CGSSS Transfer Date, was entitled to be paid a lump sum benefit (whether immediate, deferred or contingent) under the CGSSS Deed, that person shall, subject to the provisions of this Deed and in lieu of all other benefits, continue to be entitled under the corresponding Division this Deed as set out in the table in Rule A24.1, to the benefit to which they were entitled immediately before the CGSSS Transfer Date.

**A24.22 Employer of CGSSS DB Member ceasing to be an Associated Employer**

- (a) **Benefits provided under this Rule:** If a CGSSS DB Member employed by an Associated Employer, not being a CGSSS DB Member under any of Division CH, CK or CM, ceases to be an Employee solely because that Associated Employer ceases to be an Associated Employer, the benefit which shall be payable to the Member in respect of his or her membership of a CGSSS DB Division will be as provided for under this Rule A24.22.
- (b) **Benefits to be calculated as at date Employer ceases to be an Associated Employer:** Benefits under this Rule A24.22 shall be calculated as at the date the Associated Employer ceases to be an Associated Employer as if the Member had resigned or retired from employment with the Associated Employer on that date.
- (c) **Benefits to be in lump sum form and in lieu of all other benefits:** Benefits under this Rule A24.22 shall be paid as a lump sum and shall be in lieu of all other benefits provided for under this Deed in respect of a Member in his or her capacity as a CGSSS DB Member and the Member shall have no right to resort to nor claim against the Fund in his or her capacity as a CGSSS DB Member, otherwise than as provided for in this Rule A24.22.
- (d) **Manner of determining amount of benefit:** Benefits under this Rule A24.22 in respect of a CGSSS DB Member to whom this Rule A24.22 applies, shall be determined as follows:
  - (1) if he or she is a Member under of Division CB1, CC, CD, CE or CF, the benefit on resignation, if aged under 55 (including any right to preserve benefits in the Fund as if the Member had resigned), or retirement, if aged 55 or greater;
  - (2) if he or she is a Member under Division CN, the leaving service benefit which would have applied if the Member left Service, where the Member is aged under 50; the leaving service benefit which would have applied if the Member left Service with Employer consent, where the Member is aged 50 or greater but less than 55; the retirement benefit which would have applied if the Member left Service with Employer consent where the Member is aged 55 or greater but less than 60 and the retirement benefit where the Member is aged 60 or greater;
  - (3) if he or she is a Member under Division CO as a "Hobart Staff Fund Category A Member", the benefit payable on the Member's withdrawal from service by way of resignation, if the Member has not reached his or her "Normal Retirement Date" as defined in the Rules for Division CO (Normal Retirement Date) and a benefit based on the commutation of retirement pension benefit, if the Member has reached his or her Normal Retirement Date, (with the pension being commuted to lump sum as if the member had made an election to take the benefits in lump sum form); and
  - (4) if he or she is a Member under Division CO as a "Hobart Staff Fund Category B Member", the benefit payable on the Member's

withdrawal from service other than by way of death or Total and Permanent Disablement.

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## **Part A25 Choice of Fund for DB Members**

### **A25.1 Choice of Fund for DB Members**

If the Employer offers a DB Member the opportunity to choose the fund to which their future superannuation contributions are to be made and the Member nominates an External Choice Fund which is acceptable to the Employer or Division F, then on and from the date the Employer accepts the DB Member's nomination:

- (a) the member will, for the purposes of their membership of the Fund as a DB Member, be treated as if they had voluntarily left the employment of the Employer without the Employer's consent (which for the avoidance of doubt, does not include where the Member left employment because of a physical or mental incapacity, invalidity or disability) on that date;
- (b) subject to Rule A25.2, the member's benefit entitlements in respect of their membership of the Fund as a DB Member will be limited to the benefit that they would have received had they voluntarily left the employment of the Employer without the Employer's consent (which for the avoidance of doubt, does not include where the Member left employment because of a physical or mental incapacity, invalidity or disability) on that date; and
- (c) Part A17 and any guarantee of benefit contained in the DB Divisions, if applicable, will only apply in respect of the calculation of the Member's benefit entitlement under Rule A25.1(b) and will cease to apply in relation to the Member's membership of the DB Division thereafter.

### **A25.2 Preservation**

- (a) If a benefit becomes payable as a result of the nomination made by the DB Member under Rule A25.1, the benefit, including any commutation of a pension or part thereof, will be subject to the rules relating to preservation contained in the SIS Act.
- (b) If the benefit referred to in Rule A25.2(a) is a pension benefit and the Member is unable to receive the pension at the age set out in the Rules because the Member has yet to meet a Condition of Release, then:
  - (1) at the Release Date, a lump sum equal to:
    - (i) the sum of the pension payments that would have been payable under the Rules from the Benefit Payment Date to the Release Date had the Member satisfied a Condition of Release on the Benefit Payment Date; plus
    - (ii) interest at the Declared Rate on these payments calculated from the time each payment would otherwise have been paid up to the date the lump sum payment is made,will be payable; and

- (2) periodic pension payments will commence to be paid from the Release Date, the amount of each payment being determined under the Rules applicable to that pension.
- (c) For the purposes of Rule A25.2(b):
  - "Benefit Payment Date" means the date that the Member would have been entitled to receive the benefit under the Rules had the Member satisfied a Condition of Release on that date;
  - "Condition of Release" means a condition of release under the SIS Act;
  - "Release Date" means the date that the Member actually satisfies a Condition of Release.

### **A25.3 Future Contributions to the DB Divisions**

Notwithstanding anything else in this Deed, if under Rule A25.1 a DB Member nominates Division F or an External Choice Fund to which the Employer's future contributions are to be made on their behalf and that nomination is accepted by the Employer:

- (a) the Member may not subsequently make contributions to or elect for any future contributions of his or her Employer to be made to a DB Division; and
- (b) if the Member subsequently elects for his or her Employer to contribute to the Fund on his or her behalf, those contributions and any contributions by or in respect of the Member may only be made to Division F.

### **A25.4 Payment Splitting**

- (a) Despite anything else in this Deed, if:
  - (i) pursuant to Rule A25.1, a DB Member nominates Division F or an External Choice Fund to which the Employer's future contributions are to be made on behalf of the member; and
  - (ii) that nomination is accepted by the Employer; and
  - (iii) the DB Member's benefit entitlements are subject to a Payment Split;

the Trustee may, to the extent permitted by the Relevant Law, transfer or rollover the Payment Split Amount applicable to that DB Member's Non-Member Spouse into another Superannuation Entity (including an eligible rollover fund) to be held for the benefit of the Non-Member Spouse, or pay the Payment Split Amount to the Non-Member Spouse.

- (b) For the purposes of this Rule A25.4:
  - (i) "**Payment Split Amount**" means an amount equal to the value of a Non-Member Spouse's entitlement under the Payment Split as valued and determined by the Trustee in accordance with the Relevant Law and any applicable Rules at the date of transfer, rollover or payment (as the case may be);
  - (ii) the Trustee will by notice to the affected Non-Member Spouse, request that he or she:

- (A) nominate, in such form and within a time specified by the Trustee in its discretion, a Superannuation Entity into which the Trustee is permitted by law to transfer or rollover the Payment Split Amount; or
  - (B) if the Relevant Law permits, request payment of the Payment Split Amount;
- (iii) the Trustee may pay the Payment Split Amount to an eligible rollover fund if the Non-Member Spouse does not:
  - (A) nominate another Superannuation Entity within the time specified by the Trustee or if the nominated Superannuation Entity does not accept the Payment Split Amount; or
  - (B) request payment of the Payment Split Amount where the Non-Member Spouse is able to receive the payment having regard to Relevant Law;
- (iv) the receipt of the Payment Split Amount by the Non-Member Spouse's nominated Superannuation Entity or the eligible rollover fund or the Non-Member Spouse (as the case may be) is a sufficient discharge for the Trustee of any obligation it has in respect of the Non-Member Spouse.

## Division B

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### CBA Old Scheme Members

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#### **Part B1 Application and interpretation**

##### **B1.1 Application of this Division B**

This Division B only applies to and in respect of:

- (a) persons who immediately before the Amendment Date were:
  - (1) “OS members”;
  - (2) “pensioners”; or
  - (3) “children” of “OS members” for whom an allowance was payable, under the Former Rules; and
- (b) any other persons who immediately before the Amendment Date had a vested or contingent right to benefits from the Fund under the Former Rules, including without limitation a person who immediately before the Amendment Date was a “spouse” or “child” of an “OS member” under the Former Rules,

but, notwithstanding anything expressed or implied to the contrary in this Deed, no person may become (or be re-admitted as) a Member under this Division B after the Amendment Date.

This Division B is always subject to the terms of the Clauses contained in the body of the Deed and to Division A of the Rules.

##### **B1.2 Definitions**

In this Division B, unless the contrary intention appears or the context requires otherwise:

“**Accumulated Benefits**” means at any time and from time to time the total of the amounts paid to or in respect of a Member from the Fund, including any amount of Additional Pension paid under Rule B3.3, being amounts of or arising from contributions paid by that Member to the Fund under this Division B, together with Compound Interest on those amounts.

“**Accumulated Contributions**” means at any time and from time to time the sum of all contributions paid by a Member to the Fund under this Division B or to the Former Fund together with Compound Interest on those contributions determined after deducting, if the Trustee so directs, costs and expenses of and incidental to the operation, management, administration and investment of the Fund.

“**Additional Pension**” means:

- (a) in relation to a Member, an Additional Pension calculated under Rule B3.3; and

- (b) where used in Rule B3.7 in relation to the Spouse of a deceased Member, an additional Pension equal to 67% of the Additional Pension calculated in respect of the Member under Rule B3.3.

“**Age at Entry**” in relation to a Member means the Member’s “age at entry” under the Former Rules immediately before the Amendment Date or the age to which the Member’s Age at Entry has been varied by virtue of this Division B.

“**Child**” means a child within the meaning of the SIS Act, but does not include:

- (a) a person who the Trustee determines was not dependent on the Member at the date of the Member’s death;
- (b) a person who has attained the age of 16 years and is not receiving full-time education at a school, college or university; or
- (c) a person who has attained the age of 25 years.

“**Commonwealth Banking Corporation Service**” means the Commonwealth Banking Corporation Service within the meaning of that expression in section 88 of the Commonwealth Banks Act 1959 immediately before the Staff Transfer Time.

“**Compound Interest**” means interest compounded:

- (a) in respect of the periods up to 30 June 1969, at the rate of 4% per annum;
- (b) where (in accordance with the Former Rules and having regard to the basis of the net earnings of the Fund for the relevant period, as determined by the Managing Director) the Managing Director has determined a rate in respect of any period between 30 June 1969 and the Amendment Date, at the rate so determined; and
- (c) in respect of any period determined by the Trustee on and from the Amendment Date and any period before that date in respect of which no rate has otherwise been set as provided for above, at the Declared Rate in respect of that period.

“**De Facto Spouse**” means, in relation to a person, another natural person who though not legally married to the first mentioned person, in the opinion of the Trustee lives or lived with the first mentioned person as at the relevant date on a genuine domestic basis in a relationship as a couple.

“**Eligible Division B Transferring Member**” means an Eligible Transferring Member who is a Member under this Division B.

“**Executive Director**” means an executive director appointed as such pursuant to the articles of association of the Commonwealth Bank of Australia.

“**Final Salary**” is:

- (a) in relation to a Member who is an Invalid Member and who became an Invalid Member on or after 1 July 1979 and when the Member was aged under 21 years, the annual rate of Salary payable to the Member on the Member’s Last Day of Service adjusted on each subsequent anniversary of the Member’s birth, up to and including the 21st anniversary, to the annual rate of Salary that would have been payable to the Member on the Member’s Last Day of Service if, on that day, the age of the Member had been the age of the Member on the date of the adjustment;

- (b) in relation to a Member who is a Retired Member by operation of paragraph (c) of the definition of “Retired Member”, the annual rate of Salary payable to the Member on the Member attaining the age of 65 years; and
- (c) in relation to other Members, the annual rate of Salary payable to the Member on the Member’s Last Day of Service.

“**Former Fund**” means the Officers’ Superannuation Fund of the Commonwealth Bank of Australia existing immediately before 14 January 1960.

“**Interim Benefit**” means, with respect to each Member as described in Rule B3.14(a) who satisfies the conditions set out in Rule B3.14(a), an amount being the aggregate of:

- (a) 1.5% of the Salary of that Member for the period commencing on and including the later of 1 January 1988 and the date the Member last became an Officer on or before 30 June 1990 and ending on and including 30 June 1990;
- (b) 1.5% of the Salary of that Member for the period commencing on and including the later of 1 January 1989 and the date the Member last became an Officer on or before 30 June 1990 and ending on and including 30 June 1990;
- (c) interest calculated at the Long Term Bond Rate on the emerging balance of the sum of the amounts referred to in paragraphs (a) and (b) of this definition calculated fortnightly in arrears up to and including 30 June 1990 as at the end of each fortnightly pay period occurring during that period and at 30 June 1990 and compounded fortnightly and as at 30 June 1990; and
- (d) Compound Interest from 1 July 1990 on the sum of the amounts calculated pursuant to paragraphs (a), (b) and (c) of this definition as at 30 June 1990 up to the date of payment.

“**Invalid Member**” means, subject to this Division B, a Member, not being a Resigned Member or a Retrenched Member, who has been retired before attaining age 60 years and who satisfies the Trustee, after receipt by the Trustee of such information as the Trustee shall deem necessary, that the Member is Totally and Permanently Incapacitated and includes as at the Amendment Date (but subject to Rule B3.8(b)) a person who was an “invalid member” under the Former Rules immediately before that Date. Where used in this Division B in relation to any time, period of time or event occurring before the Amendment Date, references to an “Invalid Member” are references to a person who was an “invalid member” under the Former Rules at the relevant time.

“**Invalid Resigned Member**” means, subject to this Division B, a Resigned Member who satisfies the Trustee, after the receipt by the Trustee of such information as the Trustee shall deem necessary, that the Member is Totally and Permanently Incapacitated and includes as at the Amendment Date (but subject to Rule B3.8(c)) a person who was an “invalid resigned member” under the Former Rules immediately before that Date. Where used in this Division B in relation to any time, period of time or event occurring before the Amendment Date, references to an “Invalid Resigned Member” are references to a person who was an “invalid resigned member” under the Former Rules at the relevant time.



**“Invalid Retrenched Member”** means, subject to this Division B, a Retrenched Member who satisfies the Trustee, after the receipt by the Trustee of such information as the Trustee shall deem necessary, that the Member is Totally and Permanently Incapacitated and includes as at the Amendment Date (but subject to Rule B3.8(c)) a person who was an “invalid retrenched member” under the Former Rules immediately before that Date. Where used in this Division B in relation to any time, period of time or event occurring before the Amendment Date, references to an “Invalid Retrenched Member” are references to a person who was an “invalid retrenched member” under the Former Rules at the relevant time.

**“Last Day of Service”** in relation to a Member or a deceased Member means, subject to Rule B1.6 and Rule B1.7, the last day on which the Member was an Officer.

**“Long Term Bond Rate”** means:

- (a) in the case of the period commencing on 1 January 1988 and ending on 31 December 1988 - 12.86% per annum;
- (b) in the case of the period commencing on 1 January 1989 and ending on 31 December 1989 - 12.86% per annum; and
- (c) in the case of the period commencing on 1 January 1990 and ending on 30 June 1990 - 12.93% per annum.

**“Member”** means a person:

- (a) who immediately before the Amendment Date was an “OS member” under the Former Rules; and
- (b) who has not on or since the Amendment Date transferred to a separate fund as provided for in this Division B or otherwise ceased to be a Member under this Division B; and
- (c) in respect of whom no amount has become payable by the Fund under Rule B3.11 on or since the Amendment Date,

and, for the purpose of clarity, it is confirmed that a person is not a Member if that person is:

- (d) a VS Member, other than a person who became a “VS member” (as defined in the Former VS Rules) as a Retired Member before 1 July 1993 and who remains a Retired Member pursuant to the operation of Rule B1.6; or
- (e) a person who would be a VS Member but for the terms of a direction under rule 6 of the Former VS Rules or Rule C1.7, other than such a person who remains a Retired Member as provided for under Rule B1.6 or continues to be a Resigned Member or a Retrenched Member as provided for under Rule B1.7.

Where used in this Division B in relation to any time, period of time or event occurring before the Amendment Date, references to a “Member” are references to a person who was an “OS member” under the Former Rules at the relevant time.

For the purpose of clarity only and without limiting the operation of Rule B1.8 or any other provision dealing with the interpretation of this Deed, it is further

confirmed that nothing in this Division B shall be construed to mean that a person who had ceased to be a Member prior to the Transfer Time is a Member at or after that time.

“**Member’s Pension**”, in relation to a deceased Member, means the Pension that would have been payable to the Member, assuming no adjustments to such Pension would have been required to be made by virtue of Clause 8 of this Deed, if the Member had not died but instead had become, or continued to be:

- (a) an Invalid Member, if at death the Member was an Officer aged less than 60 years or an Invalid Member; or
- (b) a Retired Member, an Invalid Resigned Member or an Invalid Retrenched Member, in other cases,

and, unless an election in relation to the Member has been made to receive a Lump Sum Benefit under Rule B3.7, includes Additional Pension that would have been payable to the Member.

“**Officer**” means, subject to Rule B1.4, with respect to the period prior to the Transfer Time an officer of the Commonwealth Banks Service, and with respect to the period commencing at the Transfer Time, a person employed by an Employer, and includes:

- (a) with respect to the period up to the commencement of paragraph 8(5)(a) of the Restructuring Act, the Managing Director of the Corporation;
- (b) with respect to the period up to the commencement of paragraph 8(5)(b) of the Restructuring Act, the Deputy Managing Director of the Corporation; and
- (c) with respect to the period from the commencement of paragraph 8(5)(a) of the Restructuring Act, the Managing Director of the Commonwealth Bank of Australia and each Executive Director of the Commonwealth Bank of Australia;

and without limiting the circumstances by which a person may cease to be an Officer, it is confirmed that, subject to Rule B1.9, a person who is employed by an Associated Employer ceases to be an Officer when the Associated Employer ceases to be an Associated Employer.

Where used in this Division B in relation to any time, period of time or event occurring before the Staff Transfer Time, references to an “Officer” are references to an officer of the Commonwealth Banking Corporation Service, the Managing Director of the Corporation and the Deputy Managing Director of the Corporation.

“**Pension**” means, with respect to any person, the annual rate of pension payable to that person under this Division B and, where used in relation to any time or period of time before the Amendment Date, “Pension” includes a “pension” determined under the Former Rules with respect to the relevant time or period.

“**Pensioner**” means a person in receipt of a Pension under this Division B. Where used in this Division B in relation to any time, period of time or event occurring before the Amendment Date, references to a “Pensioner” are references to a person who was a “pensioner” under the Former Rules at the relevant time.

“**Preserved Benefits**” means benefits that must be preserved as “preserved benefits” under the SIS Act.

“**Resigned Member**” means, subject to Rule B1.7, a Member who is no longer an Officer and is not a Retired Member or a Retrenched Member. Where used in this Division B in relation to any time, period of time or event occurring before the Amendment Date, references to a “Resigned Member” are references to a person who was a “resigned member” under the Former Rules at the relevant time.

“**Restructuring Act**” means the Commonwealth Banks Restructuring Act 1990.

“**Retired Member**” means, subject to Rule B1.6:

- (a) an Invalid Member; or
- (b) a Member who has attained age 55 years and is not an Officer; or
- (c) a Member who has on or after the Amendment Date attained age 65 years, who was an Officer at the time of attaining that age and who is not otherwise a Retired Member under this Division B.

Where used in this Division B in relation to any time, period of time or event occurring before the Amendment Date, references to a “Retired Member” are references to a person who was a “retired member” under the Former Rules at the relevant time.

“**Retrenched Member**” means, subject to Rule B1.7:

- (a) a Member who was a “retrenched member” immediately before the Amendment Date under the Former Rules; and
- (b) a Member who is no longer an Officer, who ceases to be an Officer on or after the Amendment Date but before attaining age 55 and who comes within the category of Members referred to in Rule B3.10(a).

Where used in this Division B in relation to any time, period of time or event occurring before the Amendment Date, references to a “Retrenched Member” are references to a person who was a “retrenched member” under the Former Rules at the relevant time.

“**Salary**” means, subject to this Deed, remuneration which the Principal Employer determines will be regarded as Salary for the purposes of this Division, either generally or in any particular case, and includes, where used in relation to a time or period of time before the Amendment Date, “salary” as determined under the Former Rules with respect to the relevant time or period.

“**Spouse**” in relation to a Member who has died means:

- (a) in the case of a person who was a Member on 1 July 2008 and who was not a Resigned Member, a Retrenched Member or a Retired Member as at that date, a person who was a spouse of the deceased Member within the meaning of the SIS Act at the time of the Member’s death and who, at that time:
  - (1) was living with the Member on a genuine domestic basis in a relationship as a couple; or
  - (2) was not living with the Member on a genuine domestic basis in a relationship as a couple but who the Trustee determines was substantially dependent on the deceased Member at that time; and

- (b) in any other case, a person who was a spouse within the meaning of the SIS Act at the time of the Member's death and who, at that time:
  - (1) was living with the Member on a permanent and genuine domestic basis in a relationship as a couple; or
  - (2) was not living with the Member on a permanent and genuine domestic basis in a relationship as a couple but who the Trustee determines was substantially dependent on the deceased Member at that time;

provided that, where there are 2 or more persons who would otherwise qualify, by virtue of paragraphs (a)(1) or (b)(1) of this definition, as Spouses in relation to a Member who has died, and who were not substantially dependent on that Member, only one such person, as determined by the Trustee, shall be a Spouse in relation to that Member for the purposes of this Division B.

**“Staff Transfer Time”** means the time of commencement of Part 4 of the Restructuring Act on 31 December 1990.

**“Totally and Permanently Incapacitated”** means that, because of a physical or mental condition, a person is unlikely ever to work again in a job for which that person is reasonably qualified by education, training or experience or could be so qualified after retraining, and **“Total and Permanent Incapacity”** has a corresponding meaning.

**“VS Member”** means a person who is a Member under Division C.

### **B1.3 References to taking action or exercising Power under Division B**

Without limiting Part A17, any reference in this Division B to:

- (a) the taking of any action or the exercise of any Power, whether or not expressed to be taken or exercised under this Division B or under any Rule, Part or Schedule within this Division B, including without limitation:
  - (1) giving, making or revoking a direction, determination, approval or election; and
  - (2) making any payment to or from the Fund,or
- (b) an event occurring, or a situation or circumstance existing, whether or not the event, situation or circumstance is expressed to occur or exist under this Division B or under any Rule, Part or Schedule within this Division B, including without limitation any event, situation or circumstance giving rise to a right, entitlement or obligation,

shall be construed as being or including a reference to:

- (c) the taking of a corresponding action or the exercise of a corresponding Power by the same or a corresponding person or office holder; or
- (d) the occurrence or existence of a corresponding event, situation or circumstance,

from time to time before the Amendment Date under the corresponding provisions of the Former Rules. As non-exclusive examples of the operation of this Rule, references:

- (1) to amounts of Additional Pension paid under Rule B3.3 in the definition of “Accumulated Benefits” in Rule B1.2 shall be taken to include amounts paid as “additional pension” under the Former Rules;
- (2) to contributions paid to the Fund under Division B (for example in the definitions of “Accumulated Benefits” and “Accumulated Contributions” in Rule B1.2) shall be taken to include contributions paid to the Fund under the corresponding provisions of Former Rules;
- (3) to amounts of supplementary contributions, accumulated with Compound Interest, previously paid under Rule B3.3 (referred to in Rule B3.3, Rule B3.5 and Rule B3.6 and in the definition of “Lump Sum Benefit” in Rule B3.7(d)(2)) shall be taken to include amounts of supplementary contributions, accumulated with Compound Interest, previously paid under the corresponding provision of the Former Rules;
- (4) to amounts of supplementary contributions, accumulated with Compound Interest, previously paid under Rule B3.5 (referred to in Rule B3.6 and in the definition of “Lump Sum Benefit” in Rule B3.7(d)(2)) shall be taken to include amounts of supplementary contributions, accumulated with Compound Interest, previously paid under the corresponding provision of the Former Rules;
- (5) to amounts, accumulated with Compound Interest, previously paid to the Member under Rule B3.7, contained in the definition of “Lump Sum Benefit” in Rule B3.7(d)(1), shall be taken to include amounts, accumulated with Compound Interest, previously paid to the Member under the corresponding provision of the Former Rules; and
- (6) to the circumstance where amounts of supplementary contributions, accumulated with Compound Interest, have not previously been paid under Rule B3.3 or Rule B3.5 (referred to in Rule V4.1 of Schedule V) shall be taken to include circumstances where amounts of supplementary contributions, accumulated with Compound Interest, have not previously been paid under the corresponding provision of the Former Rules.

#### **B1.4 Meaning of “Officer”**

- (a) **Persons who became officers before Staff Transfer Time:** Any reference in this Division B to the time of a person becoming an Officer shall, where that person became an officer of the Commonwealth Banks Service by virtue of the terms of section 64 of the Restructuring Act and has not since that time ceased to be, with respect to the period prior to the Transfer Time an officer of the Commonwealth Banks Service, and with respect to the period commencing at the Transfer Time a person employed by an Employer or by Employers in accordance with Rule B1.9, be construed as a reference to the last time that person became an officer of the Commonwealth Banking Corporation Service before the Staff Transfer Time.
- (b) **Continuance as Officers at Staff Transfer Time:** If a person last became an Officer before the Staff Transfer Time, that person shall not be considered to have ceased to be an Officer for the purposes of this Division B by virtue of the terms of section 64 of the Restructuring Act but shall continue to be an Officer for the purposes of this Division B until

next ceasing after the Staff Transfer Time to be, with respect to the period prior to the Transfer Time an officer of the Commonwealth Banks Service, and with respect to the period commencing at the Transfer Time a person employed by an Employer or by Employers in accordance with Rule B1.9.

- (c) **Employees of Corporation deemed officers:** For the purposes of the definition of “Officer” in this Division B, a person who was an employee of the Corporation but not an officer of the Commonwealth Banking Corporation Service during any period or periods before the commencement of section 35 of the Commonwealth Banks Amendment Act 1987 shall be deemed to have been an officer of the Commonwealth Banking Corporation Service during any such period.

### **B1.5 Application of Rules**

- (a) **Members who were Officers on 29 June 1979:** In relation to a Member who was an Officer on 29 June 1979 this Division B includes Schedule V.
- (b) **Contributors to Former Provident Account on 29 June 1979:** A Member who was a contributor to the former Provident Account on 29 June 1979 shall be deemed to have been a Member since he or she became a contributor.
- (c) **Members whose Salary was payable in English pounds:** In relation to a Member whose Salary was fixed and payable in English pounds:
- (1) This Division B is modified as set out in Schedule I;
  - (2) This Division B is subject to any undertaking given by the United Kingdom resident representative of the Managing Director or the Trustee to the Board of Inland Revenue in the United Kingdom; and
  - (3) The Principal Employer may at any time and from time to time give any Member or class of Members an option to transfer to another Division or to a separate fund for the provision of superannuation benefits of the Trustee or, in the case of a Resigned Member or Retrenched Member or a class of Resigned Members or Retrenched Members, to any other fund for the provision of superannuation benefits, on such terms and conditions as the Principal Employer with the consent of the Trustee may from time to time determine.
- (d) **Application of Schedule VI:** This Division B includes Schedule VI in relation to the matters and to the extent specified therein.

### **B1.6 Special arrangements re. Retired Members**

In the case of a person who, by virtue of paragraph (b) of the definition of “Retired Member”, was a Retired Member on 5 October 1990 or has become such a Member since that date and who has again become an Officer whilst still a Retired Member, that person shall not:

- (a) cease to be a Retired Member for the purposes of this Division B;
- (b) be entitled to contribute to the Fund under this Division B; or

- (c) be entitled to transfer any interest or entitlement to the Fund under Rule B2.2(a),

and that person's Last Day of Service shall continue to be the last day on which that person was last an Officer before becoming a Retired Member.

### **B1.7 Special arrangements re. Resigned Members and Retrenched Members**

In the case of a person who:

- (a) was a Resigned Member or a Retrenched Member on 1 July 1993, or has become such a Member since that date, and has again become an Officer whilst still a Resigned Member or a Retrenched Member; or
- (b) was a Resigned Member or a Retrenched Member at any time during the period commencing on 5 October 1990 and ending on 30 June 1993 who again became an Officer whilst still a Resigned Member or a Retrenched Member but did not become a "VS member" under the Former VS Rules,

that person shall not:

- (c) cease to be a Resigned Member or Retrenched Member, as the case may be, for the purposes of this Division B by reason only of having again become an Officer;
- (d) be entitled to contribute to the Fund under this Division B; or
- (e) be entitled to transfer any interest or entitlement to the Fund under Rule B2.2(a),

and that person's Last Day of Service shall continue to be the last day on which that person was last an Officer before becoming a Resigned Member or Retrenched Member, as the case may be.

### **B1.8 Special Interpretation Provision**

Without limiting the terms of this Deed which otherwise apply to assist in interpreting this Division B, where it is necessary to interpret the provisions of this Division B in relation to any thing done, action taken, payment made, Power exercised, event occurring or situation or circumstance existing under the Commonwealth Banks (Officers' Superannuation) Rules during or referable to the period commencing on the Amendment Date and ending at the Transfer Time, this Division B shall, unless its terms require otherwise expressly or by necessary implication, be construed so as to achieve the same effect with respect to the doing of that thing, the taking of that action, the making of that payment, the exercise of that Power, the occurrence of that event or the existence of that situation or circumstance as if the Commonwealth Banks (Officers' Superannuation) Rules had continued in force as the rules governing the Fund.

### **B1.9 Transfer of Employment between Employers**

Where a Member transfers from the employment of one Employer to the employment of another Employer:

- (a) the Member shall be taken to have continued to be employed and not to have resigned, terminated employment or ceased to have been an Officer; and
- (b) no benefit is payable to, or in relation to, the Member by reason only of such transfer; and
- (c) the Member will not become a Resigned Member or a Retired Member when the Member ceases to be employed by an Employer in circumstances where the Member transfers to the employment of another Employer.

Transfers of employment shall be categorised as such by way of written notice from the Principal Employer to the Trustee in relation to one or more Members or groups of Members.

### **B1.10 Officers of Associated Employers**

If a Member employed by an Associated Employer ceases to be an Officer solely because that Associated Employer ceases to be an Associated Employer the Member becomes a Resigned Member or, if the Member has attained age 55 years, a Retired Member.

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## **Part B2 Member contributions and transfers to the Fund**

### **B2.1 Member contributions**

- (a) **Basic contributions:** Subject to this Division B, each Member must while an Officer aged less than 65 years contribute to the Fund under this Division B at the rate of 5% of the Member's Salary.
- (b) **Supplementary contributions:** A Member may while an Officer aged less than 65 years pay supplementary contributions to the Fund at a whole percentage rate which the Member may vary but not so as to increase the Member's total contribution rate under this Division B above 10% of the Member's Salary.
- (c) **Cessation of Member contributions:** A Member's contributions to the Fund under this Division B shall cease on whichever is the earlier of:
  - (1) the date upon which the Member ceases to be an Officer; and
  - (2) the date upon which the Member attains the age of 65 years.

### **B2.2 Transfer value from previous employment**

- (a) **Circumstances and conditions of transfer:** A Member who was an Officer on 30 June 1993 and who has not thereafter ceased to be an Officer may upon first obtaining the approval of the Trustee and of the Principal Employer and upon satisfying such conditions as the Trustee may impose and provided the same shall be carried out in accordance with the Relevant Law, transfer or procure the transfer to the Fund of the whole or any part of any interest or entitlement the Member may have in an Approved Benefit Arrangement.



- (b) **Effect of transfer:** If any amount is transferred to the Fund under Rule B2.2(a):
- (1) the portion, if any, that relates to contributions by the relevant Officer shall be deemed to be a contribution paid to the Fund by the Officer under this Division B and shall form part of the Officer's Accumulated Contributions; and
  - (2) if any such amount transferred to the Fund includes some contribution from a previous employer of that Officer, the benefits in the Fund arising from that amount shall not be deemed to be contributions paid to the Fund by the Officer under this Division B and shall not comprise Accumulated Contributions but the date upon which the Member became a Member shall be deemed to be earlier by a number of days calculated by dividing the remaining portion of the amount by one-eighth of the daily amount of the Member's Salary determined as at the date of transfer.
- (c) **Preservation:** If any part of the amount so paid into the Fund comprises Preserved Benefits, that amount shall continue to comprise Preserved Benefits for the purposes of this Deed.
- (d) **Tax:** For the purposes of Rule B2.2(b), the portions of any amount transferred to the Fund under Rule B2.2(a) shall be determined by reference to the balance remaining after deduction of any applicable tax liability arising from the receipt by the Fund of the relevant amounts.

### **B2.3 Additional contribution to reduce Age at Entry**

Where the Age at Entry of a Member has been reduced under the Former Rules, or under rules of the Former Fund, with an arrangement that the Member pay contributions at an additional rate over a period, the arrangement shall continue under this Division B.

### **B2.4 Part time employment**

Where the Salary of a Member is altered by reason of a change (other than a temporary change) in the number of the Member's contracted working hours per week, the Member's Final Salary shall be adjusted, for the purposes of this Division B, as determined by the Principal Employer, with the consent of the Trustee, after obtaining the advice of an Actuary and having regard to the Member's accrued rights under this Division B.

### **B2.5 Liability for contributions**

- (a) **Deduction from Salary:** Unless the Trustee determines otherwise, the contribution payable by an Officer under this Division B shall be deducted from each payment of the Officer's Salary and shall be paid by the Employer to the Trustee in such manner and at such times as shall be agreed between the Employer and the Trustee.
- (b) **Suspension or reduction of Salary:** Subject to Rule B2.5(c), where for any reason an Officer is not paid any Salary in respect of a period, or is paid Salary in respect of a period at less than the Officer's full rate of Salary, that Officer is liable to pay the contributions under this Division B

in respect of the period that the Officer would otherwise have been liable to pay.

- (c) **Unpaid leave:** Where, with respect to a Member who is an Officer the Employer approves or has approved leave for that Member on the basis that the Member will not be paid any amount of Salary for a period of time (referred to in this Rule as the “Salary Suspension Period”) which exceeds a minimum period as determined by the Principal Employer from time to time:
- (1) the Member may elect, by notice in writing given to the Trustee prior to or during the Salary Suspension Period, to suspend contributions to the Fund under this Division B from a date specified by the Member, being a date not earlier than the date such notice is given by the Member, such suspension to operate, subject to the terms of this Rule B2.5(c)(1), with respect to all or part of the Salary Suspension Period as specified in the notice; and
  - (2) the Member’s Age at Entry shall be advanced by the extent of the period during which the Member did not pay contributions under this Division B consequent upon such election.

Notwithstanding anything else contained in this Rule B2.5(c), the period of any such suspension of contributions under this Rule B2.5(c) shall not exceed the relevant Salary Suspension Period.

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## Part B3 Benefits

### B3.1 Indexed Final Salary

- (a) **Normal basis of calculation:** For the purpose of calculating a Pension, “**Indexed Final Salary**” is, subject to Rule B3.1(b), the amount of a Member’s Final Salary increased from the first day of July immediately after the Member’s Final Salary Determination Date by a proportion of that amount, and further increased from the first day of each subsequent July by a proportion of the previously increased amount, the proportion being that, if any, by which the latest March Price Index Number exceeds the highest preceding March Price Index Number, subject to the first-mentioned increase, if any, being reduced by a fraction of that increase equal to the fraction of a year ending on 30 June which had elapsed on the Member’s Final Salary Determination Date.
- (b) **Reduction in special circumstances:** Upon a Resigned Member becoming an Invalid Resigned Member, a Retrenched Member becoming an Invalid Retrenched Member and a Resigned Member or a Retrenched Member becoming a Retired Member, that Member’s Indexed Final Salary shall be reduced if necessary so that it does not exceed the amount obtained by increasing that Member’s Final Salary on each first day of July since that Member’s Last Day of Service with Compound Interest.
- (c) **Definitions:** For the purpose of this Rule B3.1:  
“**March Price Index Number**” means the all groups consumer price index number for the weighted average of the 8 capital cities for the

March quarter as first officially published and as adjusted, where necessary, to a common reference base; and

“**Final Salary Determination Date**” means:

- (i) in relation to a Member who is a Retired Member by operation of paragraph (c) of the definition of “Retired Member”, the day on which the Member attains age 65 years; and
- (ii) in relation to other Members, the Member’s Last Day of Service.

### **B3.2 Indexed Pension**

- (a) **Normal basis of calculation:** Subject to this Division B, a Retired Member, an Invalid Resigned Member or an Invalid Retrenched Member shall be paid an indexed Pension ascertained by multiplying the Member’s Final Salary or the Member’s Indexed Final Salary as the case may be, by:

- (1) the percentage determined by reference to Schedule II having regard to the number of complete years and complete months in the Member’s assumed membership,

and by further multiplying by:

- (2) the percentage determined by reference to Schedule III having regard to the Member’s age in complete years and complete months on becoming a Pensioner,

and then deducting the Surcharge Reduction (if any) from the result, where “**assumed membership**” is, subject to Rule B3.2(b), the difference between the Member’s Age at Entry and the Member’s age on the Member’s Last Day of Service.

- (b) **Special bases:** For the purpose of this Rule B3.2:

- (1) in relation to an Invalid Member, assumed membership shall be the difference between the Member’s Age at Entry and age 60 years; and
- (2) in relation to a Member who is a Retired Member by operation of paragraph (c) of the definition of “Retired Member”, assumed membership shall be the difference between the Member’s Age at Entry and age 65 years.

### **B3.3 Additional Pension**

Subject to this Division B, a Member in receipt of a Pension and who has not previously made an election to receive Lump Sum Benefit under Rule B3.7 shall be paid:

- (a) in the case of an Invalid Member who became an Invalid Member when aged under 21 years, Additional Pension equal to 40% of a Pension calculated under Rule B3.2 in relation to the Member’s Final Salary together with a lump sum amount of the Member’s supplementary contributions under Rule B2.1(b) with Compound Interest thereon less amounts of supplementary contributions accumulated with Compound Interest previously paid to the Member under this Rule; or

- (b) in the case of an Invalid Member who became an Invalid Member when aged over 21 years, Additional Pension equal to 40% of the Pension payable to the Member under Rule B3.2 on becoming a Pensioner together with a lump sum amount of the Member's supplementary contributions under Rule B2.1(b) with Compound Interest thereon less amounts of supplementary contributions accumulated with Compound Interest previously paid to the Member under this Rule; or
- (c) in other cases, Additional Pension equal to the Member's Accumulated Contributions on becoming a Pensioner multiplied by the factor determined by reference to Schedule IV applicable to the Member, having regard to the Member's age in complete years and complete months on becoming a Pensioner.

### **B3.4 Pre-existing disability**

- (a) **Pre-Amendment Date declarations:** If, pursuant to the Former Rules:
  - (1) any declaration has been made by the Managing Director with respect to a Member to the effect that, if that Member ceases employment whether with the Corporation or the Commonwealth Bank of Australia for reasons connected with any health disability that existed before that person last became a Member:
    - (i) that person shall cease to be a Member; and
    - (ii) there shall be payable to the former Member or a person who would otherwise have then become entitled to a benefit, the amount of the former Member's supplementary contributions under Rule B2.1(b) with Compound Interest thereon together with three and one half times the residue of the former Member's Accumulated Contributions;
  - or
  - (2) any other declaration has been made concerning alteration to benefit rights by reason of any health disability that existed before a person last became a Member to a similar effect as provided for in the Former Rules as current at the time at which any such declaration was made,the terms of that declaration shall continue in force under this Division B, subject to Rule B3.4(b).
- (b) **When declaration ceases to have effect:** A declaration referred to in Rule B3.4(a) shall cease to apply in relation to a Member when:
  - (1) 20 years have elapsed since the Member last became a Member;
  - (2) the Member attains age 60 years; or
  - (3) the Principal Employer so determines,whichever shall first occur.

### **B3.5 Pension etc to Spouse**

- (a) **Normal Spouse Pension:** Subject to this Division B, the Spouse of a deceased Member shall be paid:

- (1) a pension equal to 67% of the Member's Pension; and
  - (2) if the Member at the date of death was an Officer and had not attained age 60 years, a lump sum amount of the Member's supplementary contributions under Rule B2.1(b) with Compound Interest thereon less amounts of supplementary contributions accumulated with Compound Interest previously paid under Rule B3.3.
- (b) **More than 1 surviving Spouse:** Where a deceased Member is survived by 2 or more Spouses:
- (1) the total amount of Pension payable under Rule B3.5(a) shall not at any time exceed an amount equal to 67% of the Member's Pension;
  - (2) subject to Rule B3.6(c), the Trustee may allocate the Pension payable under Rule B3.5(a) and any lump sum payable under that Rule, among the surviving Spouses, having regard to the respective needs of the surviving Spouses and to such other matters as it considers relevant including, without limitation, any notice in writing from the Member received by the Trustee before the Member's death as to the manner in which the Member desired such allocation to be made, and the benefits shall be payable accordingly;
  - (3) an allocation of Pension determined by the Trustee under this Rule B3.5(b) may be varied by it from time to time having regard to the respective needs of the surviving Spouses and to such other matters as the Trustee considers relevant; and
  - (4) upon the death of 1 of the surviving Spouses, the Pension payable to the remaining surviving Spouse, or available for allocation among the remaining surviving Spouses, shall be the Pension that was payable under this Rule immediately before the death less the Pension that would have continued to be payable to the deceased Spouse under this Rule B3.5 if that Spouse had not died and if the allocation of Pension in force immediately before the death had continued without variation.

### B3.6 Payments in respect of Children

- (a) **Normal basis of calculation:** Subject to this Division B, after the death of a Member there shall be payable to such person as the Trustee directs:
- (1) at a time when a Pension is payable to that person, an addition to that Pension of 11% of the Member's Pension in respect of each Child of the Member; and
  - (2) at other times, for the benefit of the Child or Children of the Member:
    - (i) an allowance being a percentage of the Member's Pension determined in accordance with the following scale:

Number of Children	Percentage
1 Child	45%

2 Children	80%
3 Children	90%
4 or more Children	100%;

and

- (ii) if the Member at the date of death was an Officer and had not attained age 60 years, a lump sum amount of the Member's supplementary contributions under Rule B2.1(b) with Compound Interest thereon less amounts of supplementary contributions accumulated with Compound Interest previously paid under Rule B3.3 or Rule B3.5.
- (b) **Special arrangements re. certain Retired Members:** For the purposes of determination under Rule B3.6(a) of an allowance for the benefit of a Child or Children of a Member who, at the date of death was a Retired Member other than an Invalid Member, the Member's Pension shall not include Additional Pension that was payable to the Member.
  - (c) **Maximum payments:** The total amount payable under this Division B in relation to a Member after the Member's death (whether by way of Pension or Child allowance or both) shall not at any time exceed the Member's Pension. For the purposes of this limitation, every such Pension and Child allowance shall be adjusted from time to time (proportionately if more than 1) but not to exceed the Pension or Child allowance which would have been payable but for this Rule B3.6(c).

### B3.7 Lump Sum Benefit

- (a) **Commutation of Additional Pension:** A Member who has become or is about to become a Pensioner, and has not previously received Lump Sum Benefit, may, not earlier than 3 months before and not later than 3 months after the Member becomes a Pensioner, elect to commute the Member's Additional Pension to a Lump Sum Benefit but, if Additional Pension is paid to a Pensioner during the last period in which the Pensioner is entitled to make an election under this Rule B3.7, the amount so paid shall be deducted from the Lump Sum Benefit payable upon making such election.
- (b) **Previous recipients of Lump Sum Benefits:** A Member who becomes a Pensioner, and has previously received a Lump Sum Benefit, shall again be paid a Lump Sum Benefit.
- (c) **Spouse Lump Sum Benefits**
  - (1) The Spouse of a deceased Member who at the date of death was not a Pensioner:
    - (i) if the Member had not previously received a Lump Sum Benefit, may (not later than 3 months after the date of death) elect to receive a Lump Sum Benefit in lieu of Additional Pension; or
    - (ii) if the Member had previously received a Lump Sum Benefit, shall be paid a Lump Sum Benefit.

- (2) Where a Member who has died is survived by 2 or more Spouses, an election which may be made by a Spouse under Rule B3.7(c)(1), may be made by each of the surviving Spouses in relation to Additional Pension allocated to each of them respectively.
  - (3) Where an election is made by a surviving Spouse under Rule B3.7(c)(2), the electing surviving Spouse shall be paid a proportion of Lump Sum Benefit, such proportion being equal to the proportion which the Additional Pension allocated to the electing surviving Spouse bears to total Additional Pension allocated among all of the surviving Spouses.
  - (4) In relation to a surviving Spouse who is entitled to make an election under Rule B3.7(c)(2) but does not make such an election, for the purposes of this Division B the Member's Pension shall continue to include Additional Pension that would have been payable to the Member.
- (d) **“Lump Sum Benefit”**: For the purposes of this Rule B3.7, **“Lump Sum Benefit”** means at any time an amount equal to the Member's Accumulated Contributions less:
- (1) amounts, accumulated with Compound Interest, previously paid to the Member under this Rule; and
  - (2) amounts of supplementary contributions, accumulated with Compound Interest, previously paid in relation to the Member under Rule B3.3 or Rule B3.5.
- (e) **Notification of manner of payment**: A Member electing to receive a lump sum benefit under Rule B3.7 may apply to the Trustee under Rule A10.7 for the transfer of the lump sum benefit wholly or in part to the Account in Division F of the Fund maintained in respect of the Member.

### **B3.8 Duration of Pensions**

- (a) **Pensions payable for life**: A Pension payable to a person shall, subject to this Deed, continue to be paid during the person's life.
- (b) **Cessation of Pensions to Invalid Members**: A Pension shall cease to be payable to an Invalid Member on the date specified by the Employer as the date that Invalid Member is to return to duty, if the Invalid Member:
  - (1) has not attained age 55 years;
  - (2) fails to satisfy the Trustee that the Invalid Member is unable to perform duties which the Trustee determines, having regard to the duties performed by the Invalid Member immediately before the Invalid Member's retirement are suitable to be performed by the Invalid Member; and
  - (3) is requested by the Employer to return to duty.

The person shall cease to be an Invalid Member on the date so specified by the Employer. If the person fails to return to duty on that date the person shall then become a Resigned Member.

- (c) **Cessation of Pensions to Invalid Resigned Members and Invalid Retrenched Members:** A Pension shall cease to be payable to an Invalid Resigned Member or an Invalid Retrenched Member if the Trustee is not satisfied that the Member continues to be an Invalid Resigned Member or an Invalid Retrenched Member.
- (d) **Discretionary restoration of Pensions:** Where a Pension has ceased to be payable for a reason other than the death of the Pensioner, the Trustee shall have the power to restore the whole or a part of the Pension, if requested to do so by the Principal Employer, and if the Trustee is satisfied that the former Pensioner is in necessitous circumstances or restoration is otherwise warranted.
- (e) **Subsequent entitlement to Pensions:** Where a Pension has ceased to be payable to a Member, a further Pension shall become payable, subject to this Division B, if the Member again becomes an Invalid Resigned Member, an Invalid Retrenched Member or a Retired Member.

### **B3.9 Payments of Pension, etc**

- (a) **Period and manner of payment:** Every Pension and Child allowance shall be paid in fortnightly instalments in such manner as the Trustee determines, or as otherwise agreed between the Trustee and the Principal Employer.
- (b) **Effective date of increase in Pension or Child allowance:** An increase in Pension or Child allowance, being an increase from the first day of July, shall apply from the beginning of the fortnightly instalment period which includes that day.

### **B3.10 Retrenchment category**

Members who cease to be Officers before attaining the age of 60 shall be divided into 2 categories, being:

- (a) a category comprising Members who the Employer notifies the Trustee have ceased or are to cease to be Officers because their service with the Employer has been or is being terminated by reason of retrenchment and whose service with the Employer is in fact terminated by reason of such retrenchment; and
- (b) a category comprising Members not falling within the category referred to in paragraph (a) of this Rule.

### **B3.11 Payment on resignation or retrenchment**

- (a) **Normal basis of calculation:** Subject to this Division B, there shall be payable to:
  - (1) a Resigned Member, the amount of the Resigned Member's Accumulated Contributions less the amount of the Resigned Member's Accumulated Benefits;
  - (2) a Retrenched Member who becomes a Retrenched Member after 5 years since last becoming a Member:



- (i) the amount of the Retrenched Member's Accumulated Contributions less the amount of the Retrenched Member's Accumulated Benefits, and
  - (ii) a sum equal to two and one-half times that part of the amount payable under Rule B3.11(a)(2)(i) that is attributable to contributions paid to the Fund under Rule B2.1(a); and
- (3) a Retrenched Member who is not eligible for a payment under Rule B3.11(a)(2), the amount of the Retrenched Member's Accumulated Contributions less the amount of the Retrenched Member's Accumulated Benefits.
- (b) **Certain Members may be treated as Retrenched Members:** A Member who has attained age 55 years, but has not attained age 60 years, who is in the category of Members referred to in Rule B3.10(a), may not earlier than 3 months before and not later than 3 months after the Member's Last Day of Service, elect to receive the amount which would be payable under Rule B3.11(a)(2) or Rule B3.11(a)(3) if the Member was a Retrenched Member.
- (c) **Effect of election under Rule B3.11(b):** Subject to Rule A10.3 and Rule B3.14, upon a Member making the election under Rule B3.11(b), all rights of the Member to receive benefits under any other provision of this Division B shall cease. If any amount of benefit is paid to a Member as a Retired Member, whether by way of lump sum or Pension, before the time the Member makes an election under Rule B3.11(b), the aggregate of all amounts so paid shall be deducted in determining the amount of benefit payable upon the making of such election.
- (d) **Special arrangements concerning preservation:** If the amount payable to a Retrenched Member under Rule B3.11(a)(2)(ii) does not otherwise comprise Preserved Benefits then, with respect to any such amount which first becomes payable on or after 1 July 2000, that amount shall be deemed to comprise Preserved Benefits.
- (e) **Notification of manner of payment:** A Member electing to receive a lump sum benefit under Rule B3.11 may apply to the Trustee under Rule A10.7 for the transfer of the lump sum benefit wholly or in part to the Account in Division F of the Fund maintained in respect of the Member.

### **B3.12 Resigned Members and Retrenched Members: Preservation of membership**

- (a) **Within 5 years of last becoming a Member:** If a Member becomes a Resigned Member or a Retrenched Member after 5 years since last becoming a Member, Rule B3.11 shall not apply to the Member unless the Member elects to receive a payment under that Rule.
- (b) **Reduced Age at Entry for additional contributions:** If the Age at Entry of a Resigned Member or a Retrenched Member had been reduced with arrangement that the Member pay contributions at an additional rate over a period, the reduction shall be varied to base it on the period over which the Member did pay those contributions.

- (c) **Becoming Retired Member at age 55:** A Resigned Member or a Retrenched Member shall become a Retired Member upon attaining age 55 years.

### **B3.13 Payment to dependants, etc**

Upon:

- (a) the death of a Member, if no Pension or Child allowance then becomes payable under this Division B; or
- (b) the cessation (except as provided under Rule B4.3) of the last Pension or Child allowance in respect of the Member under this Division B,

the amount of the Member's Accumulated Contributions less the amount of the Member's Accumulated Benefits shall be paid to the Member's legal personal representative or to such person or persons as the Trustee determines.

### **B3.14 Interim Benefit**

- (a) **Entitlement to Interim Benefit:** In addition to any other benefit payable in respect of a Member under this Division B, the Interim Benefit shall, subject to this Deed, be payable to or in respect of every deceased Member (being a deceased Member who died whilst an Officer), Resigned Member, Retrenched Member and Retired Member other than where that Member becomes a Retired Member under Rule B3.12(c), in each such case where the following conditions are satisfied:
  - (1) the person must have last become a Member before 1 July 1990;
  - (2) the person must have continued to be a Member beyond 30 June 1990;
  - (3) the person must not have become a Resigned Member, a Retrenched Member or a Retired Member on a date after the person last became a Member, being a date before 1 July 1990; and
  - (4) the person must have been an Officer for a minimum period of 3 months after the date the person last became an Officer.
- (b) **Preservation:** All Interim Benefits shall be Preserved Benefits.
- (c) **Payment as a lump sum:** The Interim Benefit shall only be payable as a lump sum.
- (d) **Payment after death:** Where an Interim Benefit is payable in respect of a person under this Rule B3.14 following the death of that person, the benefit shall, at the discretion of the Trustee, be paid to that person's legal personal representatives or to such person or persons as the Trustee determines.
- (e) **Retention in Fund:** A Resigned Member or Retrenched Member who has preserved his or her membership of Division B under Rule B3.12 and whose Interim Benefit has not been paid from the Fund may elect not to receive a payment of Interim Benefit under Rule B3.14(a) for so long as the Member has not elected to receive a payment under Rule B3.11. Subject to Rule A10.7, the Interim Benefit shall be payable from the Fund upon the earliest to occur of the following events or circumstances:

- (i) the Member electing to receive a payment under Rule B3.11;
- (ii) the Resigned Member or Retrenched Member becoming a Retired Member; or
- (iii) the death of the Member while a Resigned Member or a Retrenched Member, in which case payment shall be in accordance with Rule B3.14(d).

### **B3.15 Pension supplement**

- (a) **Entitlement to Pension Supplement:** The Trustee shall, if the Principal Employer so determines in writing, authorise the payment of a Pension supplement, in such amount as shall be determined by the Principal Employer from time to time, to:
  - (1) any Pensioner whose Pension was being supplemented by the Corporation on 30 June 1973;
  - (2) any Pensioner being the Spouse of a deceased Member where that Member was a Pensioner whose Pension was being supplemented by the Corporation on 30 June 1973; and
  - (3) any Pensioner being an Invalid Member or the Spouse of an Invalid Member, where the Pension payable to such Invalid Member was being supplemented by the Corporation on 30 June 1984.
- (b) **Cessation of Pension Supplement:** Any Pension supplement payable under this Rule shall cease to be payable if the Principal Employer so determines.

### **B3.16 Preserved Benefits**

All Preserved Benefits shall be subject to the applicable provisions of the SIS Act concerning preservation of benefits.

### **B3.17 Application of Surcharge Aggregate to Lump Sum Benefits**

Notwithstanding anything else contained in this Division B, in any case where benefits in respect of a Member are payable in lump sum form only, the amount of the lump sum benefit must be reduced by the lesser of the amount of the Surcharge Aggregate (if any) applicable to that Member and the amount of the lump sum benefit otherwise payable.

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## **Part B4 Miscellaneous**

### **B4.1 Decrease in Salary**

Where the Salary of a Member has been reduced for a reason other than a reduction in the number of the Member's contracted working hours per week, the Member's Salary shall be deemed to be the Member's Salary at its highest rate.

## **B4.2 Election on behalf of deceased person**

Where a deceased person was eligible immediately before the death of that person to make a declaration or an election under this Division B, that declaration or election may be made, within a period determined by the Trustee, by a surviving Spouse of that person or if there is no surviving Spouse of that person by such person as the Trustee determines, and shall have effect as if it had been made by the deceased person.

## **B4.3 Restriction on benefit entitlement**

- (a) **Defalcation by Member:** Except for any minimum benefit that must be paid in order to satisfy the SIS Act, the right to payment of any benefit arising under this Division B (or Rule A17) for or in respect of a Member shall, at the discretion of the Principal Employer, be forfeited:
- (1) in the event that the Member's dismissal from employment with an Employer or the Commonwealth Banks Service (or, before the Staff Transfer Time, with the Corporation or the Commonwealth Banking Corporation Service) by reason of defalcation; or
  - (2) upon ascertainment of the fact that while engaged in the employment of the Principal Employer or an Associated Employer or a person which was at the time of the employment (but subsequently ceased to be) an Associated Employer or in the Commonwealth Banks Service (or, before the Staff Transfer Time, with the Corporation or the Commonwealth Banking Corporation Service) the Member committed any defalcation whether or not the Member shall have been found guilty of such defalcation in any court.
- (b) **Effect of forfeiture:** In the event that benefits in respect of a Member are forfeited under Rule B4.3(a) prior to the time when any relevant person has commenced to receive payment by way of Pension or allowance in respect of any benefit not forfeited under that Rule, the benefits not so forfeited shall be payable by way of lump sum only. To the extent that such benefits relate to Accumulated Contributions with respect to that Member, the provisions of Rule B3.11(a) shall apply as if that Member had not ceased to be an Member but had become a Resigned Member.
- (c) **Cessation of membership:** In the event of any forfeiture under this Rule B4.3 then upon the payment in full of any benefit payable with respect to a Member under this Rule B4.3, that Member shall thereupon cease to be a Member.
- (d) **Interpretation and transitional:**
- (1) Subject to Rule A10.3, nothing contained in this Deed shall revive any right to benefits forfeited under sub-rule 28(1) of the Former Rules before the Amendment Date.
  - (2) It is confirmed for the purposes of clarity that, in a case where sub-rule 28(1) of the Former Rules applied with respect to a Member who died or otherwise ceased to be an Officer before the Amendment Date but where no decision had been made under that sub-rule before the Amendment Date as to whether or not to forfeit

all or any part of the benefits, the decision as to whether or not to forfeit the benefits shall be made as provided for in Rule B4.3(a) by the Principal Employer.

#### **B4.4 Assignment, etc**

- (a) **Assignment, alienation and charge not permitted:** A benefit under this Division B is not capable of assignment, alienation or charge and the Trustee shall not recognise or in any way give effect to any purported assignment, alienation or charge of a benefit.
- (b) **Pensions and allowances:** Without limiting the generality of paragraph (a) of this Rule B4.4, a Pension or Child allowance payable under this Division B is not able to be transferred to any person (other than a reversionary beneficiary if such reversion is otherwise permitted under this Division) and cannot be used as security for any borrowing.

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## **Part B5 Transferring Members**

### **B5.1 Definitions and interpretation**

In this Part B5:

“**Approved Actuary**” means for any particular purpose the Actuary approved for that purpose by the Trustee;

“**Corporate Fund**” means The Corporate Superannuation Master Trust governed by the trust deed and rules made by N.M. Superannuation Proprietary Limited dated 23 April 1998 (as amended);

“**EDS Fund**” means the EDS (Australia) Superannuation Fund governed by the trust deed and rules made by EDS (Australia) Pty Limited dated 16 October 1987 (as amended); and

“**EDS Transfer Value**” means, in relation to a Member who has ceased to be an Officer and become a member of the EDS Fund, the sum of:

- (a) the present value of the prospective benefit entitlements (“Entitlements”), determined in accordance with actuarial assumptions, in relation to the Member under this Division B as at the date the Member ceased to be an Officer in respect (and only in respect) of the Member’s membership period of the Fund up to that date, as determined by the Approved Actuary, and assuming for this purpose (and only for this purpose) that the Member was still an Officer; and
- (b) in respect of the period between the date the Member ceased to be an Officer and the date a transfer of the Member’s Entitlements to the EDS Fund is effected in respect of the Member under Rule B5.2, any additional amount representing interest on the Entitlements for this period at a rate determined by the Approved Actuary.

“**Fiserv Transfer Value**” means the greater of:

- (a) the present value of the prospective benefit entitlements (“Entitlements”), determined in accordance with actuarial assumptions, in relation to the Member under this Division B as at the date the Member ceased to be an

Officer in respect (and only in respect) of the Member's membership period of the Fund up to that date, as determined by the Approved Actuary, and assuming for this purpose (and only for this purpose) that the Member was still an Officer; and

- (b) the benefit that would have become payable to the Member from Division B had the Member voluntarily ceased to be an Officer in good health on that date; plus
- (c) in respect of the period between the date the Member ceased to be an Officer and the date a transfer of the Member's Entitlements to the Corporate Fund is effected in respect of the Member under Rule B5.2A, any additional amount representing interest on the Entitlements for this period at a rate determined by the Approved Actuary.

### **B5.2 Transferring Members – EDS Fund**

If a Member ceases to be an Officer and becomes a member of the EDS Fund then, in lieu of providing the benefits which would otherwise be, or at any time in the future become, payable in respect of the Member under this Division B, there shall be transferred from the Fund to the EDS Fund an amount equal to the EDS Transfer Value in respect of that Member, subject to:

- (a) the Member consenting to his or her benefits being provided by way of transfer under this Part B5; and
- (b) the Trustee and the Principal Employer consenting to the transfer taking place and agreeing to the amount, or the method of calculating the amount, of the EDS Transfer Value determined under this Rule B5.2.

### **B5.2A Transferring Members – Corporate Fund**

If a Member ceases to be an Officer and elects to become a defined benefit member of the Corporate Fund then, in lieu of providing the benefits which would otherwise be, or at any time in the future become, payable in respect of the Member under this Division B, there shall be transferred from the Fund to the Corporate Fund an amount equal to the Fiserv Transfer Value in respect of that Member, subject to:

- (a) the Member consenting to his or her benefits being provided by way of transfer under this Part B5; and
- (b) the Trustee and the Principal Employer consenting to the transfer taking place and agreeing to the amount, or the method of calculating the amount, of the Fiserv Transfer Value determined under this Rule B5.2A.

### **B5.3 Manner and conditions of transfer**

- (a) The Trustee may effect a transfer from the Fund under this Part B5 by way of a payment of money or a transfer of assets.
- (b) The Trustee may in connection with a payment or transfer under this Part B5 impose any conditions the Trustee considers necessary in order to ensure that the Fund satisfies a Relevant Law.

- (c) Without limiting Rule B5.3(b), the Trustee and the Principal Employer may agree to the Trustee imposing any other conditions in respect of such a payment or transfer.
- (d) A Member's consent under Rule B5.2 must be given to the Trustee in writing in a manner and form acceptable to the Trustee no later than 30 November 1997 or such earlier or later time (if any) as may be agreed between the Trustee and the Principal Employer.
- (e) A Member's consent under Rule B5.2A must be given to the Trustee in writing in a manner and form acceptable to the Trustee no later than 18 May 2005 or such earlier or later time (if any) as may be agreed between the Trustee and the Principal Employer.

#### **B5.4 Discharge of Trustee**

The receipt of a person to whom a payment or transfer is made in good faith under this Part B5 is a complete discharge to the Trustee and the Trustee is not responsible for the application or disposal of money or assets so paid or transferred.

#### **B5.5 Effect of transfer**

Unless otherwise agreed between the Principal Employer and the Trustee, after obtaining the advice of an Approved Actuary, upon a payment or transfer from the Fund in respect of a Member under this Part B5, the Member ceases to be a Member and all the rights and interests of the Member under this Division B, and all of the rights and interests of any person otherwise entitled to claim under this Division B in respect of the Member or on the occurrence of any event or circumstance affecting the Member, shall (subject to Clause 8) be extinguished.

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## **Part B6 Transfer of Members from Division B to Division F**

### **B6.1 Transfer of Members from Division B to Division F**

If an Eligible Division B Transferring Member makes a Division F Transfer Election and, at the end of the day before the Division F Transfer Date referable to that Eligible Division B Transferring Member, both that Division F Transfer Election continues to be in effect in accordance with these Rules and with requirements determined by the Principal Employer, with the consent of the Trustee, and that Member has not ceased to be an Eligible Division B Transferring Member, then:

- (a) with effect at the end of the day before the Division F Transfer Date applicable to that Eligible Division B Transferring Member:
  - (1) the Eligible Division B Transferring Member ceases to be a Member under this Division B; and
  - (2) subject to Rule B6.2, the Eligible Division B Transferring Member ceases to have any right to benefits provided for under this Division B; and

- (b) as provided for in Division F, from the start of the Division F Transfer Date applicable to that Eligible Division B Transferring Member, he or she becomes:
- (1) if not already a “Member” under Division F, a “Member” under that Division as a “Transferred Ordinary Member” or a “Transferred Post-Employment Member” as the case may be, each as defined in Rule F1.2; or
  - (2) if already a “Member” under Division F, a “Transferred Ordinary Member” or a “Transferred Post-Employment Member” as the case may be, each as defined in Rule F1.2.

### **B6.2 Unpaid benefits as a Division B Member**

If an Eligible Division B Transferring Member, who is a Resigned Member or Retrenched Member, ceases to be a Member as provided for in Rule B6.1, and any Interim Benefit remains to be paid from the Fund in respect of that Eligible Division B Transferring Member immediately before the time he or she so ceases to be a Member, he or she does not cease to have the right to that Interim Benefit on so ceasing to be a Member.

### **B6.3 Unpaid Contributions on transfer to Division F**

If an Eligible Division B Transferring Member ceases to be a Member as provided for in Rule B6.1 and any contributions remain outstanding under this Division with respect to that former Member for the period up to that former Member’s Division F Transfer Date, the former Member shall continue to be liable to pay those contributions under this Division B.

### **B6.4 Death of Eligible Division B Transferring Member**

A Division F Transfer Election made by an Eligible Division B Transferring Member ceases to have any effect on the death of that Eligible Division B Transferring Member prior to the Division F Transfer Date referable to that Eligible Division B Transferring Member.



## Schedule I of Division B

### Modifications in relation to an English Member [Rule B1.5(c)]

Provisions Modified	Omit	Insert
Rule B1.2 definition of “Additional Pension”	67%	two thirds
Rule B2.1(a)	5	2½
Rule B2.1(b)	vary	vary at intervals of not less than 5 years
Rule B3.1(c)	all groups consumer price index number for the weighted average of the 8 capital cities for the March quarter as first officially published	all items general index of retail prices for March as first officially published by the Department of Employment in the United Kingdom
Rule B3.3 (see footnote)	40%	the fraction $\frac{1}{5} \left( 1 + \frac{z}{y} \right)$
Rule B3.4(b)	(1) 20 years have elapsed since the Member last became a Member; (2) the Member attains age 60 years; or (3) the Principal Employer so determines, whichever shall first occur	the Member has attained the age of 26 years and at least 5 years have elapsed since that Member last became a Member
Rule B3.5	67%	two thirds
Rule B3.12(a)	unless the Member elects to receive a payment under that Rule	
Rule B4.3	Rule B4.3 is omitted	

**Schedule I of Division B**

**Modifications in relation to an English Member [Rule B1.5(c)]  
(continued)**

<u>Rule V1.2 (factor "f")</u>	base salary of the Corporation's 'MA' salary scale or, from the Staff Transfer Time, the Commonwealth Bank of Australia's 'MA' salary scale	maximum of the Corporation's 'level 9' salary scale
Rule V3.1	6	3
Rule V3.1	6½	3¼
Rule V3.1	7	3½
Rule V3.1	7½	3¾
Rule V3.1	8½	4¼
Rule V3.2(2) [see footnote to this Schedule I]	$\frac{2n}{455}$	$\frac{(y+z)}{455}$

**Footnote to Schedule I:**

For the purpose of this Schedule:

“y” is the number of years (including, where necessary, a part of a year) which is the difference between the Member’s Age at Entry and:

- (a) in relation to an Invalid Member, age 60 years; or
- (b) in relation to any other Member, the Member’s age on the day on which the Member last ceased to be an Officer before 1 May 1989; and

“z” is zero unless the Member was a Member on 5 April 1978, in which case z is the number of years (including, where necessary, a part of a year) which is the difference between the Member’s Age at Entry and the Member’s age on that date.

## Schedule II of Division B

### [Rule B3.2]

#### II.1 Percentage factors for whole number of years

The percentage factors applying to each whole number of complete years in a person's assumed membership shall be as specified in the following table:

Complete years in assumed membership	Percentage factor to be used for calculating indexed Pension	Complete years in assumed membership	Percentage factor to be used for calculating indexed Pension
50 or more	55	25	45
49	54.75	24	44
48	54.5	23	43
47	54.25	22	42
46	54	21	41
45	53.75	20	40
44	53.5	19	38
43	53.25	18	36
42	53	17	34
41	52.75	16	32
40	52.5	15	30
39	52.25	14	28
38	52	13	26
37	51.75	12	24
36	51.5	11	22
35	51.25	10	20
34	51	9	18
33	50.75	8	16
32	50.5	7	14
31	50.25	6	12
30	50	5	10
29	49	4	8
28	48	3	6
27	47	2	4
26	46	1	2

## **Schedule II of Division B [Rule B3.2] (continued)**

### **II.2 Percentage factors for complete months not forming part of complete year**

The percentage factor applying to a number of complete months in a person's assumed membership which is not equal to a whole number of complete years in such assumed membership, as indicated in the table set out in Rule II.1 of this Schedule, shall be determined by applying the formula:

$$\frac{m}{12} \times n$$

**where:**

**'m'** is:

- (a) in a case where the period of assumed membership is less than 1 complete year the number of complete months in the person's assumed membership; and
- (b) in any other case, the number of complete months in the person's assumed membership occurring since the attainment of the actual number of complete years in such assumed membership; and

**'n'** is:

- (a) in a case where the period of assumed membership is less than 1 complete year, the percentage factor applying to 1 complete year in the person's assumed membership; and
- (b) in any other case, the difference between the percentage factor applying to the actual number of complete years in the person's assumed membership and the percentage factor which would have applied if the actual number of years in the person's assumed membership had been 1 complete year greater.

### **II.3 Calculation of percentages in particular cases**

The percentage to be applied for the purposes of Rule B3.2(a)(1) will:

- (a) where the period of assumed membership is less than 1 year, be the percentage factor determined under Rule II.2 of this Schedule; and
- (b) in any other case, be the sum of the percentage factor specified in the table set out in Rule II.1 of this Schedule for the actual number of complete years in the relevant person's assumed membership and the percentage factor determined by reference to Rule II.2 of this Schedule for the number of complete months in such person's assumed membership occurring since the attainment of that number of complete years.

### **II.4 Maximum percentage**

The percentage to be applied for the purposes of Rule B3.2(a)(1) shall not exceed that applying for 50 complete years of assumed membership.

### Schedule III of Division B

**[Rule B3.2]**

Member's age attained in years on becoming a Pensioner	Percentage factor to be used for calculating indexed Pension (subject to footnote)
65	100
64	98
63	96
62	94
61	92
60	90
59	87
58	84
57	81
56	78
55	75

**Attained age below 55:** The percentage factor is less by 2 for each year that the Member's age attained on becoming a Pensioner is below 55.

**Attained age in complete years and complete months:** The percentage factor applying with respect to a Member's age attained in years and complete months on becoming a Pensioner, up to the age of 65 years, shall be determined by adding to the percentage factor applying to the Member's age in years on becoming a Pensioner, a percentage amount determined by applying the following formula:

$$\frac{a}{12} \times b$$

**where:**

**“a”** is the number of complete months since the Member's last birthday; and

**“b”** is the difference between the percentage factor applying to the Member's age in years on becoming a Pensioner and the percentage factor which would have applied to the Member's age in years if the Member were 1 year older on becoming a Pensioner.

**Footnote to Schedule III:** The minimum percentage factor to be used is:

- (a) for an Invalid Member, 90; and
- (b) for other Members, 50.

## Schedule IV of Division B

### [Rule B3.3]

Member's age attained in years becoming a Pensioner	Factor to be used for calculating on Additional Pension
65	0.1100
64	0.1080
63	0.1060
62	0.1040
61	0.1020
60	0.1000
59	0.0985
58	0.0970
57	0.0955
56	0.0940
55	0.0925
54	0.0910
53	0.0895
52	0.0880
51	0.0865
50	0.0850

**Attained age below 50:** The factor is less by .0008 for each year that the member's age attained on becoming a Pensioner is below 50.

**Attained age in completed years and completed months:** The percentage factor applying with respect to a Member's age attained in years and complete months on becoming a Pensioner, up to the age of 65 years, shall be determined by adding to the percentage factor applying to the Member's age in years on becoming a Pensioner, a percentage amount determined by applying the following formula:

$$\frac{p}{12} \times q$$

**where:**

'p' is the number of complete months since the Member's last birthday; and

'q' is the difference between the percentage factor applying to the Member's age in years on becoming a Pensioner and the percentage factor which would have applied to the Member's age in years if the Member were 1 year older on becoming a Pensioner.

## Schedule V of Division B

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### [Rule B1.5(a)]

#### V1. Application and interpretation

##### V1.1 Application of this Schedule

In this Schedule, “**1979 Member**” means a Member who last became an Officer before 30 June 1979 and was an Officer on 29 June 1979, and this Schedule only applies in respect of 1979 Members.

##### V1.2 Definitions

In this Schedule:

“**f**” is the amount, if any, by which the Member’s Final Salary exceeds the base salary of the Corporation’s ‘MA’ salary scale or, from the Staff Transfer Time, the Commonwealth Bank of Australia’s ‘MA’ salary scale as at the Member’s Final Salary Determination Date as defined in Rule B3.1(c), expressed as a fraction of the Member’s Final Salary; and

“**n**” is the number of years (including, where necessary, a part of a year) which is the difference between the Member’s Age at Entry and:

- (a) in relation to an Invalid Member: age 60 years; or
- (b) in relation to any other Member: the Member’s age on the Member’s Final Salary Determination Date as defined in Rule B3.1(c).

##### V1.3 Special reduction factor for male Members who are not Invalid Members

In relation to a male Member who is not an Invalid Member, a Pension calculated under this Schedule is reduced by a fraction of that Pension, the fraction being 4% for each year that his age in complete years on last becoming a Pensioner was less than 60.

#### V2. Minimum indexed Pensions

The indexed Pension payable under Rule B3.2 to a 1979 Member shall be not less than the amount determined by multiplying the Member’s Final Salary or the Member’s Indexed Final Salary as the case may be, by the factor

$$\frac{n}{91} \left( 1 - \frac{2f}{7} \right)$$

and then subtracting the Surcharge Reduction (if any) from the result.

**Schedule V of Division B  
[Rule B1.5(a)] (continued)**

**V3. Special contribution arrangements**

**V3.1 Election by Member before 30 September 1980:** The rate of contribution payable by a 1979 Member under Rule B2.1(a) where that 1979 Member elected by instrument under the Member’s hand delivered to the Corporation before 30 September 1980 to pay at the rates provided for in the corresponding provision in the Former Rules shall be determined in accordance with the following table:

Age of Member	Rate of Contribution: Per Centum of Salary		
	Male Member	Female Member	Member who, under the terms of the Member's employment, is paid Salary at a weekly rate
Under 35 years	6	6	6
35 years and under 50 years	6 ½	6 ½	6
50 years and under 55 years	7 (up to and including 30 June 1994) 6½ (as from 1 July 1994)	6 ½	6
55 years and over 55 years	8½ (up to and including 30 June 1994) 7½ (as from 1 July 1994)	7 ½	6 ½

**V3.2 Possible future election by Member or Spouse**

If a 1979 Member made an election referred to in Rule V3.1 of this Schedule, the 1979 Member, or a Spouse of the Member after the death of the Member, may, when entitled to make an election under Rule B3.7 to receive a Lump Sum Benefit, elect instead that the Member’s Pension shall be recalculated as the sum of:

- (1) the amount determined by multiplying the Member’s Indexed Final Salary by the factor  $\frac{n}{91} \left(1 - \frac{2f}{7}\right)$  and then subtracting the Surcharge Reduction (if any) from the result; and
- (2) the Member’s Final Salary multiplied by the factor  $\frac{2n}{455} \left(1 - \frac{2f}{7}\right)$ .



**Schedule V of Division B  
[Rule B1.5(a)] (continued)**

For the purposes of this Rule V3, the Age at Entry of a 1979 Member who was a contributor to the former Provident Account on 29 June 1979 shall be an age determined by the Managing Director on the advice of an Actuary.

**V4. Other special arrangements**

**V4.1 Contributor to former Provident Account on 29 June 1979:** A 1979 Member who was a contributor to the former Provident Account on 29 June 1979, or a Spouse of such a Member after the death of the Member, may, when entitled to make an election under Rule B3.7 to receive Lump Sum Benefit, elect instead:

- (a) to receive the lump sum amount of the Member's supplementary contributions under Rule B2.1(b) with Compound Interest thereon where such amount has not been paid under Rule B3.3 or Rule B3.5 together with 3 times the residue of the Member's Accumulated Contributions;
  - (b) that the amount of any Pension that has been paid in relation to the Member shall be deducted from the lump sum amount; and
  - (c) that no Pension shall be payable thereafter in relation to the Member,
- and upon the making of such an election, the Member shall cease to be a Member.

**V4.2 More than 1 surviving Spouse**

- (a) Where a 1979 Member who has died is survived by 2 or more Spouses, and a Spouse of that Member would upon the Member's death, be entitled to make an election under Rule V3 of this Schedule, such an election may be made by each of the surviving Spouses in relation to benefits allocated to each of them respectively under this Division B.
- (b) Where a 1979 Member who has died is survived by 2 or more Spouses, and a Spouse of that Member would, upon the Member's death, be entitled to make an election under Rule V4.1 of this Schedule, such an election may be made by each of the surviving Spouses in relation to benefits allocated to each of them respectively under this Division B.
- (c) Where an election is made by a surviving Spouse under Rule V4.2(a) or Rule V4.2(b) of this Schedule, benefits payable as a consequence of such election shall be proportioned to the electing Spouse in accordance with the proportion which the Pension allocated to that Spouse under this Division B bears to total Pension allocated among all of the surviving Spouses.

## Schedule VI of Division B

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### Special historical matters: Continuation of relevant previous arrangements

#### VI.1 Definition of “accumulated benefits”

The definition of “accumulated benefits” in the Former Rules as in force immediately before 1 July 1990 shall continue to apply in relation to:

- (a) each Member who last became a Retired Member or an Invalid Resigned Member (in each case as defined in the Former Rules immediately before 1 July 1990) before 1 July 1990 and continued to be such beyond 30 June 1990 but only until such time as the Member next, after that date, ceases to be a Retired Member or an Invalid Resigned Member; and
- (b) each Member under the Former Rules who died before 1 July 1990.

#### VI.2 Definitions of “invalid member” and “invalid resigned member”

The definitions of “invalid member” and “invalid resigned member” in the Former Rules as in force immediately before 1 July 1990 shall continue to apply in relation to each person who last became an “invalid member” or an “invalid resigned member” (in each case as defined in the Former Rules immediately before 1 July 1990) before 1 July 1990 and continued to be such beyond 30 June 1990 but only until such time as the Member next, after that date, ceases to be an “invalid member” or an “invalid resigned member”.

#### VI.3 Definition of “spouse”

The definition of “spouse” in the Former Rules as in force immediately before 1 July 1990 shall continue to apply in relation to any spouse of a Member under the Former Rules where the Member died before 1 July 1990.

#### VI.4 Sub-rule 7(2) in force immediately before 1 July 1990

Sub-rule 7(2) in the Former Rules as in force immediately before 1 July 1990 shall continue to apply in relation to an Officer who contributed to the Fund before 1 July 1990 at a rate other than a whole percentage rate, but only until that rate is varied.

#### VI.5 Sub-rule 15(1) and paragraph 16(c), and Schedules II, III and IV, in force immediately before 1 July 1990

Sub-rule 15(1), paragraph 16(c), and Schedules II, III and IV in the Former Rules as in force immediately before 1 July 1990 shall continue to apply in relation to each Member who last became a “retired member” or an “invalid resigned member” (in each case as defined in the Former Rules immediately before 1 July 1990) before 1 July 1990 and continued to be such beyond 30 June 1990 but only until such time as the Member next, after that date, ceases to be a “retired member” or an “invalid resigned member” in accordance with those definitions, and shall further continue to apply in determining the Member’s Pension in respect of a Member who died before 1 July 1990.

#### VI.6 Rule 25 in force immediately before 1 July 1990

Rule 25 in the Former Rules as in force immediately before 1 July 1990 shall continue to apply in relation to each Member who died before 1 July 1990.

## **Schedule VI of Division B**

### **Special historical matters: Continuation of relevant previous arrangements (continued)**

#### **VI.7 Rule V.1(2) of Schedule V in force immediately before 10 August 1990**

Rule V.1(2) of Schedule V in the Former Rules as in force immediately before 10 August 1990 shall continue to apply in relation to each 1979 Member (as defined in Rule V.1(1) of that Schedule) who last became a Retired Member, a Resigned Member or a Retrenched Member before 10 August 1990 and continued to be such beyond 9 August 1990 but only until such time as the Member next, after that date, ceases to be a Retired Member, a Resigned Member or a Retrenched Member, as the case may be, and shall further continue to apply in determining the Member's Pension in respect of a 1979 Member who died before 10 August 1990.

#### **VI.8 Amendments to definitions of "Child" and "Spouse" since 1 July 1994 do not apply to deaths occurring before that date**

When determining benefits payable in the case of any Member who died before 1 July 1994, the following definitions of "Child" and "Spouse" shall apply in lieu of the definitions of "Child" and "Spouse" contained in Rule B1.2:

**"Child"** means a child, step-child, legally adopted child, foster child, ward or ex-nuptial child of a Member, but does not include:

- (a) a child or step-child of a marriage contracted by a Member when the Member was a Pensioner aged over 60 years unless:
  - (1) the marriage took place not less than 5 years before the Member's death;  
or
  - (2) the marriage took place less than 5 years before the Member's death but:
    - (i) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced while the Member was a Pensioner and not later than 5 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis;
    - (ii) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner and not later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; or
    - (iii) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner but later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and the Trustee determines that such other party was substantially dependent on the Member at the time of the Member's death;

## Schedule VI of Division B

### Special historical matters: Continuation of relevant previous arrangements (continued)

- (b) a person who became the legally adopted child, foster child or ward of a Member when the Member was a Pensioner aged over 60 years unless the person became the adopted child, foster child or ward of the Member not less than 5 years before the Member's death;
  - (c) a person who is an ex-nuptial child of a Member and who was born when the Member was a Pensioner aged over 60 years unless the person is the child of the Member and another person with whom the Member had lived on a permanent and bona fide domestic basis for:
    - (1) except in a case where paragraph (2) applies - a continuous period of not less than 3 years immediately before the Member's death or, if the Trustee determines that the person was substantially dependent on the Member at the time of the Member's death, any continuous period of less than 3 years immediately before the Member's death; or
    - (2) a continuous period of not less than 5 years immediately before the Member's death where the Member had commenced so living with the other person when he was a Pensioner aged over 60 years;
  - (d) a person who the Trustee determines was not dependent on the Member at the date of the Member's death;
  - (e) a person who has attained the age of 16 years and is not receiving full-time education at a school, college or university; or
  - (f) a person who has attained the age of 25 years;
- “Spouse”** in relation to a Member who has died means:
- (a) a person who was legally married to the deceased Member at the time of the Member's death and who, at that time:
    - (1) was living with the Member on a permanent and bona fide domestic basis; or
    - (2) was not living with the Member on a permanent and bona fide domestic basis but who the Trustee determines was substantially dependent on the deceased Member at that time;
  - (b) a person who was not legally married to the deceased Member at the time of the Member's death but who:
    - (1) for a continuous period of not less than 3 years immediately before the Member's death, had lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; and
    - (2) for a continuous period of not less than 3 years immediately before the Member's death, had lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and who the Trustee determines was substantially dependent on the deceased Member at the time of the Member's death;

## Schedule VI of Division B

### Special historical matters: Continuation of relevant previous arrangements (continued)

but does not include:

- (c) a person who legally married the deceased Member when the Member was a Pensioner aged over 60 years unless:
  - (1) the marriage took place not less than 5 years before the Member's death; or
  - (2) the marriage took place less than 5 years before the Member's death but:
    - (i) the person had, immediately before the marriage, for a continuous period that commenced while the Member was a Pensioner and not later than 5 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis;
    - (ii) the person had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner and not later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; or
    - (iii) the person had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner but later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and the Trustee determines that such person was substantially dependent on the Member at the time of the Member's death; or
- (d) a person who was not legally married to the deceased Member at the time of the Member's death if the person commenced living with the Member as the Member's husband or wife on a permanent and bona fide domestic basis when the Member was a Pensioner aged over 60 years unless the person had so lived with the Member for a continuous period of not less than 5 years immediately before the Member's death,

provided that, where there are two or more persons who would otherwise qualify, by virtue of sub-paragraphs (a)(1) or (b)(1) of this definition, as Spouses in relation to a Member who has died, and who were not substantially dependent on that Member, only one such person, as determined in the absolute discretion of the Trustee, shall be a Spouse in relation to that Member for the purposes of this Division B.

## Schedule VI of Division B

### Special historical matters: Continuation of relevant previous arrangements (continued)

#### VI.9 Amendments to definitions of “Child” and “Spouse” since 6 December 2004 do not apply to deaths occurring before that date

When determining benefits payable in the case of any Member who died on or after 1 July 1994 but before 6 December 2004, the following definitions of “Child” and “Spouse” shall apply in lieu of the definitions of “Child” and “Spouse” contained in Rule B1.2:

“**Child**” means a child, step-child, legally adopted child, foster child, ward or ex-nuptial child of a Member, but does not include:

- (a) in the case of a person who was a Member on 1 July 1994 and who was not a Resigned Member, a Retrenched Member or a Retired Member as at that date, a person who first became the child, step-child, legally adopted child, foster child, ward or ex-nuptial child of the Member when the Member was a Pensioner aged over 60 years unless the person became the child, step-child, legally adopted child, foster child, ward or ex-nuptial child of the Member not less than 3 years before the Member’s death;
- (b) in a case where the circumstances set out in paragraph (a) of this definition do not apply, a child or step-child of a marriage contracted by the Member when the Member was a Pensioner aged over 60 years unless:
  - (1) the marriage took place not less than 5 years before the Member’s death; or
  - (2) the marriage took place less than 5 years before the Member’s death but:
    - (i) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced while the Member was a Pensioner and not later than 5 years before the Member’s death, lived with the Member as the Member’s husband or wife on a permanent and bona fide domestic basis;
    - (ii) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner and not later than 3 years before the Member’s death, lived with the Member as the Member’s husband or wife on a permanent and bona fide domestic basis; or
    - (iii) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner but later than 3 years before the Member’s death, lived with the Member as the Member’s husband or wife on a permanent and bona fide domestic basis and the Trustee determines that such other party was substantially dependent on the Member at the time of the Member’s death;
- (c) in a case where the circumstances set out in paragraph (a) of this definition do not apply, a person who became the legally adopted child, foster child or ward of the Member when the Member was a Pensioner aged over 60 years unless the person became the adopted child, foster child or ward of the Member not less than 5 years before the Member’s death;

## Schedule VI of Division B

### Special historical matters: Continuation of relevant previous arrangements (continued)

- (d) in a case where the circumstances set out in paragraph (a) of this definition do not apply, a person who is an ex-nuptial child of the Member and who was born when the Member was a Pensioner aged over 60 years unless the person is the child of the Member and another person with whom the Member had lived on a permanent and bona fide domestic basis for:
  - (1) except in a case where paragraph (2) applies, a continuous period of not less than 3 years immediately before the Member's death or, if the Trustee determines that the person was substantially dependent on the Member at the time of the Member's death, any continuous period of less than 3 years immediately before the Member's death; or
  - (2) a continuous period of not less than 5 years immediately before the Member's death where the Member had commenced so living with the other person when the Member was a Pensioner aged over 60 years;
- (e) a person who the Trustee determines was not dependent on the Member at the date of the Member's death;
- (f) a person who has attained the age of 16 years and is not receiving full-time education at a school, college or university; or
- (g) a person who has attained the age of 25 years.

**“Spouse”** in relation to a Member who has died means:

- (a) in the case of a person who was a Member on 1 July 1994 and who was not a Resigned Member, a Retrenched Member or a Retired Member as at that date, a person who was legally married to or was a De Facto Spouse of the deceased Member at the time of the Member's death and who, at that time:
  - (1) was living with the Member on a bona fide domestic basis; or
  - (2) was not living with the Member on a bona fide domestic basis but who the Trustee determines was substantially dependent on the deceased Member at that time;

but does not include a person who legally married the deceased Member or became a De Facto Spouse of the deceased Member when the Member was a Pensioner aged over 60 years unless:

- (3) the marriage took place or the person became the De Facto Spouse not less than 5 years before the Member's death; or
- (4) the marriage took place or the person became the De Facto Spouse less than 5 years before the Member's death but:
  - (i) the person had, for a continuous period that commenced before the Member became a Pensioner and not less than 3 years immediately before the Member's death, lived with the Member as the Member's husband or wife on a bona fide domestic basis; or
  - (ii) the person had, for a continuous period that commenced before the Member became a Pensioner but less than 3 years immediately before the Member's death, lived with the Member as the

## Schedule VI of Division B

### Special historical matters: Continuation of relevant previous arrangements (continued)

Member's husband or wife on a bona fide domestic basis and who the Trustee determines was substantially dependent on the deceased Member at that time; and

- (b) in any other case:
- (1) a person who was legally married to the deceased Member at the time of the Member's death and who, at that time:
    - (i) was living with the Member on a permanent and bona fide domestic basis; or
    - (ii) was not living with the Member on a permanent and bona fide domestic basis but who the Trustee determines was substantially dependent on the deceased Member at that time;
  - (2) a person who was not legally married to the deceased Member at the time of the Member's death but who:
    - (i) for a continuous period of not less than 3 years immediately before the Member's death, had lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; or
    - (ii) for a continuous period of less than 3 years immediately before the Member's death, had lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and who the Trustee determines was substantially dependent on the deceased Member at the time of the Member's death;

but does not include:

- (3) a person who legally married the deceased Member when the Member was a Pensioner aged over 60 years unless:
  - (i) the marriage took place not less than 5 years before the Member's death; or
  - (ii) the marriage took place less than 5 years before the Member's death but:
    - (A) the person had, immediately before the marriage, for a continuous period that commenced while the Member was a Pensioner and not later than 5 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis;
    - (B) the person had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner and not later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; or



## Schedule VI of Division B

### Special historical matters: Continuation of relevant previous arrangements (continued)

- (C) the person had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner but later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and the Trustee determines that such person was substantially dependent on the Member at the time of the Member's death; or
- (4) a person who was not legally married to the deceased Member at the time of the Member's death if the person commenced living with the Member as the Member's husband or wife on a permanent and bona fide domestic basis when the Member was a Pensioner aged over 60 years unless the person had so lived with the Member for a continuous period of not less than 5 years immediately before the Member's death,

provided that, where there are 2 or more persons who would otherwise qualify, by virtue of paragraphs (a)(1), (b)(1)(i) or (b)(2)(i) of this definition, as Spouses in relation to a Member who has died, and who were not substantially dependent on that Member, only one such person, as determined by the Trustee, shall be a Spouse in relation to that Member for the purposes of this Division B.

#### VI.10 Amendments to definitions of "Child" and "Spouse" since 1 July 2008 do not apply to deaths occurring before that date

When determining benefits payable in the case of any Member who died on or after 6 December 2004 but before 1 July 2008, the following definitions of "Child" and "Spouse" shall apply in lieu of the definitions of "Child" and "Spouse" contained in Rule B1.2:

**"Child"** means a child, step-child, legally adopted child, foster child, ward or ex-nuptial child of a Member, but does not include:

- (a) in the case of a person who was a Member on 1 July 1994 and who was not a Resigned Member, a Retrenched Member or a Retired Member as at that date, a person who first became the child, step-child, legally adopted child, foster child, ward or ex-nuptial child of the Member when the Member was a Pensioner aged over 60 years unless the person became the child, step-child, legally adopted child, foster child, ward or ex-nuptial child of the Member not less than 3 years before the Member's death;
- (b) in a case where the circumstances set out in paragraph (a) of this definition do not apply, a child or step-child of a marriage contracted by the Member when the Member was a Pensioner aged over 60 years unless:
  - (1) the marriage took place not less than 3 years before the Member's death; or
  - (2) the marriage took place less than 3 years before the Member's death but:

## Schedule VI of Division B

### Special historical matters: Continuation of relevant previous arrangements (continued)

- (i) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced while the Member was a Pensioner and not later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis;
  - (ii) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner and not later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; or
  - (iii) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner but later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and the Trustee determines that such other party was substantially dependent on the Member at the time of the Member's death;
- (c) in a case where the circumstances set out in paragraph (a) of this definition do not apply, a person who became the legally adopted child, foster child or ward of the Member when the Member was a Pensioner aged over 60 years unless the person became the adopted child, foster child or ward of the Member not less than 3 years before the Member's death;
- (d) in a case where the circumstances set out in paragraph (a) of this definition do not apply, a person who is an ex-nuptial child of the Member and who was born when the Member was a Pensioner aged over 60 years unless the person is the child of the Member and another person with whom the Member had lived on a permanent and bona fide domestic basis for:
  - (1) except in a case where paragraph (2) applies, a continuous period of not less than 3 years immediately before the Member's death or, if the Trustee determines that the person was substantially dependent on the Member at the time of the Member's death, any continuous period of less than 3 years immediately before the Member's death; or
  - (2) a continuous period of not less than 3 years immediately before the Member's death where the Member had commenced so living with the other person when the Member was a Pensioner aged over 60 years;
- (e) a person who the Trustee determines was not dependent on the Member at the date of the Member's death;
- (f) a person who has attained the age of 16 years and is not receiving full-time education at a school, college or university; or
- (g) a person who has attained the age of 25 years.

## Schedule VI of Division B

### Special historical matters: Continuation of relevant previous arrangements (continued)

“Spouse” in relation to a Member who has died means:

- (a) in the case of a person who was a Member on 1 July 1994 and who was not a Resigned Member, a Retrenched Member or a Retired Member as at that date, a person who was legally married to or was a De Facto Spouse of the deceased Member at the time of the Member’s death and who, at that time:

- (1) was living with the Member on a bona fide domestic basis; or
- (2) was not living with the Member on a bona fide domestic basis but who the Trustee determines was substantially dependent on the deceased Member at that time;

but does not include a person who legally married the deceased Member or became a De Facto Spouse of the deceased Member when the Member was a Pensioner aged over 60 years unless:

- (3) the marriage took place or the person became the De Facto Spouse not less than 3 years before the Member’s death; or
- (4) the marriage took place or the person became the De Facto Spouse less than 3 years before the Member’s death but:
  - (i) the person had, for a continuous period that commenced before the Member became a Pensioner and not less than 3 years immediately before the Member’s death, lived with the Member as the Member’s husband or wife on a bona fide domestic basis; or
  - (ii) the person had, for a continuous period that commenced before the Member became a Pensioner but less than 3 years immediately before the Member’s death, lived with the Member as the Member’s husband or wife on a bona fide domestic basis and who the Trustee determines was substantially dependent on the deceased Member at that time; and

- (b) in any other case:

- (1) a person who was legally married to the deceased Member at the time of the Member’s death and who, at that time:
  - (i) was living with the Member on a permanent and bona fide domestic basis; or
  - (ii) was not living with the Member on a permanent and bona fide domestic basis but who the Trustee determines was substantially dependent on the deceased Member at that time;
- (2) a person who was not legally married to the deceased Member at the time of the Member’s death but who:
  - (i) for a continuous period of not less than 3 years immediately before the Member’s death, had lived with the Member as the Member’s husband or wife on a permanent and bona fide domestic basis; or
  - (ii) for a continuous period of less than 3 years immediately before the Member’s death, had lived with the Member as the Member’s

## Schedule VI of Division B

### Special historical matters: Continuation of relevant previous arrangements (continued)

husband or wife on a permanent and bona fide domestic basis and who the Trustee determines was substantially dependent on the deceased Member at the time of the Member's death;

but does not include:

- (3) a person who legally married the deceased Member when the Member was a Pensioner aged over 60 years unless:
  - (i) the marriage took place not less than 3 years before the Member's death; or
  - (ii) the marriage took place less than 3 years before the Member's death but:
    - (A) the person had, immediately before the marriage, for a continuous period that commenced while the Member was a Pensioner and not later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis;
    - (B) the person had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner and not later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; or
    - (C) the person had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner but later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and the Trustee determines that such person was substantially dependent on the Member at the time of the Member's death; or
- (4) a person who was not legally married to the deceased Member at the time of the Member's death if the person commenced living with the Member as the Member's husband or wife on a permanent and bona fide domestic basis when the Member was a Pensioner aged over 60 years unless the person had so lived with the Member for a continuous period of not less than 3 years immediately before the Member's death,

provided that, where there are 2 or more persons who would otherwise qualify, by virtue of paragraphs (a)(1), (b)(1)(i) or (b)(2)(i) of this definition, as Spouses in relation to a Member who has died, and who were not substantially dependent on that Member, only one such person, as determined by the Trustee, shall be a Spouse in relation to that Member for the purposes of this Division B.

## Schedule VII of Division B

### SURCHARGE COMMUTATION FACTORS

Age in Years	Surcharge Commutation Factor
55	16.55
56	16.35
57	16.15
58	15.95
59	15.75
60	15.55
61	15.35
62	15.15
63	14.95
64	14.75
65	14.55

**Factors applying if age in years exceeds 65:** In the event that it becomes necessary to determine any Surcharge Commutation Factor referable to an age in years greater than 65, the factor to apply shall be as determined by the Trustee on the advice of an Actuary having regard to the requirements of Rule A10A.5.

**Complete months between ages shown:** The Surcharge Commutation Factors are reduced by  $\frac{1}{12}$  of the difference between the factor applying to the current age in years and the factor applying to the age in years at next birthday for each completed month of age between the current age and age at next birthday.

**Determination of applicable Surcharge Commutation Factor:** The Surcharge Commutation Factor applicable to the determination of Surcharge Reduction in relation to a Member is that applying to the age of the Member at the initial date as at which Surcharge Reduction is to be determined under these Rules with respect to that Member, or where Surcharge Reduction is to be determined in order to calculate benefits payable on the death of a Member, to the Member's age at the date of death.

**Special Application of age 60 factors:** The Surcharge Commutation Factor to be used in the case of a pension or allowance which commences to be payable on a Member becoming an Invalid Member or when a Member dies aged less than 60 years whilst an Officer, is the factor applying to age 60 years.

## Division C

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### CBA Vesting Scheme Members

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#### **Part C1 Application and interpretation**

##### **C1.1 Application of this Division C**

This Division C only applies to and in respect of:

- (a) persons who immediately before the Amendment Date were:
  - (1) “members”;
  - (2) “pensioners”; or
  - (3) “dependent children” of “members” for whom an allowance was payable,  
under the Former VS Rules; and
- (b) any other persons who immediately before the Amendment Date had a vested or contingent right to benefits from the Fund under the Former VS Rules, including without limitation a person who immediately before the Amendment Date was a “spouse” or “dependent child” of a “member” under the Former VS Rules,

but, with the exception of:

- (c) Old Scheme Invalid Members; and
- (d) subject to Rule C1.4(e), Deemed Transferred Members,

no person may become (or be re-admitted as) a Member under this Division C after the Amendment Date.

This Division C is always subject to the terms of the Clauses in the body of the Deed and to Division A of the Rules.

##### **C1.2 Definitions**

In this Division C, unless the contrary intention appears or the context requires otherwise:

“**Accrued Basic Benefit**” means, with respect to each Member, the sum from time to time of each amount of Basic Benefit attributable to that Member since that Member’s Effective Date together with Compound Interest on such amounts.

“**Accrued Benefit**” means, with respect to each Member, the amount from time to time determined as Accrued Benefit under Rule C3.1.

“**Accrued Benefits Multiple**” means, with respect to each Full Member, from time to time the Accrued Benefits Multiple as determined under Rule C3.1(c).

“**Accrued Member Benefit**” means, with respect to each Member, the sum from time to time of all contributions paid by the Member to the Fund under Part C2 since that Member’s Effective Date, together with Compound Interest on such contributions.

**“Accrued Transfer Amount”** means, subject to this Division C:

- (a) with respect to a Full Member, the amount determined from time to time as the sum of the following:
  - (1) the Member’s Corporation Transfer Value;
  - (2) the Member’s Member Transfer Value with Compound Interest thereon;
  - (3) the Member’s Interim Benefit Transfer Value with Compound Interest thereon;
  - (4) each amount of Outside Fund Transfer Value applicable to the Member (if any) with Compound Interest thereon; and
  - (5) each amount required to be included as part of the Member’s Accrued Transfer Amount under Rule IV.2(b) of Schedule IV; and
- (b) with respect to a Basic Member, that Member’s Deemed Transfer Value with Compound Interest thereon, if any.

**“Accumulated Supplementary Contributions”** means:

- (a) with respect to a Member who is an Old Scheme Transferred Member, the sum, immediately before the Member’s Effective Date, of the Member’s supplementary contributions under sub-rule 7(2) of the Former Rules with Compound Interest thereon to that time, after deducting that part of the amount of such supplementary contributions (as determined under the Former VS Rules) together with Compound Interest, as was contained in benefits which were paid or became payable to the Member before the Member’s Effective Date; and
- (b) with respect to any other Member, zero.

**“Additional Multiple”** means, subject to this Division C, with respect to a Full Member, the amount determined from time to time as the sum of the following:

- (a) the Member’s Old Scheme Additional Multiple (if any);
- (b) each Outside Fund Additional Multiple (if any) applicable to the Member;
- (c) in the case of a Full Member who was a Basic Member immediately before becoming a Full Member and who has not ceased to be a Member since that time, the quotient determined by dividing the Accrued Benefit of the Member immediately before the time the Member became a Full Member by the Member’s Final Average Salary as at the date the Member became a Full Member; and
- (d) each amount required to be included as part of the Member’s Additional Multiple under Rule IV.2(c) of Schedule IV.

**“Allowance”** means the annual rate of allowance payable under this Division C.

**“Associated Child”** means, in relation to a Spouse of a deceased Member, a Dependent Child of the deceased Member who is also a Child of the Spouse.

**“AWOTE”** means, with respect to each 12 month period commencing on 1 July in any year, the full-time adult average weekly ordinary time earnings as first published by the Australian Statistician for the March quarter immediately preceding that period.

“**Base Allowance**” means, with respect to a Child Benefit Group, an amount as increased from time to time as provided for under Rule C3.7(d), determined initially:

- (a) in respect of an Allowance payable in connection with that Child Benefit Group:
  - (1) consequent upon the death of a Member in receipt of Pension, under Rule C3.8; and
  - (2) consequent upon the death of a Spouse in receipt of Pension, under Rule C3.9; and
- (b) in a case where paragraph (a) of this definition does not apply, by calculating as at the date of death of the relevant Member an amount (“**base amount**”) with respect to the Child Benefit Group being the quotient determined as at that date by dividing the amount of the lump sum benefit allocated to that Child Benefit Group by:
  - (1) if there is 1 Dependent Child in the Child Benefit Group, the term of the Dependent Child;
  - (2) if there are 2 Dependent Children in the Child Benefit Group, the sum of:
    - (i) 55% of the term of the younger Dependent Child, and
    - (ii) 45% of the term of the older Dependent Child;
  - (3) if there are 3 Dependent Children in the Child Benefit Group, the sum of:
    - (i) 50% of the term of the youngest Dependent Child,
    - (ii) 40% of the term of the second youngest Dependent Child, and
    - (iii) 10% of the term of the eldest Dependent Child; and
  - (4) if there are 4 or more Dependent Children in the Child Benefit Group, the sum of:
    - (i) 45% of the term of the youngest Dependent Child,
    - (ii) 35% of the term of the second youngest Dependent Child,
    - (iii) 10% of the term of the third youngest Dependent Child, and
    - (iv) 10% of the term of the fourth youngest Dependent Child,and then dividing that base amount by:
    - (5) 0.45 if there is 1 Dependent Child in the Child Benefit Group;
    - (6) 0.80 if there are 2 Dependent Children in the Child Benefit Group;
    - (7) 0.90 if there are 3 Dependent Children in the Child Benefit Group; and
    - (8) 1.00 if there are more than 3 Dependent Children in the Child Benefit Group,

and, for the purposes of this definition, the “**term**” of a Dependent Child shall be determined as follows:



- (9) if the relevant Dependent Child was, at the date of death of the Member, less than 17 years of age, the term shall be the quotient determined by dividing the difference between 240 months and the age of the Dependent Child in completed months as at that date, by 12;
- (10) if the relevant Dependent Child was, at the date of death of the Member, 22 years of age or more, the term of the relevant Dependent Child shall be the quotient determined by dividing the difference between 300 months and the age of the Dependent Child in completed months as at that date, by 12; and
- (11) in any other case the term of the relevant Dependent Child shall be 3.

**“Base Pension”** means with respect to each separate Pension payable with respect to a Member or deceased Member, an amount as increased from time to time as provided for under Rule C3.7(d), determined initially:

- (a) in the case of a Pension payable under Rule C3.4(c)(2) but subject to Rule C3.4(d), as the amount of the Pension initially payable;
- (b) in the case of a Pension payable to a Spouse under Rule C3.8 consequent upon the death of a Member in receipt of a Pension, as the Base Pension with respect to such Spouse determined under Rule C3.8(b); and
- (c) in any case where the Pension results from the conversion of a lump sum amount, by dividing the relevant amount of lump sum to be converted to Pension by the factor specified in Schedule II determined as follows:
  - (1) in the case of a benefit payable under Rule C3.2, the factor applicable to the age of the Member as at the Member’s “benefit determination date” under Rule C3.2(a); and
  - (2) in the case of a benefit payable under Rule C3.3 or Rule C3.4, the factor applicable to the higher of age 60 and the age of the Member as at the date the Member ceased to be an Officer.

**“Basic Benefit”** means, with respect to each Member who is an Officer and subject, in the case of an Old Scheme Transferred Member, to sub-rule 12(5) of the Former VS Rules and, in the case of a Full Member, to Rule C2.6, for each Salary Fortnight in respect of which Salary is payable to such a Member, an amount equal to 3 per cent of that Member’s Salary payable with respect to that Salary Fortnight, or such other percentage of the Member’s Salary as shall be determined by the Principal Employer for the purposes of this definition.

**“Basic Member”** means any of the following:

- (a) a Part Time Employee:
  - (1) who is a Member; and
  - (2) who is not or has not become a Full Member as provided for under Rule C1.6(b);
- (b) an Officer who is a Member but who is not a Full Member by virtue of a direction by the Managing Director under rule 6 of the Former VS Rules or Rule C1.7(a), being a direction which has not been revoked under that rule 6 or Rule C1.7(d);

- (c) a Member who ceased to be an Officer in circumstances where a “normal retirement benefit” under the Former VS Rules thereupon became payable and who, whether before or after such benefit was paid or commenced to be paid, but before 1 July 1993, again became an Officer;
- (d) a Member who was a Basic Member immediately before that Member last ceased to be an Officer and who has not again become an Officer other than in circumstances where paragraph (c) of this definition applies; and
- (e) a person who is and remains a Retired Member within the meaning of Division B and who again became an Officer before 1 July 1993.

“**Casual Employee**” means a person employed by the Corporation or the Principal Employer under conditions of employment designated by the Corporation or the Principal Employer as casual.

“**Child**” means a child within the meaning of the SIS Act.

“**Child Benefit Group**” means:

- (a) with respect to a Member who dies in circumstances where benefits are payable under Rule C3.3, each grouping of Dependent Children of the Member comprising 1 or more persons, as determined by the Trustee;
- (b) with respect to a Member who dies while in receipt of a Pension, all Dependent Children who are not Associated Children of a surviving Spouse of the deceased Member; and
- (c) with respect to a Spouse who dies while in receipt of a Pension, the Associated Children of that Spouse.

“**Commonwealth Banking Corporation Service**” means the Commonwealth Banking Corporation Service within the meaning of that expression in section 88 of the Commonwealth Banks Act 1959 immediately before the Staff Transfer Time.

“**Compound Interest**” means interest compounded:

- (a) in respect of the periods up to 30 June 1969, at the rate of 4% per annum;
- (b) where (in accordance with the Former VS Rules and having regard to the basis of the net earnings of the Fund for the relevant period, as determined by the Managing Director) the Managing Director has determined a rate in respect of any period between 30 June 1969 and the Amendment Date, at the rate so determined; and
- (c) in respect of any period determined by the Trustee on and from the Amendment Date and any period before that date in respect of which no rate has otherwise been set as provided for above, at the Declared Rate in respect of that period.

“**Corporation Transfer Value**” means:

- (a) with respect to an Old Scheme Transferred Member, an amount (being not less than zero) equal to 2.5 times the result of subtracting the Member’s Accumulated Supplementary Contributions immediately before the Member’s Effective Date from the Member’s Member Transfer Value; and

(b) with respect to any other Member, zero.

**“Deemed Transfer Value”** means:

(a) with respect to a Deemed Transferred Member, the Accrued Benefit applicable to that Member, including Compound Interest, immediately before the time the Member again becomes an Officer under Rule C1.5(b), less any amount thereof paid to or for the benefit of the Member before that time; and

(b) with respect to any other Member, zero.

**“Deemed Transferred Member”** means, subject to Rules C1.4(e) and C1.5(e), a Member, not being a Member referred to in paragraph (c) of the definition of Basic Member, who again becomes an Officer in the circumstances provided for under Rule C1.5(b) and who has not thereafter ceased to be a Member.

**“De Facto Spouse”** means, in relation to a person, another natural person who though not legally married to the first mentioned person, in the opinion of the Trustee lives or lived with the first mentioned person as at the relevant date on a genuine domestic basis in a relationship as a couple.

**“Dependent Child”** means a person who is a Child of a Member, but does not include:

- (a) a person who the Trustee determines was not dependent on the Member at the date of the Member’s death;
- (b) a person who has attained the age of 16 years and is not receiving full-time education at a school, college or university; or
- (c) a person who has attained the age of 25 years.

**“Effective Date”** means, with respect to a Member, the date determined as follows:

- (a) in the case of an Old Scheme Transferred Member, the Effective Date shall be:
  - (1) if the Member was an Officer on 1 July 1990 and has not ceased to be an Officer since that date, 1 July 1990; and
  - (2) if sub-paragraph (a)(1) of this definition does not apply, the date the Member last became an Officer;
- (b) in the case of a Member who was a Part Time Employee on 5 October 1990, who has not ceased to be an Officer since that date and who is not an Old Scheme Transferred Member, the Effective Date shall be:
  - (1) if that Member last became an Officer on or before 1 July 1990, 1 July 1990; and
  - (2) if sub-paragraph (b)(1) of this definition does not apply, the date the Member last became an Officer; and
- (c) in the case of a Member to whom the terms of paragraphs (a) or (b) of this definition do not apply, the Effective Date shall, subject to Rule C1.5(a), be the date the Member last became a Member.

**“Eligible Division C Transferring Member”** means an Eligible Transferring Member who is a Member under this Division C.

**“Excluded Part Time Employee”** means a Part Time Employee who, by virtue of the terms of any direction or determination made at any time under the Former Rules, has been excluded from being or becoming an “OS Member” under the Former Rules, whether by satisfying any conditions or otherwise, which exclusion remained in effect immediately before 5 October 1990.

**“Executive Director”** means an executive director appointed as such under the articles of association of the Commonwealth Bank of Australia.

**“Final Average Salary”** means, with respect to a Member, from time to time:

- (a) in any case where the determination of Final Average Salary is made:
  - (1) with respect to the day the Member became an Officer; or
  - (2) in a case where less than 1 complete Salary Fortnight is contained in the period commencing on the date the Member last became an Officer and ending at the end of the last Salary Fortnight before the date in respect of which the calculation is made, and the Member became an Officer after the end of the last Salary Fortnight in June 1990,

the annual rate of Salary of the Member;

- (b) in a case where at least 1 complete Salary Fortnight but less than 78 complete Salary Fortnights is contained in the period commencing on the date the Member last became an Officer and ending at the end of the last Salary Fortnight before the date in respect of which the calculation is made, an amount determined firstly by multiplying by 365 the Member’s total Salary for that period and then by dividing the result by the total number of days in that period; and
- (c) in a case where at least 78 complete Salary Fortnights are contained in the period commencing on the date the Member last became an Officer and ending at the end of the last Salary Fortnight before the date in respect of which the calculation is made, the Member’s total Salary over the last 78 Salary Fortnights up to and including the last Salary Fortnight before the date in respect of which the calculation is made, divided by 3,

provided that, for the purposes of this definition:

- (d) in determining the Final Average Salary for any Member who is a Part Time Employee at the time in respect of which the calculation is made or who has been a Part Time Employee at any time during any period referred to in this definition used in calculating a Member’s Final Average Salary, the following shall apply:
  - (1) in a case where paragraph (a) of this definition applies, the amount otherwise calculated shall be multiplied by a factor determined by dividing Normal Hours by the number of hours which the Principal Employer nominates as being or, with respect to any nomination by the Corporation before the Staff Transfer Time, which the Corporation has nominated as being the number of hours that the relevant Member is or was required to work during any relevant week; and
  - (2) in a case where (1) above does not apply:

- (A) in a case where a Member's total Salary is not required to be adjusted under sub-paragraph (d)(2)(B) of this definition, the amount of the Member's Final Average Salary otherwise calculated shall be adjusted by substituting as the total Salary applicable to each period (referred to in this definition as a "**part time employment period**") in respect of which the Member was a Part Time Employee during the period of calculation, an amount determined by multiplying the amount of the Member's total Salary for the part time employment period as otherwise determined for the purposes of this definition by a factor determined by dividing the multiple of Normal Hours and the number of weeks (including fractional parts of weeks based on a week of 5 days) during the part time employment period, by the actual number of hours worked by the Member during the part time employment period; and
  - (B) in a case where the Member was a Part Time Employee at any time before the end of the last Salary Fortnight in June 1990 and there occurred at any time during that part of the period in respect of which Final Average Salary is being determined (referred to in this definition as the "**calculation period**"), as occurred before the end of that Salary Fortnight, a change (whether by way of increase or decrease) in the number of hours regularly worked by that Member, the Member's total Salary for that part of the calculation period shall be varied in accordance with any relevant determination made in accordance with the Former VS Rules;
- (e) in determining total Salary:
- (1) subject to paragraph (d)(2) of this definition, for the purposes of paragraphs (b) and (c) of this definition, that part of the total Salary of a Member as relates to any part of the calculation period as occurred before the end of the last Salary Fortnight in June 1990 shall be determined in accordance with Schedule III;
  - (2) with respect to any Salary Suspension Period, Salary shall be determined as if the Member were in receipt of Salary during that period at the rate per annum most recently payable before the commencement of such period; and
  - (3) in a case where a Member has for any period (referred to herein as a "**pension period**") been in receipt of Pension, the Member shall be deemed to have been an Officer, during the pension period, in receipt of Salary determined at the rate per annum payable immediately before the commencement of the pension period multiplied by the quotient determined by dividing the Prescribed Salary as at the date in respect of which the calculation is made by the Prescribed Salary as at the date of the commencement of the pension period;

- (f) the periods referred to in paragraphs (a), (b) and (c) of this definition shall apply notwithstanding that an Officer was not a Member during any part or parts of any such period; and
- (g) notwithstanding anything contained in this definition, if, but for this paragraph (g), the Final Average Salary of a Member as otherwise determined pursuant to this definition would reduce, the Final Average Salary of the Member shall not reduce but shall continue at its previous level.

**“Fortnightly Accrual Factor”** means, subject to Rules C3.1(c)(2), (3) and (4), the factors indicated in Schedule I having regard to the contribution rates specified in that Schedule.

**“Full Member”** means a Member who is not a Basic Member.

**“Guardian”** means, with respect to a Child Benefit Group, a person, not being a Dependent Child aged 18 years or more in respect of whom the Trustee has determined that a direct payment should be made for the benefit of that Dependent Child, to whom the Trustee directs payment of benefits in respect of 1 or more Dependent Children comprised in that Child Benefit Group.

**“Interim Benefit”** means, with respect to each Member who satisfies the conditions set out in Rule B3.14(a), an amount being the aggregate of:

- (a) 1.5% of the Salary of that Member for the period commencing on and including the later of 1 January 1988 and the date the Member last became an Officer on or before 30 June 1990 and ending on and including 30 June 1990;
- (b) 1.5% of the Salary of that Member for the period commencing on and including the later of 1 January 1989 and the date the Member last became an Officer on or before 30 June 1990 and ending on and including 30 June 1990;
- (c) interest calculated at the Long Term Bond Rate on the emerging balance of the sum of the amounts referred to in paragraphs (a) and (b) of this definition calculated fortnightly in arrears up to and including 30 June 1990 as at the end of each fortnightly pay period occurring during that period and at 30 June 1990 and compounded fortnightly and as at 30 June 1990; and
- (d) Compound Interest from 1 July 1990 on the sum of the amounts calculated under paragraphs (a), (b) and (c) of this definition as at 30 June 1990 up to the date of payment.

**“Interim Benefit Transfer Value”** means:

- (a) in respect of an Old Scheme Transferred Member to whom paragraph (b) of this definition does not apply and in respect of whom a period of not less than 3 months has elapsed since that Member last became an Officer, the Member’s Interim Benefit, if any, as calculated on the day (referred to in this paragraph as the **“calculation day”**) immediately before the Member’s Effective Date, as if the condition specified in Rule B3.14(a)(4) was satisfied as at the calculation day, less any amount of that Interim Benefit paid to or for the benefit of that Old Scheme Transferred Member;

- (b) in respect of an Old Scheme Transferred Member who was a Part Time Employee immediately before becoming an “OS member” under the Former Rules, who became such an OS member after 30 June 1990 and in respect of whom a period of not less than 3 months has elapsed since that Member last became an Officer, that Member’s PTE Interim Benefit calculated as at 30 June 1990; and
- (c) in respect of any other Member, zero.

**“Limited Hours Part Time Employee”** means:

- (a) an Officer who was a Part Time Employee immediately before and remained a Part Time Employee on 5 October 1990 and whose terms of employment as a Part Time Employee involved that Officer in regularly working less than 10 hours per week during all or any part of the period commencing on and including 1 July 1990 and ending on and including 5 October 1990; and
- (b) any person who was not a Member immediately before becoming an Officer on or after 5 October 1990 and who, on becoming an Officer, is a Part Time Employee whose terms of employment involve that Officer in regularly working less than 10 hours per week.

**“Long Term Bond Rate”** means:

- (a) in the case of the period commencing on 1 January 1988 and ending on 31 December 1988, 12.86% per annum;
- (b) in the case of the period commencing on 1 January 1989 and ending on 31 December 1989, 12.86% per annum; and
- (c) in the case of the period commencing on 1 January 1990 and ending on 30 June 1990, 12.93% per annum.

**“Member”** means, subject to Rule C1.4(d):

- (a) from that person’s Effective Date, a person who was formerly an “OS member” under the Former Rules and who:
  - (1) elected by notice in writing in accordance with the procedures prescribed in the Former Rules to transfer to the Vesting Scheme; or
  - (2) was deemed by operation of the Former Rules to have made such an election;
- (b) subject to any direction made under rule 6 of the Former VS Rules which has not been revoked before 1 July 1993 in accordance with that rule and to any direction under Rule C1.7 which has not been revoked in accordance with that Rule:
  - (1) an Officer who last became an Officer before 5 October 1990 and was a Part Time Employee but not an “OS member” under the Former Rules immediately before that date;
  - (2) an Officer, not being an Officer whose Salary is fixed and payable in English pounds, who last became an Officer on or after 5 October 1990 and before 1 July 1993;

- (3) an Officer, not being an Excluded Part Time Employee, who was at 5 October 1990, or who was at any time after that date, excluded from being an “OS member” under the Former Rules by operation of a direction or determination made at any time pursuant to the Former Rules, and in respect of whom that direction or determination was revoked or otherwise ceased to apply with effect before 1 July 1993; and
- (4) an Old Scheme Invalid Member who again becomes an Officer, not being an Officer whose Salary is fixed and payable in English pounds, who last became an Officer on or after 5 October 1990 and whether before or after 1 July 1993,

and

- (c) a person who is no longer an Officer but who was a Member pursuant to paragraphs (a) or (b) of this definition at the time the person last ceased to be an Officer,

and, in each such case, being a person who has not ceased to be a Member by operation of this Deed or the Former VS Rules since last becoming a Member.

For the purpose of clarity only and without limiting the operation of Rule C1.8 or any other provision dealing with the interpretation of this Deed, it is further confirmed that nothing in this Division C shall be construed to mean that a person who had ceased to be a Member prior to the Transfer Time is a Member at or after that time.

**“Member Transfer Value”** means:

- (a) with respect to an Old Scheme Transferred Member, the greater of:
  - (i) the amount determined by subtracting from the Member’s “accumulated contributions” under the Former VS Rules immediately before the Member’s Effective Date, the sum of the Member’s “accumulated benefits” applicable to that Member under the Former VS Rules; and
  - (ii) the “member financed amount” applicable to that Member as at the Member’s Effective Date under the Former VS Rules; and
- (b) with respect to any other Member, zero.

**“Normal Hours”** means 38 hours per week or such other number of hours per week as shall be nominated by the Principal Employer as being Normal Hours with respect to an Officer or class of Officers for the purposes of this definition.

**“Officer”** means, subject to Rule C1.4, with respect to the period prior to the Transfer Time an officer of the Commonwealth Banks Service, and with respect to the period commencing at the Transfer Time a person employed by an Employer, in all cases not being a Casual Employee, and includes:

- (a) with respect to the period up to the commencement of paragraph 8(5)(a) of the Restructuring Act, the Managing Director of the Corporation;
- (b) with respect to the period up to the commencement of paragraph 8(5)(b) of the Restructuring Act, the Deputy Managing Director of the Corporation; and



- (c) with respect to the period from the commencement of paragraph 8(5)(a) of the Restructuring Act, the Managing Director of the Commonwealth Bank of Australia and each Executive Director of the Commonwealth Bank of Australia;

and without limiting the circumstances by which a person may cease to be an Officer, it is confirmed that, subject to Rule C1.9, a person who is employed by an Associated Employer ceases to be an Officer when the Associated Employer ceases to be an Associated Employer.

Where used in this Division C in relation to any time, period of time or event occurring before the Staff Transfer Time, references to an “Officer” are references to an Officer of the Commonwealth Banking Corporation Service, not being a Casual Employee, and to the Managing Director of the Corporation and the Deputy Managing Director of the Corporation.

“**Old Scheme Additional Multiple**” means the amount determined by subtracting a Member’s Supplementary Multiple from the quotient obtained by dividing the sum of the Member’s:

- (a) Corporation Transfer Value;
- (b) Member Transfer Value; and
- (c) Interim Benefit Transfer Value;

by that Member’s Final Average Salary at the Member’s Effective Date.

“**Old Scheme Invalid Member**” means a Member who was an “invalid member” as defined in the Former Rules, or an “Invalid Member” as defined in Rule B1.2, immediately before the time the person again became an Officer on or after 5 October 1990 and who has not ceased to be a Member since last becoming an Officer.

“**Old Scheme Resigned or Retrenched Member**” means a Member who was a “resigned member” or a “retrenched member”, as those expressions were defined in the Former Rules, immediately before the time the person again became an Officer on or after 5 October 1990 but before 1 July 1993 and who has not ceased to be a Member since last becoming an Officer.

“**Old Scheme Transferred Member**” means:

- (a) a Member who was an “OS member” under the Former Rules, who transferred or was deemed to have transferred to the Vesting Scheme pursuant to the terms of the Former Rules and who has not ceased to be a Member since such transfer;
- (b) an Old Scheme Resigned or Retrenched Member; and
- (c) an Old Scheme Invalid Member.

“**Outside Fund Additional Multiple**” means, with respect to each amount of Outside Fund Transfer Value applicable to a Member, the quotient determined by dividing each such amount by that Member’s Final Average Salary determined in any case referred to in paragraph (a) of the definition of Outside Fund Transfer Value, at the time of the relevant transfer and in the case referred to in paragraph (b) of the definition of Outside Fund Transfer Value, at the date the Member last became an Officer.

**“Outside Fund Transfer Value”** means, with respect to each Member, any amount which either:

- (a) is transferred to the Fund from an Approved Benefit Arrangement under Rule C2.9 by or for the benefit of a Member since that Member last became a Member, adjusted by the deduction of any amount required to be deducted in accordance with the conditions of the approval granted under Rule C2.9; or
- (b) represents the Member’s Deemed Transfer Value.

**“Part Time Accrual Adjustment Factor”** means for any Salary Fortnight:

- (a) in the case of a Member who is a Part Time Employee, the factor obtained by dividing the average number of hours per week actually worked by that Member for that Salary Fortnight, up to a maximum of Normal Hours, by Normal Hours; and
- (b) in the case of a Member to whom paragraph (a) of this definition does not apply, 1.

**“Part Time Employee”** means an Officer, the terms of whose employment as an Officer involve him or her in regularly working less than Normal Hours.

**“Part Time Prospective Benefits Factor”** means at any time:

- (a) with respect to a Member who is a Part Time Employee:
  - (1) who has continued to be a Part Time Employee, since last becoming a Part Time Employee, for at least 1 Salary Fortnight before the date in respect of which the relevant calculation is made, the average of the Part Time Accrual Adjustment Factors in respect of the Member over the lesser of 26 Salary Fortnights and the number of complete Salary Fortnights since the Member last became a Part Time Employee; and
  - (2) with respect to whom (1) above does not apply, the Part Time Accrual Adjustment Factor that would apply according to the number of hours to be worked per week in accordance with the Member’s conditions of employment; and
- (b) with respect to a Member to whom paragraph (a) of this definition does not apply, 1.

**“Pension”** means, with respect to any person, the annual rate of pension payable to that person under this Division C and, where used in relation to any time or period of time before the Amendment Date, “Pension” includes a “pension” determined under the Former VS Rules with respect to the relevant time or period.

**“Pensioner”** means a person in receipt of Pension under this Division C. Where used in this Division C in relation to any time, period of time or event occurring before the Amendment Date, references to a “Pensioner” are references to a person who was a “pensioner” under the Former VS Rules at the relevant time.

**“Prescribed Salary”** means, in each 12 month period commencing on 1 July in any year, the quotient determined by dividing the product of \$25,000 times AWOTE for that period, by AWOTE for the 12 month period commencing on 1 July 1990.

**“Preserved Benefits”** means benefits that must be preserved as “preserved benefits” under the SIS Act.

**“Prospective Accrued Benefit”** has the meaning set out in Rule C3.1(d).

**“PTE Interim Benefit”** means:

- (a) with respect to a Member who is or has been a Part Time Employee and:
  - (1) who last became a Part Time Employee on a day before 1 July 1990;
  - (2) who continued to be a Part Time Employee beyond 30 June 1990; and
  - (3) whose Effective Date is 1 July 1990,  
an amount being the aggregate of:
    - (4) 1.5 percent of the Salary of that Member for the period commencing on and including the later of 1 January 1988 and the date the Member last became a Part Time Employee on or before 30 June 1990 and ending on and including 30 June 1990;
    - (5) 1.5 percent of the Salary of that Member for the period commencing on and including the later of 1 January 1989 and the date the Member last became a Part Time Employee on or before 30 June 1990 and ending on and including 30 June 1990;
    - (6) interest calculated at the Long Term Bond Rate on the emerging balance of the sum of the amounts referred to in paragraphs (4) and (5) of this definition calculated fortnightly in arrears up to and including 30 June 1990 as at the end of each Salary Fortnight occurring during that period and at 30 June 1990 and compounded fortnightly and as at 30 June 1990; and
    - (7) Compound Interest from 1 July 1990 on the sum of the amounts calculated under sub-paragraphs (4), (5) and (6) of this definition as at 30 June 1990; and
- (b) with respect to any other Member, zero.

**“Reduced Benefits Member”** means:

- (a) a Member:
  - (1) who was a “reduced benefits member” under the Former VS Rules before the Amendment Date by virtue of a determination made under rule 10 of the Former VS Rules; or
  - (2) in respect of whom the Principal Employer has made a determination under Rule C4.1(a) or Rule C4.1(c),  
but only until such time as the determination ceases to apply in accordance with Rule C4.1(d); and
- (b) an Old Scheme Transferred Member in respect of whom a declaration had been made under sub-rule 17(2) of the Former Rules, which declaration had not, at the time the Member became an Old Scheme Transferred Member, ceased to apply under sub-rule 17(3) of the Former Rules, but only until the earlier of the time that declaration would have ceased to

apply under sub-rule 17(3) of the Former Rules had that Member continued to be an “OS member” under the Former Rules and the time that declaration would have ceased to apply if it were a determination made under sub-rule 10(1) of the Former VS Rules at the time the Member became an Old Scheme Transferred Member.

“**Restructuring Act**” means the Commonwealth Banks Restructuring Act 1990.

“**Retrenchment**” means:

- (a) in the case of a Member who ceased to be an Officer before the Amendment Date, “retrenchment” as defined in the Former VS Rules; and
- (b) in the case of a Member ceasing to be an Officer on or after the Amendment Date and before age 60, where the Employer notifies the Trustee that the Member has ceased or will cease to be an Officer because the Member’s service with the Employer has been or is being terminated by reason of retrenchment and where the Member’s service with the Employer is in fact terminated by reason of such retrenchment,

and “**Retrench**” has a corresponding meaning.

“**Salary**” means, subject to this Division C, remuneration which the Principal Employer determines will be regarded as Salary for the purposes of this Division, either generally or in any particular case and includes, where used in relation to a time or period of time before the Amendment Date, “salary” as determined under the Former VS Rules with respect to the relevant time or period.

“**Salary Fortnight**” means:

- (a) where used in this Division C in relation to a period ending before the Staff Transfer Time, each period of 14 days ending on a normal Salary payment date of the Corporation; and
- (b) where used in this Division C in relation to a period ending at or after the Staff Transfer Time, each period of 14 days ending, unless otherwise determined by the Trustee, on a normal Salary payment date of the Employer.

“**Salary Suspension Period**” has the meaning given to that expression in Rule C2.6.

“**Spouse**” in relation to a Member who has died means:

- (a) in the case of a person who was a Member on 1 July 2008 but in respect of whom benefits had not become payable as at that date, a person who was a spouse within the meaning of the SIS Act at the time of the Member’s death and who, at that time:
  - (1) was living with the Member on a genuine domestic basis in a relationship as a couple; or
  - (2) was not living with the Member on a genuine domestic basis in a relationship as a couple but who the Trustee determines was substantially dependent on the deceased Member at that time; and
- (b) in any other case, a person who was a spouse within the meaning of the SIS Act at the time of the Member’s death and who, at that time:
  - (1) was living with the Member on a permanent and genuine domestic basis in a relationship as a couple; or

- (2) was not living with the Member on a permanent and genuine domestic basis in a relationship as a couple but who the Trustee determines was substantially dependent on the deceased Member at that time;

provided that, where there are 2 or more persons who would otherwise qualify, by virtue of paragraphs (a)(1) or (b)(1) of this definition, as Spouses in relation to a Member who has died, and who were not substantially dependent on that Member, only one such person, as determined by the Trustee, shall be a Spouse in relation to that Member for the purposes of this Division C.

“**Staff Transfer Time**” means the time of commencement of Part 4 of the Restructuring Act on 31 December 1990.

“**Supplementary Multiple**” means:

- (a) in the case of an Old Scheme Transferred Member, the amount determined by dividing the Member’s Accumulated Supplementary Contributions by the Member’s Final Average Salary as at the Member’s Effective Date; and
- (b) in any other case, zero.

“**Suspended Member**” means a Full Member whose contributions to the Fund are suspended under Rule C2.6, for the period or each of the periods of such suspension as determined by reference to that Rule.

“**Totally and Permanently Incapacitated**” means that, because of a physical or mental condition, a person is unlikely ever to work again in a job for which the person is reasonably qualified by education, training or experience or could be so qualified after retraining, and “**Total and Permanent Incapacity**” has a corresponding meaning.

“**Vested Employer Benefit**” has the meaning given to that expression in Rule C3.5(a).

“**Vesting Factor**” means with respect to a Member:

- (a) in the case of a Retrenchment of the Member, 1; and
- (b) in any other case, where the membership period applicable to that Member:
  - (1) is less than 3 years, zero;
  - (2) is equal to or greater than 3 years but less than 4 years, 0.33;
  - (3) is equal to or greater than 4 years but less than 5 years, 0.67;and
  - (4) is equal to or greater than 5 years, 1,

where “**membership period**” shall, subject to Rule IV.2(a) of Schedule IV, be determined for the purposes of this definition as follows:

- (5) in the case of an Old Scheme Transferred Member who is not an Old Scheme Resigned or Retrenched Member or an Old Scheme Invalid Member, the period commencing on and including the day the Member last became an “OS member” under the Former Rules

and ending on and including the day in respect of which the Vesting Factor is to be calculated;

- (6) in the case of an Old Scheme Resigned or Retrenched Member, a period equal to the sum of 3 years and the period commencing on and including the day the Member became a Full Member and ending on and including the day in respect of which the Vesting Factor is to be calculated;
- (7) in the case of an Old Scheme Invalid Member, a total period equal to the sum of the period between the time that Member last became an “OS member” under the Former Rules and the time that Member became an “invalid member” as defined in the Former Rules or an “Invalid Member” as defined in Rule B1.2, and the period commencing on and including the day the Member became a Full Member and ending on and including the day in respect of which the Vesting Factor is to be calculated; and
- (8) in the case of any Member who is not an Old Scheme Transferred Member, the period commencing on and including the day the Member last became a Full Member and ending on and including the day in respect of which the Vesting Factor is to be calculated.

“**Vesting Scheme**” means the scheme for the making of contributions to the Fund and the provision of benefits from the Fund, together with ancillary matters related thereto, all as provided for in the Former VS Rules up to the Amendment Date and in this Division C on and from that Date.

### **C1.3 Continuation of former provisions etc**

Without limiting Part A17, any reference in this Division C to:

- (a) the taking of any action or the exercise of any Power, whether or not expressed to be taken or exercised under this Division C or under any Rule, Part or Schedule within this Division C, including without limitation:
  - (1) giving, making or revoking a direction, determination, approval or election; and
  - (2) making any payment to or from the Fund,or
- (b) an event occurring, or a situation or circumstance existing, whether or not the event, situation or circumstance is expressed to occur or exist under this Division C or under any Rule, Part or Schedule within this Division C, including without limitation any event, situation or circumstance giving rise to a right, entitlement or obligation,

shall be construed as being or including a reference to:

- (c) the taking of a corresponding action or the exercise of a corresponding Power by the same or corresponding person or office holder; or
- (d) the occurrence or existence of a corresponding event, situation or circumstance,

from time to time before the Amendment Date under the corresponding provisions of the Former VS Rules. As non-exclusive examples of the operation of this Rule, reference:

- (1) in the definition of “Accrued Member Benefit” in Rule C1.2 to contributions paid by the Member to the Fund under Part C2 shall be taken to include contributions paid under rule 12 of the Former VS Rules;
- (2) in Rule C3.3(b)(2) to a determination by the Trustee shall be taken to include a determination by the Managing Director under paragraph (b) of sub-rule 15(2) of the Former VS Rules;
- (3) in Rule C3.4(c)(1)(iii) to a Pension having commenced to be paid under Rule C3.4(c)(2) shall be taken to include a “pension” as defined in the Former VS Rules having commenced to be paid under paragraph (b) of sub-rule 16(3) of the Former VS Rules;
- (4) in Rule C3.4(c)(2)(ii) to a determination by the Trustee shall be taken to include a determination by the Managing Director under sub-paragraph (b)(ii) of sub-rule 16(3) of the Former VS Rules;
- (5) in Rule C3.4(d)(2) to the deduction of the excess amounts of Pension paid to the Member under Rule C3.4(c)(2) shall be taken to include the deduction of excess amounts of “pension” as defined in the Former VS Rules paid to the Member under paragraph (b) of sub-rule 16(3) of the Former VS Rules;
- (6) in Rules C3.3(c), C3.8(b)(2), C3.8(d)(6)(ii), C3.8(d)(8) and C3.10 (b) to a notice in writing received by the Trustee before the Member’s death shall be taken to include a notice in writing received by the former “Secretary” to the Fund before the Member’s death under sub-rule 15(3), sub-paragraphs (b)(ii), (d)(vi)(B) and (d)(viii) of sub-rule 20(1), and sub-rule 22(2) of the Former VS Rules respectively; and
- (7) in Rule C4.2(c) to a benefit arising from a transfer to the Fund under Rule C2.9 shall be taken to include a benefit arising from a transfer to the Fund under rule 11 of the Former VS Rules.

#### **C1.4 Meaning of “Officer”**

- (a) **Employees of Corporation deemed officers:** For the purposes of the definition of “Officer” in this Division C, a person who was an employee of the Corporation but not an officer of the Commonwealth Banking Corporation Service during any period or periods before the commencement of section 35 of the Commonwealth Banks Amendment Act 1987 shall be deemed to have been an officer of the Commonwealth Banking Corporation Service during any such period.
- (b) **Persons who became officers before Staff Transfer Time:** Any reference in this Division C to the time of a person becoming an Officer shall, where that person became an officer of the Commonwealth Banks Service by virtue of the terms of section 64 of the Restructuring Act and has not since that time ceased to be, with respect to the period prior to the Transfer Time an officer of the Commonwealth Banks Service, and with

respect to the period commencing at the Transfer Time a person employed by an Employer or by Employers in accordance with Rule C1.9, be construed as a reference to the last time that person became an officer of the Commonwealth Banking Corporation Service before the Staff Transfer Time.

- (c) **Continuance as Officers at Staff Transfer Time:** If a person last became an Officer before the Staff Transfer Time, that person shall not be considered to have ceased to be an Officer for the purposes of this Division C by virtue of the terms of section 64 of the Restructuring Act but shall continue to be an Officer for the purposes of this Division C until next ceasing after the Staff Transfer Time to be, with respect to the period prior to the Transfer Time an officer of the Commonwealth Banks Service, and with respect to the period commencing at the Transfer Time a person employed by an Employer or by Employers in accordance with Rule C1.9.
- (d) **Membership of Fund closed from 1 July 1993:** Notwithstanding anything else contained in this Division C, with the exception of Old Scheme Invalid Members, no person who becomes an Officer on or after 1 July 1993 and no person who was an Officer at that date but not a Member, shall become a Member.
- (e) **Deemed Transferred Members from 1 July 1993:** A Member may only become a Deemed Transferred Member on or after 1 July 1993 and before the Amendment Date if the relevant conditions specified in sub-rule 7(9) of the Former VS Rules were satisfied, and on or after the Amendment Date if, prior to that Member again becoming an Officer, that Member was in receipt of a Pension under Rule C3.4 and that Member again becomes an Officer immediately upon the making of a determination under Rule C3.4(f)(1) and before payment of any lump sum benefit under Rule C3.4(f)(3).

### **C1.5 Effect of re-employment after resignation or retirement**

- (a) **Persons becoming Basic Members before 1 July 1993:** The fact that a person became a Basic Member by operation of paragraph (c) or paragraph (e) of the definition of Basic Member on again becoming an Officer before 1 July 1993 shall not limit in any way nor increase the benefits which that person shall otherwise be entitled to under this Division C or Division B, as the case may be, and that person shall be entitled to receive benefits under this Division C as a Basic Member in addition to any such other benefits, on the basis that that person's Effective Date as a Basic Member shall be the date upon which the Member again became an Officer in any of the circumstances specified in paragraph (c) and paragraph (e) of the definition of Basic Member.
- (b) **Deemed cessation of prior membership upon again becoming an Officer:** Subject to Rules C1.5(c) and (e), if a Member ceases or ceased to be an Officer in any case where a benefit is payable to that Member under this Division C and that Member does not thereafter, other than by operation of this Rule C1.5(b), cease to be a Member before again becoming an Officer, the Member shall be deemed for the purposes of this



Division C to have ceased to be a Member immediately before the time the Member again becomes an Officer and:

- (1) all references in this Division C to a Member having ceased to be a Member shall be construed as including reference to the Member being deemed by operation of this Rule C1.5(b) to have ceased to be a Member; and
  - (2) all references in this Division C to the time when a Member last became a Member or, in the case of a person who was a Full Member immediately before again becoming an Officer, to the time when a Member last became a Full Member, shall be construed as referring to the time when the Member again becomes an Officer as provided for in this Rule C1.5(b).
- (c) **Members to whom benefits payable under Rule C3.2 who again become Officers:** In the case of a Member who ceases to be an Officer in circumstances where a benefit under Rule C3.2 is payable, who does not thereafter cease to be a Member and who again becomes an Officer:
- (1) the benefits which would apply to or with respect to that Member under this Division C if that Member did not again become an Officer shall continue to apply notwithstanding that that Member again becomes an Officer and in determining the amount of and any other matters under this Division C relating to those benefits, the Member shall not be deemed to have ceased to be a Member immediately before the time the Member again became an Officer and all references in this Division C to the time when the Member last became a Member or, in the case of a Member who was a Full Member immediately before again becoming an Officer, to the time when the Member last became a Full Member, shall be construed as referring to the time when the Member last became an Officer before the time when such benefit became payable; and
  - (2) in determining the amount of and any other matters under this Division C relating to the benefits arising by virtue of such Member becoming a Basic Member pursuant to paragraph (c) of the definition of Basic Member on again becoming an Officer before 1 July 1993, all references in this Division C to the time when the Member last became a Member shall be construed as referring to the time when the Member again became an Officer.
- (d) **Benefits cease to be payable upon Member again becoming Officer:** Subject to Rules C1.5(a), C1.5(c) and C1.5(e) and to Rule C3.2(e), any amount of benefit which was payable from the Fund at the time a Member again becomes an Officer under Rule C1.5(b) shall thereupon cease to be payable.
- (e) **Persons again becoming Officers after 1 July 1993:**
- (1) Without limiting the operation of Rule C1.5(b) and Rule C1.5(d) with respect to Members who again became Officers before 1 July 1993, on and after that date Rule C1.5(b) and Rule C1.5(d) only apply to those Members who became or have become Deemed

- Transferred Members in the circumstances referred to in Rule C1.4(e).
- (2) With the exception of those Members who become Deemed Transferred Members in the circumstances referred to in Rule C1.4(e):
    - (i) no Member who again becomes an Officer on or after 1 July 1993 shall be permitted to contribute to the Fund pursuant to this Division C;
    - (ii) subject to Clause 8 of this Deed, the benefits applying to any such Member before the Member again becoming an Officer on or after 1 July 1993 shall continue to apply to that Member; and
    - (iii) the rights and benefits under this Division C applying to any Member who again becomes an Officer on or after 1 July 1993 shall be determined for all purposes as if the Member had not again become an Officer.
  - (3) This Rule C1.5(e) applies to a person who again becomes an Officer on or after 1 July 1993 irrespective of whether that person last ceased to be an Officer before, on or after that date.

## **C1.6 Part Time Employees**

- (a) **Part Time Employees before the Staff Transfer Time:** Any reference in this Division C to the time of a person becoming a Part Time Employee shall, in a case where such person was both an officer of the Commonwealth Banking Corporation Service and a Part Time Employee before the Staff Transfer Time and continued to be a Part Time Employee after the Staff Transfer Time and has not ceased to be a Part Time Employee since that time, be construed as a reference to the last time that person became a Part Time Employee as an officer of the Commonwealth Banking Corporation Service, before the Staff Transfer Time.
- (b) **Circumstances under which a Part Time Employee is a Full Member:** A Member who is a Part Time Employee, other than a Part Time Employee who is an Excluded Part Time Employee or who has been an Excluded Part Time Employee at any time on or after 19 April 1989, shall be or become a Full Member in the following circumstances:
  - (1) if that Part Time Employee is an Old Scheme Transferred Member;
  - (2) if that Part Time Employee was a Full Member immediately before becoming a Part Time Employee;
  - (3) if that Part Time Employee is a Basic Member who is not a Limited Hours Part Time Employee and elects to become a Full Member by notice in writing to the Trustee in such form as shall be approved by the Trustee, in which case such Part Time Employee shall be a Full Member from the date of receipt of the election by the Trustee;
  - (4) if that Part Time Employee last became both an Officer (other than as a Limited Hours Part Time Employee) and a Member on or after 5 October 1990 and elected to become a Full Member by notice in

writing to the Trustee in a form approved by the Trustee, before becoming a Member; or

- (5) if that Part Time Employee is a Deemed Transferred Member who was a Full Member immediately before becoming a Deemed Transferred Member.
- (c) **Part Time Employees who were “Schedule IV members”:** This Division C includes Schedule IV with respect to each Member who was a Part Time Employee and who was a “Schedule IV member” under Schedule IV of the Former VS Rules in respect of whom the provisions of rule IV.6 of that Schedule applied.

### **C1.7 Membership status: Determination by Principal Employer**

- (a) **Directions as to membership:** With respect to those persons referred to in Rule C1.1 and paragraph (b)(4) of the definition of “Member” who may become Members after the Amendment Date, the Principal Employer may direct that a person or each person in a class or group of persons nominated by the Principal Employer shall not become a Member or shall not become a Full Member, where that person or each person in that class or group is at the time of that direction neither a Member nor an Officer.
- (b) **Directions that certain persons shall not become Full Members:** In the case of a person who at the time of a direction under this Rule C1.7(b):
  - (1) is an Officer and a Basic Member; and
  - (2) has no Accrued Member Benefit or Accrued Transfer Amount,the Principal Employer may at the written request of that person direct that that person shall not become a Full Member at the time that person would have otherwise become a Full Member.
- (c) **Directions binding on Trustee and relevant person until revoked:** Any direction given by the Principal Employer in respect of a person under Rule C1.7(a) or (b) shall be binding on the Trustee and that person unless and until it is revoked under Rule C1.7(d) and, except where the relevant person remains or becomes a Basic Member as a result of the direction, that person shall not be entitled to any benefit under this Division C.
- (d) **Revocation of directions:** In the case of a person in respect of whom there has previously been a direction under either:
  - (1) sub-rule 6(1) of the Former VS Rules; or
  - (2) this Rule C1.7,which direction had or has the effect that the person would become or remain a Basic Member when that person would otherwise have been or become a Full Member, the Principal Employer may at the written request of that person revoke that direction, in which event that person shall become a Full Member from such date as is nominated by the Principal Employer.
- (e) **Revocation not to allow new membership after 1 July 1993:** No revocation of a direction under either sub-rule 6(1) of the Former VS

Rules of this Rule C1.7 shall have the effect of permitting a person to become a Member on or after 1 July 1993.

### **C1.8 Special Interpretation Provision**

Without limiting the terms of this Deed which otherwise apply to assist in interpreting this Division C, where it is necessary to interpret the provisions of this Division C in relation to any thing done, action taken, payment made, Power exercised, event occurring or situation or circumstance existing under the Commonwealth Banks (Officers' Superannuation) Rules during or referable to the period commencing on the Amendment Date and ending at the Transfer Time, this Division C shall, unless its terms require otherwise expressly or by necessary implication, be construed so as to achieve the same effect with respect to the doing of that thing, the taking of that action, the making of that payment, the exercise of that Power, the occurrence of that event or the existence of that situation or circumstance as if the Commonwealth Banks (Officers' Superannuation) Rules had continued in force as the rules governing the Fund.

### **C1.9 Transfer of Employment between Employers**

Where a Member transfers from the employment of one Employer to another Employer:

- (a) the Member shall be taken to have continued to be employed and not to have resigned, terminated employment or ceased to have been an Officer; and
- (b) no benefit is payable to, or in relation to, the Member by reason only of such transfer; and
- (c) for the purposes of the calculation of Accrued Benefits Multiple, the Member shall not be taken to have ceased to be an Officer under Rule C3.1(c)(2)(v) by reason only of such transfer; and
- (d) benefits will only become payable under Rule C3.2(a)(1) and Rule C3.5(b) when the Member ceases to be employed by an Employer in circumstances where the Member does not transfer to the employment of another Employer.

Transfers of employment shall be categorised as such by way of written notice from the Principal Employer to the Trustee in relation to one or more Members or groups of Members.

### **C1.10 Officers of Associated Employers**

If a Member employed by an Associated Employer ceases to be an Officer solely because that Associated Employer ceases to be an Associated Employer the benefits of that Member become payable in accordance with Rule C3.2(a)(1), if applicable, or in accordance with Rule C3.5(b).

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## **Part C2 Member contributions and transfers to the Fund**

### **C2.1 Liability to contribute**

Subject to this Part C2, every Member who is an Officer shall contribute to the Fund in accordance with this Part C2.

### **C2.2 Categories of Members not required or permitted to contribute**

The following categories of Members shall not contribute to the Fund under this Division C:

- (a) Basic Members;
- (b) Old Scheme Transferred Members and Deemed Transferred Members (being Deemed Transferred Members who were formerly Old Scheme Transferred Members) whose Additional Multiple is in either case greater than or equal to 7.6, provided that nothing contained in this Rule C2.2(b) shall be construed as meaning that any such Member shall be entitled to have refunded any amount of contributions made under sub-rule 12(5) of the Former VS Rules;
- (c) Members in respect of whom the sum of:
  - (1) the Member's Additional Multiple; and
  - (2) the amount determined pursuant to Rule C3.1(c)(1)(iii), subject to any adjustment required under Rule C3.1(c)(3)equals 7.6;
- (d) Members aged less than 21 years and who have been Officers for less than 3 years except, in the case of Old Scheme Transferred Members, to the extent of the contributions made by such Old Scheme Transferred Members under sub-rule 12(5) of the Former VS Rules;
- (e) Suspended Members;
- (f) Members who are not Officers;
- (g) Members who have attained age 65 years; and
- (h) Members who are not permitted to contribute to the Fund under this Division C by operation of any other provision of this Deed.

### **C2.3 Before age 25 and completion of 7 years as Officer: Election not to contribute**

Subject to Rule C2.2, a Member aged less than 25 years and who has been an Officer for a continuous period of less than 7 years may elect, by notice in writing to the Trustee in such form as shall be approved by the Trustee, not to contribute to the Fund under this Division C during all or any part of the period up until the earlier of the day prior to the Member's 25th birthday and the expiration of the period of 7 years since the Member last became an Officer.

## **C2.4 Determination of rate of Member contributions**

- (a) **Whole percentage of Salary:** The rate of contribution shall, except in the case of a Member entitled to do so who elects not to contribute, be a whole percentage rate of the Member's Salary as determined by an election by the Member by notice in writing to the Trustee in such form as shall be approved by the Trustee.
- (b) **Minimum rate of contributions:** The minimum rate of contribution shall be:
  - (1) in the case of a Member aged less than 25 years and who has been an Officer for a continuous period of less than 7 years, zero; and
  - (2) in any other case, 2% of the Member's Salary.
- (c) **Maximum rate of contributions:** Subject to Rules C2.4(d) and (e), the maximum rate of contribution payable by a Member shall be 10% of that Member's Salary.
- (d) **Less than 10 years as a Member:** In the case of any Member (other than an Old Scheme Transferred Member) where, subject to Rule IV.2(d) of Schedule IV, less than 10 years has elapsed since the Member last became a Member, the Member's rate of contribution shall be limited to a rate or rates which would, if the Member were to remain a Member for the period, subject as aforesaid, of 10 years since last becoming a Full Member, enable compliance with Rule C2.4(b) without the Member accruing an Accrued Benefits Multiple in excess of 1.90 at the expiration, subject again as aforesaid, of that 10 year period.
- (e) **Old Scheme Transferred Members: less than 10 years membership of Fund:** In the case of an Old Scheme Transferred Member, where, subject to Rule IV.2(d) of Schedule IV, less than 10 years has elapsed since the Member last became an OS member under the Former Rules, the Member's rate of contribution shall be limited to a rate or rates which would, if the Member were to remain a Member until the expiration, subject as aforesaid, of the period of 10 years since the Member last became an OS member under the Former Rules, enable compliance with Rule C2.4(b) without the Member accruing, during the remainder of that period commencing on the Member's Effective Date, an Accrued Benefits Multiple in excess of the product determined by multiplying the Fortnightly Accrual Factor shown in Schedule I for a contribution rate of 5% by the number of complete Salary Fortnights during such remainder.
- (f) **Deemed election of 2%:** If a Member has not elected by notice in writing to the Trustee in a form approved by the Trustee to contribute at any other rate, and in the case of a Member aged less than 25 years and who has been an Officer for a continuous period of less than 7 years, if there exists no current election under Rule C2.3 with respect to that Member, the Member shall be deemed to have elected to contribute at a rate of 2% of Salary.
- (g) **Contributions after earlier of age 25 and 7 years as a Member:** The rate of contribution to be paid by a Member from the time that Member attains the age of 25 years or, if earlier, from the time a continuous period

of 7 years has elapsed since that Member last became an Officer, shall be determined as follows:

- (1) if the Member has elected by notice in writing to the Trustee in such form as shall be approved by the Trustee to contribute to the Fund at a rate specified in that election of not less than 2% of Salary, the Member shall contribute at that rate; and
  - (2) if the Member has made no such election, the rate of contribution shall be 2% of Salary.
- (h) **Variation of contributions:** The rate of contribution payable by a Member may be changed from time to time as follows:
- (1) an election by the Member to change the Member's rate of contribution, or in the case of a Member aged less than 25 years and who has been an Officer for a continuous period of less than 7 years, to cease to contribute or to commence or recommence to contribute, shall be made by notice in writing by the Member to the Trustee in a form approved by the Trustee;
  - (2) unless the Trustee determines otherwise, no such election shall be effective if it would result in any such change, cessation, commencement or recommencement within 6 months following a prior such change, cessation, commencement or recommencement, except as provided in Rule C2.4(h)(3); and
  - (3) an election may be made at any time within 6 months before the event of the first to occur of a Member's 25th birthday and the completion of a continuous period of 7 years since the Member last became an Officer, to take effect from that event,

and a Member's rate of contribution shall change automatically, from time to time, in order to ensure compliance with the requirements of Rules C2.4(d) and (e).

- (i) **Interpretation:** For the avoidance of doubt it is confirmed that references in this Rule C2.4 to contributions relate to contributions under this Division C.

## **C2.5 Effective date of relevant contribution elections**

Any election made by a Member under this Part C2 shall take effect from the later of the date referred to in the notice of such election given to the Trustee under this Part C2 as the date upon which the election is to take effect (if any) and a date determined by agreement between the Principal Employer and the Trustee, being a date not later than 6 months (or such longer period as the Trustee determines) after the date upon which that Member makes the relevant election.

## **C2.6 Contributions during periods without Salary**

Where for any reason a Member who is an Officer is not paid any Salary in respect of a period including any such period which commenced before 5 October 1990 (the period commencing on the date in respect of which Salary payments ceased or cease or such later date as the Principal Employer determines in any circumstances or class of circumstances and ending on the day before the date in

respect of which Salary payments recommence or the date on which the Member ceases to be an Officer, if Salary payments do not recommence before that date, being referred to in this Division C as a “**Salary Suspension Period**”):

- (a) subject to the succeeding paragraphs of this Rule C2.6, the Member shall suspend contributions to the Fund under this Division C and the Fund shall not accept contributions from the Member under this Division C during the Salary Suspension Period;
- (b) the Member may, where the Salary Suspension Period has arisen as a result of the Employer approving or having approved leave without pay for the Member elect, by notice in writing in such form as shall be approved by the Trustee, given to the Trustee before or during the Salary Suspension Period, to make contributions to the Fund during:
  - (1) if the Salary Suspension Period is not longer than 12 months, all of, or the remainder of, the Salary Suspension Period; and
  - (2) if the Salary Suspension Period is longer than 12 months, such part of the Salary Suspension Period as is specified by the Member in such notice,

with, in either case, the period in respect of which the contributions are to be made commencing on a date which shall be not earlier than the date of commencement of the Salary Suspension Period and ending on a date being the earlier of the date specified in the notice as being the date on which contributions shall cease and, if the Salary Suspension Period is longer than 12 months, 12 months after the commencement of the Salary Suspension Period;

- (c) any such notice shall not be effective if the notice refers to a commencement date for the making of such contributions, being a date before the date on which the notice is given, unless and until the Member pays to the Fund in full, or makes arrangements satisfactory to the Trustee for the payment of, the amount of any unpaid contributions relating to the period since such commencement date;
- (d) a Member who elects to contribute to the Fund pursuant to an effective notice given under this Rule C2.6 shall be required to contribute to the Fund during the period to which the election relates at a rate determined under this Part C2 and, for the purpose of determining the amount of such contributions, the Member shall be deemed to be in receipt of Salary at the same rate per annum as the Member’s most recent rate of Salary before the commencement of the Salary Suspension Period; and
- (e) during each Salary Fortnight in respect of which a Member contributes to the Fund under this Rule C2.6, that Member shall further be deemed to be in receipt of Salary, for the purpose of determining that Member’s Basic Benefit for that Salary Fortnight, at the Member’s most recent rate of Salary applying before the commencement of the Salary Suspension Period.



## **C2.7 Deduction of contributions from Salary**

Unless otherwise agreed between the Principal Employer and the Trustee, contributions payable by a Member under this Division C shall be deducted from each payment of that Member's Salary.

## **C2.8 Contributions while Salary paid at less than full rate**

Where for any reason an Officer is paid Salary in respect of a period at less than that Officer's full rate of Salary, that Officer shall continue to be liable to pay the contributions under this Division C in respect of the period that the Officer would otherwise have been liable to pay.

## **C2.9 Transfer from Approved Benefit Arrangement**

- (a) **Limitation on ability to transfer in:** A Full Member may, subject to Rule C2.9(b), upon first obtaining the approval of the Trustee and the Principal Employer and upon satisfying such conditions as the Trustee may impose, transfer or procure the transfer to the Fund of the whole or any part of any interest or entitlement the Member may have in any Approved Benefit Arrangement.
- (b) **Further limitation on ability to transfer in:** No amount may be transferred to the Fund under this Rule C2.9 if, upon such transfer being effected, the relevant Member's Accrued Benefits Multiple would exceed the sum of 7.6 and the Member's Supplementary Multiple.
- (c) **Benefits payable in respect of transferred amounts:** If the whole or any part of an amount transferred to the Fund under this Rule C2.9 comprises Preserved Benefits or is accepted or transferred into the Fund subject to any conditions, then notwithstanding any other provisions of this Division C the benefits otherwise payable under this Deed in connection with such part or the whole of such amount, as the case may be, and any accretions thereto, shall only be paid in accordance with the Relevant Law.
- (d) **Transfers to Fund not "contributions":** For the avoidance of doubt, it is confirmed that transfers to the Fund under this Rule C2.9 do not constitute "contributions" for the purposes of this Division C.

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## **Part C3 Benefits**

### **C3.1 Accrued Benefits**

- (a) **Determination of Accrued Benefits:** Subject to this Division C, the Accrued Benefit of a Member at any time is:
  - (1) in the case of a Basic Member, the amount determined by adding together:
    - (i) if that Member last became an Officer not less than 3 months before the date in respect of which the Accrued Benefit is being determined, the sum of that Member's Accrued Basic Benefit and that Member's PTE Interim Benefit; and
    - (ii) that Member's Accrued Transfer Amount (if any),

and then subtracting the amount of the Surcharge Aggregate (if any) applicable to that Member from the sum of (i) and (ii); and

- (2) in the case of a Full Member, the greater of:
  - (i) subject to Rule C3.1(b), the amount determined by multiplying that Member's Final Average Salary by that Member's Accrued Benefits Multiple and then subtracting the amount of the Surcharge Aggregate (if any) applicable to that Member from the result; and
  - (ii) the amount determined by adding together:
    - (A) that Member's Accrued Member Benefit;
    - (B) if that Member last became an Officer not less than 3 months before the date in respect of which the Accrued Benefit is being determined, that Member's Accrued Basic Benefit;
    - (C) that Member's Accrued Transfer Amount; and
    - (D) if:
      - (aa) that Member was a Basic Member immediately before the time at which that Member last became a Full Member;
      - (bb) that Member's Effective Date was 1 July 1990; and
      - (cc) that Member last became an Officer not less than 3 months before the date in respect of which the Accrued Benefit is being determined,that Member's PTE Interim Benefit,and then subtracting the amount of the Surcharge Aggregate (if any) applicable to that Member from the sum of (A), (B), (C) and (D).
- (b) **Special conditions where Prescribed Salary greater than Final Average Salary: Rules C3.2, C3.3 and C3.4:** In determining the amount of the Accrued Benefit applicable to a Member for the purposes of Rules C3.2, C3.3 and C3.4, if Prescribed Salary is greater than the Member's Final Average Salary at the time in respect of which the calculation is required to be made, Prescribed Salary shall be used in place of the Member's Final Average Salary for the purposes of Rule C3.1(a)(2).
- (c) **Determination of Accrued Benefits Multiple:**
  - (1) The Accrued Benefits Multiple applicable to a Member at any time shall be the sum of the following:
    - (i) the Member's Additional Multiple;
    - (ii) the Member's Supplementary Multiple; and
    - (iii) subject to Rule C3.1(c)(3), the sum of the amounts for each Salary Fortnight since the Member last became a Full

Member, determined by multiplying the Fortnightly Accrual Factor applicable to that Member for the relevant Salary Fortnight by that Member's Part Time Accrual Adjustment Factor for that Salary Fortnight.

- (2) Subject to Rule C3.1(c)(4) but notwithstanding anything else contained in this Division C, the Fortnightly Accrual Factor applicable to a Member shall be zero with respect to any Salary Fortnight in respect of which any of the following circumstances apply:
  - (i) the Member is an Old Scheme Transferred Member, or a Deemed Transferred Member (who was formerly an Old Scheme Transferred Member) whose Additional Multiple is in either case greater than or equal to 7.6;
  - (ii) the sum of:
    - (A) the Member's Additional Multiple; and
    - (B) the amount determined under Rule C3.1(c)(1)(iii), subject to any adjustment required under Rule C3.1(c)(3),  
equals 7.6;
  - (iii) both the following are satisfied:
    - (A) the Member is aged less than 21 years; and
    - (B) the period since the Member last became an Officer is less than 3 years;
  - (iv) the Member is a Suspended Member;
  - (v) the Member has ceased to be an Officer;
  - (vi) the Member has attained age 65 years; or
  - (vii) the Member is not permitted by operation of this Deed, for reasons other than those specified in Rules C3.1(c)(2)(i) to (vi) (both inclusive), to contribute to the Fund under this Division C, except by virtue solely of having made an election under Rule C2.3 not to contribute to the Fund.
- (3) Subject to Rule C3.1(c)(4), in determining the Accrued Benefits Multiple applicable to a Member, if, by virtue of the addition of an amount determined under Rule C3.1(c)(1)(iii) for any Salary Fortnight, the Member's Accrued Benefits Multiple would thereupon exceed an amount of 7.6 plus that Member's Supplementary Multiple, the Fortnightly Accrual Factor used in determining that amount shall be reduced by such amount as shall result in the Member's Accrued Benefits Multiple being equal to 7.6 plus the Member's Supplementary Multiple.
- (4) The contributions made by an Old Scheme Transferred Member (not being an Old Scheme Resigned or Retrenched Member or an Old Scheme Invalid Member) during the period after the Member's Effective Date specified in sub-rule 12(5) of the Former VS Rules

shall be accorded a Fortnightly Accrual Factor as specified in Schedule I based on the actual rate of contribution notwithstanding that at the time the contributions were made:

- (A) the Member was aged less than 21 years and the period since such a Member last became an Officer was less than 3 years; or
- (B) the sum of:
  - (aa) the Member's Additional Multiple; and
  - (bb) the amount determined under Rule C3.1(c)(1)(iii) (which amount shall not, for the purposes of this Rule C3.1(c)(4), be subject to any adjustment under Rule C3.1(c)(3)),

was equal to or greater than 7.6,

and, in a case where such actual rate of contribution was not a whole percentage rate, the Fortnightly Accrual Factor shall be determined by adding to the Fortnightly Accrual Factor specified in Schedule I for the closest whole percentage rate lower than the actual rate (the "**next lower rate**") the product of:

- (C) the difference between that Factor and the Factor so specified for the closest whole percentage rate higher than the actual rate; and
- (D) the amount, expressed as a fraction of 1, by which the actual percentage rate of contribution exceeded the next lower rate.

(d) **Determination of Prospective Accrued Benefits:**

- (1) The Prospective Accrued Benefit of a Member is that Member's Accrued Benefit if, on the date the Member ceased to be an Officer, any one or more of the following applied:
  - (i) the Member had attained age 60;
  - (ii) the Member was a Basic Member; or
  - (iii) the Member's Accrued Benefits Multiple was at least 7.6 plus that Member's Supplementary Multiple.
- (2) The Prospective Accrued Benefit of a Member in respect of whom Rule C3.1(d)(1) does not apply is the amount determined as at the date the Member ceased to be an Officer by multiplying:
  - (i) the greater of that Member's Final Average Salary and the Prescribed Salary as at that date; by
  - (ii) the lesser of:
    - (A) the sum of the Member's Accrued Benefits Multiple as at that date and the product determined by multiplying X, Y, and Z where:
      - "X" is 1 Salary Fortnight more than the number of complete Salary Fortnights outstanding

between that date and the 60th anniversary of the Member's birth;

“Y” is the greater of the Fortnightly Accrual Factor applicable to a contribution rate of 5% and the Member's average Fortnightly Accrual Factor for the 78 Salary Fortnights before that date or for such lesser period as has elapsed since the Member last became a Full Member; and

“Z” is the Member's Part Time Prospective Benefits Factor;

and

(B) 7.6 plus the Supplementary Multiple applicable to that Member,

and then subtracting the amount of the Surcharge Aggregate (if any) applicable to that Member from the product of (i) and (ii).

### C3.2 Retirement benefits

(a) **Circumstances when benefit payable:** Subject to this Division C, if a Member:

- (1) ceases to be an Officer on or after the Member's 55th birthday but before attaining the age of 65 years; or
- (2) attains the age of 65 years while an Officer,

in circumstances where, subject to Rules C1.5(a), C1.5(c) and C3.2(e), no other benefit is or thereupon becomes payable to or in respect of the Member under this Division C, a benefit shall be payable to the Member under this Rule C3.2 and the date that benefit becomes payable shall be referred to in this Rule as the Member's “**benefit determination date**”.

(b) **Amount of lump sum benefit:** The benefit payable to a Member under this Rule shall, subject to this Division C, be a lump sum of that Member's Accrued Benefit as at the Member's benefit determination date.

(c) **Election to commute at least 50% of lump sum to Pension:** A Member entitled to or about to become entitled to a benefit under this Rule C3.2 may elect by notice in writing to the Trustee, in such form as shall be approved by the Trustee, either before the Member's benefit determination date or not later than the earlier of:

- (1) 3 months after the Member's benefit determination date;
- (2) the date on which the Member gives the notice referred to in Rule C3.6 under that Rule with respect to a benefit payable under this Rule C3.2; and
- (3) the date of payment of all or any part of a benefit payable under this Rule C3.2,

to convert not less than 50% of the lump sum amount of such benefit to a Pension and, if a Member makes such an election, the Pension payable to

that Member shall comprise the Base Pension applicable to the amount of the lump sum converted pursuant to such election.

- (d) **Cessation of membership upon full payment of lump sum benefit:** A Member who does not make the election referred to in Rule C3.2(c) shall cease to be a Member as from the date on which the lump sum amount under this Rule C3.2 is paid in full.
- (e) **Continued payment even where Member an Officer:** If a benefit commences to be payable under this Rule C3.2 to a Member, whether by way of Pension or lump sum or both, such benefit shall be payable notwithstanding that the Member continues to be or again becomes an Officer.
- (f) **Retrenchment after 55th birthday:** In the case of a Member who is Retrenched after the Member's 55th birthday, if that part of the amount payable under this Rule C3.2 to such Member as represents that Member's Employer Benefit together, in the case of such a Member who is a Deemed Transferred Member, with that part of the amount payable under this Rule C3.2 as represents, in the opinion of the Trustee after obtaining the advice of an Actuary, the Employer Benefit component of that Member's Deemed Transfer Value including any Compound Interest contained in such Deemed Transfer Value which relates to such component, does not otherwise comprise Preserved Benefits, then the provisions of Rule C4.2 shall only apply with respect to any such part of the amount payable under this Rule C3.2 which first becomes payable on or after 1 July 2000. For the purposes of this Rule C3.2(f), "**Employer Benefit**" shall be determined using the same method as is provided for in Rule C3.5 for determining the "**Vested Employer Benefit**" of a Member to whom benefits are payable under that Rule.

### **C3.3 Death while Officer**

- (a) **Death of Officer while Basic Member:** Subject to this Division C, if an Officer who is a Basic Member dies, a lump sum benefit of an amount equal to the Member's Accrued Benefit at the date of death shall be payable under this Rule C3.3.
- (b) **Death of Officer while Full Member:** Subject to this Division C, if an Officer who is a Full Member dies, a lump sum benefit of an amount determined as follows shall be payable under this Rule C3.3:
  - (1) in any case where Rule C3.3(b)(2) does not apply, the benefit shall be the Member's Prospective Accrued Benefit as at the deceased Member's date of death; and
  - (2) if the Member was a Reduced Benefits Member at the date of death and the Member died for reasons connected, as determined by the Trustee, with any health disability that existed:
    - (i) in the case of an Old Scheme Transferred Member, before that Member last became an "OS member" under the Former Rules; and
    - (ii) in any other case, before the Member last became a Full Member,

the benefit shall be an amount determined as follows:

- (A) if the period commencing on the date the deceased Member last became, in a case where Rule C3.3(b)(2)(i) applies, an “OS member” under the Former Rules and, in a case where Rule C3.3(b)(2)(ii) applies, a Full Member, and the date of death, was less than 3 years, the benefit shall be the deceased Member’s Accrued Benefit as at the deceased Member’s date of death; and
  - (B) if the period commencing on the date the deceased Member last became, in a case where Rule C3.3(b)(2)(i) applies, an “OS member” under the Former Rules and, in a case where Rule C3.3(b)(2)(ii) applies, a Full Member, and ending on the date of death, was 3 years or greater, the benefit shall be the greater of the deceased Member’s Accrued Benefit as at the deceased Member’s date of death and the product obtained by multiplying the number of complete years in that period, subject to a maximum of 10, by 10% of the deceased Member’s Prospective Accrued Benefit as at the deceased Member’s date of death.
- (c) **Application of death benefits:** A benefit payable under this Rule C3.3 shall be allocated between any one or more of the following in such proportions as the Trustee shall determine, having regard to their respective needs and such other matters as it considers relevant, including without limitation any notice in writing from the Member received by the Trustee before the Member’s death as to the manner in which the Member desired such allocation to be made:
- (1) the Spouse or any 1 or more of the Spouses of the Member;
  - (2) any 1 or more Child Benefit Groups applicable to the Member; and
  - (3) the Member’s estate,

and, once apportioned, each portion of the benefit shall be treated as a separate benefit in respect of the relevant Spouse, Child Benefit Group or the Member’s estate and shall not be re-apportioned.

- (d) **Spouses: Special conditions:**
- (1) Any benefit payable to a Spouse of a deceased Member under this Rule C3.3 shall, subject to Rules C3.3(d)(2) and (3), be a lump sum of the amount of the benefit allocated under this Rule C3.3 to such Spouse.
  - (2) A Spouse of a deceased Member to whom a benefit is payable under this Rule C3.3 may elect, by notice in writing to the Trustee in such form as shall be approved by the Trustee, not later than the earlier of:
    - (i) 3 months after the date of an allocation in favour of that Spouse under Rule C3.3(c);
    - (ii) the date on which the Spouse gives the notice referred to in Rule C3.6 under that Rule with respect to the benefit payable to the Spouse under this Rule C3.3; and

- (iii) the date of payment of any part of the benefit allocated to that Spouse under this Rule C3.3,  
to convert not less than 50% of the lump sum amount of the benefit to a Pension.
- (3) If a Spouse of a deceased Member makes an election under Rule C3.3(d)(2), the Pension payable to that Spouse shall comprise:
  - (i) 67% of the Base Pension applicable to the amount of the lump sum converted pursuant to such election; and
  - (ii) an additional 11% of such Base Pension in respect of each Associated Child of that Spouse in respect of whom no separate benefit is payable under this Rule C3.3,  
provided that the total of the amounts payable by way of Pension pursuant to this Rule C3.3(d)(3) shall not exceed the amount of such Base Pension.
- (e) **Payments to Child Benefit Groups:**
  - (1) Any benefit payable under this Rule C3.3 with respect to a Child Benefit Group shall, subject to Rule C3.3(e)(2), be determined and paid as an Allowance as provided for under Rule C3.10.
  - (2) Notwithstanding anything else contained in this Division C, in the event that the Trustee proposes to allocate benefits to 1 or more Child Benefit Groups under Rule C3.3(c), the Trustee shall, in determining the amount of lump sum benefit to be allocated to each such Child Benefit Group, ensure that the sum of the amounts of all Base Allowances applicable to such Child Benefit Groups determined by reference to the sum of the amounts of lump sum benefit so allocated, does not exceed the Base Pension which would have applied to the deceased Member had he or she:
    - (i) retired as at the date of death;
    - (ii) been thereupon entitled to receive a lump sum in the amount of the lump sum determined under Rule C3.3(a) or Rule C3.3(b) applicable to that deceased Member; and
    - (iii) converted the entire amount of that lump sum to a Pension.
- (f) **Payments to legal personal representatives:** Any benefit payable to the estate of a Member as determined under this Rule C3.3 shall be paid as a lump sum to the Member's legal personal representative.

### **C3.4 Ill health retirement benefits**

- (a) **Total and Permanent Incapacity while Officer before age 60:** Subject to this Division C, a benefit shall be payable to a Member under this Rule C3.4 if the Member ceases to be an Officer before attaining the age of 60 years because the Member is Totally and Permanently Incapacitated, as determined by the Trustee after receipt by the Trustee of such information as the Trustee shall deem necessary.
- (b) **Amount of benefit: Basic Members:**



- (1) The benefit payable under this Rule C3.4 to a Basic Member shall, subject to this Division C, be a lump sum of the Member's Accrued Benefit as at the date the Member ceases to be an Officer.
  - (2) A Basic Member entitled to or about to become entitled to payment of a benefit under this Rule C3.4 may elect by notice in writing to the Trustee, in such form as shall be approved by the Trustee, either before the Member ceases to be an Officer or not later than the earlier of:
    - (i) 3 months after the date of the determination by the Trustee under Rule C3.4(a);
    - (ii) the date on which the Member gives the notice referred to in Rule C3.6 under that Rule with respect to such benefit; and
    - (iii) the date of payment of all or any part of such benefit,to convert not less than 50% of the lump sum amount of such benefit to a Pension.
  - (3) If a Basic Member makes an election under Rule C3.4(b)(2), the Pension payable to that Basic Member shall comprise the Base Pension applicable to the amount of the lump sum converted pursuant to such election.
  - (4) A Basic Member who does not make the election referred to in Rule C3.4(b)(2) shall cease to be a Member as from the date on which the lump sum amount referred to in Rule C3.4(b)(1) is paid in full.
- (c) **Amount of benefit: Full Members:** The benefit payable under this Rule C3.4 to a Full Member shall, subject to this Division C, be determined as follows:
- (1) if the Member has not made an election under Rule C3.4(d) and elects not later than 3 months after the date on which such benefit commenced to be payable to the Member, by notice in writing to the Trustee in a form approved by the Trustee, to take such benefit under the same conditions as apply to the benefits payable to a Basic Member under Rule C3.4(b):
    - (i) the provisions of Rule C3.4(b) shall (subject to the terms of Rule C3.4(c)(1)(iii)) apply to such benefit as if all references therein to a Basic Member were references to the Member;
    - (ii) the Member's benefit shall, subject to Rule C3.4(c)(1)(iii), be the Member's Accrued Benefit as at the date the Member ceases to be an Officer and not the Member's Prospective Accrued Benefit; and
    - (iii) if a Pension has commenced to be paid to the Member under Rule C3.4(c)(2), such Pension shall thereupon cease and in determining the Member's lump sum for the purposes of the application of Rule C3.4(b)(1), the sum of the amounts of such Pension received by the Member together with Compound Interest thereon shall be deducted from the

amount of the Member's Accrued Benefit determined as at the date the Member ceased to be an Officer;

- (2) if the Member does not make the election referred to in Rule C3.4(c)(1), the benefit under this Rule shall be determined as follows:
- (i) in any case where Rule C3.4(c)(2)(ii) does not apply, the benefit shall, subject to Rule C3.4(d), be a Pension the initial amount of which shall be the quotient determined by dividing the Member's Prospective Accrued Benefit by the conversion factor for age 60 specified in Schedule II;
  - (ii) if the Member is a Reduced Benefits Member and ceases to be an Officer in the circumstances provided for under Rule C3.4(a) for reasons connected, as determined by the Trustee, with any health disability that existed:
    - (A) in the case of an Old Scheme Transferred Member, before that Member last became an "OS member" under the Former Rules; and
    - (B) in any other case, before the Member last became a Full Member,

the benefit shall be determined as follows:

- (aa) if the period commencing on the date the Member last became, in a case where Rule C3.4(c)(2)(ii)(A) applies, an "OS member" under the Former Rules and, in a case where Rule C3.4(c)(2)(ii)(B) applies, a Full Member, and ending on the date the Member so ceased to be an Officer, was less than 3 years, the benefit shall be a lump sum of the Member's Accrued Benefit as at the date the Member ceases to be an Officer; and
- (bb) if the period commencing on the date the Member last became, in a case where Rule C3.4(c)(2)(ii)(A) applies, an "OS member" under the Former Rules and, in a case where Rule C3.4(c)(2)(ii)(B) applies, a Full Member, and ending on the date the Member so ceased to be an Officer, was 3 years or greater, subject to Rule C3.4(d), the benefit shall be a Pension the initial amount of which shall be calculated in accordance with the formula:

$$\frac{P(Q + R) - R}{S}$$

**where:**

"P" is the product, expressed as a percentage, determined by multiplying the number of complete years in that period, subject to a maximum of 10, by 10%;

“Q” is the Member’s Prospective Accrued Benefit;

“R” is the Surcharge Aggregate applicable to the Member (if any); and

“S” is the conversion factor applying to age 60 specified in Schedule II.

(d) **Election to convert part of Pension to lump sum:** A Member entitled to or about to become entitled to benefits under Rule C3.4(c) may, not later than 3 months after the date of the determination by the Trustee under Rule C3.4(a), elect by notice in writing to the Trustee in such form as shall be approved by the Trustee to convert part of the Pension payable or which would otherwise be payable under Rule C3.4(c)(2) to a lump sum nominated in such notice not exceeding the sum of the Member’s Member Transfer Value together with Compound Interest thereon and the Member’s Accrued Member Benefit. In the event of such a conversion:

- (1) (i) the Member’s Base Pension shall be reduced by the quotient determined by dividing the amount of such lump sum by the conversion factor applying to age 60 as specified in Schedule II; and
- (ii) the Pension then payable to the Member under Rule C3.4(c)(2) shall be the amount of the Base Pension as so reduced;

and

- (2) the lump sum payable to the Member shall be the amount of the lump sum so nominated by the Member less the sum of all excess amounts of Pension paid to the Member under Rule C3.4(c)(2) prior to effect being given to the Member’s election under this Rule C3.4(d), being amounts in excess of the amount of Pension which would have been payable had the election been made with effect on the date the Member ceased to be an Officer.

(e) **Information, evidence and tests:** The Trustee may require a Member in receipt of benefits under this Rule C3.4 to provide such information concerning that Member and undergo such medical examination or medical examinations and test or tests as the Trustee determines. Any such information and the results of any such examination or test received by the Trustee shall be made available to the Employer upon the request of the Employer.

(f) **Cessation of benefits: relevant declarations by Trustee:**

- (1) A Member’s right to receive any further payment of benefits under this Rule C3.4 shall cease on and from the date on which the Trustee makes a determination that the Member is no longer Totally and Permanently Incapacitated.
- (2) At the same time as a determination is made by the Trustee under Rule C3.4(f)(1) with respect to a Member, the Trustee shall further determine with respect to that Member after having taken advice from an Actuary, an amount which will represent the Accrued

Benefit of the Member after taking into account benefits received from the Fund and such other matters as shall be necessary in determining benefits applicable to that Member under this Deed as at the date of the determination.

- (3) Upon the determination by the Trustee pursuant to Rule C3.4(f)(2) of the matters provided for in that Rule, there shall be payable to the Member a lump sum amount comprising the Member's Accrued Benefit so determined and the Member shall cease to be a Member upon payment in full of that amount.

### **C3.5 Benefit on resignation or otherwise ceasing to be an Officer**

- (a) **Meaning of "Vested Employer Benefit" for Full Member:** A Full Member's Vested Employer Benefit shall be determined by multiplying the Vesting Factor applicable to the Member as at the time the Member ceases to be an Officer in circumstances where a benefit is payable to that Member under this Rule C3.5 by the difference determined as at that time by subtracting the sum of the amounts determined under Rules C3.5(b)(2)(i), (ii), (iii) and (iv) from the sum of the Member's Accrued Benefit and the Surcharge Aggregate applicable to the Member (if any).
- (b) **Amount and circumstances of payment of benefit:** Subject to this Division C, there shall be payable to a Member who, when aged less than 55 years, resigns from the Commonwealth Banks Service or from employment with the Employer, is Retrenched or otherwise ceases to be an Officer in circumstances where no other benefit is or thereupon becomes payable with respect to that Member under this Division C, a lump sum amount comprising:
  - (1) in the case of a Basic Member, that Member's Accrued Benefit at the date the Member ceases to be an Officer; and
  - (2) in the case of a Full Member, the amount (determined as at the date the Member ceases to be an Officer) by adding together the following:
    - (i) the Member's Accrued Member Benefit;
    - (ii) if at the date the Member ceases to be an Officer not less than 3 months has elapsed since the Member last became an Officer, the Member's Accrued Basic Benefit;
    - (iii) the Member's Accrued Transfer Amount after deducting, in the case of an Old Scheme Transferred Member, that Member's Corporation Transfer Value;
    - (iv) if:
      - (A) the Member was a Basic Member immediately before the time at which that Member last became a Full Member;
      - (B) the Member's Effective Date was 1 July 1990; and

- (C) at the date the Member ceased to be an Officer, not less than 3 months had elapsed since the Member last became an Officer,  
the Member's PTE Interim Benefit (if any); and
  - (v) the Member's Vested Employer Benefit,  
and then subtracting the amount of the Surcharge Aggregate (if any) applicable to that Member from the sum of (i), (ii), (iii), (iv) and (v).
- (c) **Cessation of membership upon full payment of benefit:** The Member shall cease to be a Member as from the date of the payment in full of the benefit provided for under this Rule C3.5.
  - (d) **Retrenchment of Full Member:** In the case of a Member who is Retrenched, if that part of the amount payable under this Rule C3.5 to such Member as represents that Member's Vested Employer Benefit together, in the case of such a Member who is a Deemed Transferred Member, with that part of the amount payable under this Rule C3.5 as represents, in the opinion of the Trustee after obtaining advice of an Actuary, the Vested Employer Benefit component of that Member's Deemed Transfer Value including any Compound Interest contained in such Deemed Transfer Value which relates to such component, does not otherwise comprise Preserved Benefits, then the provisions of Rule C4.2 shall only apply with respect to any such part of the amount payable under this Rule which first becomes payable on or after 1 July 2000.
  - (e) **Ceasing to be Officer upon becoming Casual Employee:** In the event that a Member ceases to be an Officer by virtue of that Member becoming a Casual Employee, the benefit provided for in this Rule C3.5 shall not become payable until such Member ceases to be both an Officer and a Casual Employee.

### **C3.6 Lump sum benefits**

**Notification of manner of payment:** A person entitled to receive a lump sum benefit from the Fund under this Division C shall give notice in writing to the Trustee in such form as shall be approved by the Trustee as to such amounts as are required to be:

- (a) paid to the person; or
- (b) transferred to an Approved Benefit Arrangement; or
- (c) transferred in accordance with Rule A10.7 or A24.13(d) to the Account in Division F of the Fund in respect of the person.

### **C3.7 Pensions and Allowances**

- (a) **Pensions payable for life:** A Pension payable to a person under this Division C shall, subject to this Division C, continue to be paid during the life of that person.
- (b) **Fortnightly payments:** Unless otherwise agreed between the Trustee and the Principal Employer, a Pension or Allowance payable under this

Division C shall be payable fortnightly in arrears and the fortnightly amount shall be determined as  $14/365$  of the annual amount of such Pension or Allowance.

- (c) **Dates and manner of payment:** Pensions and Allowances payable under this Division C shall be payable on such dates and in such manner as agreed from time to time between the Principal Employer and the Trustee.
- (d) **Increases in Base Pensions and Base Allowances:** The Base Pension and Base Allowance applicable to any Pension or Allowance payable under this Division C shall, if the latest March Price Index Number exceeds the highest March Price Index Number in any previous year, be increased with effect from and including the first instalment payable in July of each year:
  - (1) by multiplying such Base Pension or Base Allowance by a factor determined by dividing the latest March Price Index Number by the highest previous March Price Index Number; and
  - (2) if the date in respect of which the Pension or Allowance first commenced to be payable occurred during the period of 12 months commencing on the first day of July in the previous year, by further multiplying the amount of the increase determined under Rule C3.7(d)(1) by a factor determined by dividing the number of days from the date in respect of which the Pension or Allowance first commenced to be payable, up to a maximum of 365, by 365.
- (e) **Meaning of “March Price Index Number”:** For the purpose of this Rule C3.7, “March Price Index Number” means the all groups consumer price index number for the weighted average of the 8 capital cities for the March quarter as first officially published and as adjusted, where necessary, to a common reference base.

### **C3.8 Death of Member receiving Pension**

On the death of a Member in receipt of a Pension:

- (a) **no surviving Spouse or Dependant Child:** if, at the date of the Member’s death, there is no surviving Spouse or Dependent Child applicable to that Member, all further benefits under this Division C with respect to that Member shall cease;
- (b) **Spouse but no Dependant Child of Member other than Associated Child of Spouse:** subject to Rule C3.8(d), if at the date of the Member’s death there are 1 or more surviving Spouses applicable to that Member and no Dependent Children, other than Associated Children of 1 or more of the surviving Spouses, then there shall be payable to the Spouse or to such of the Spouses as shall be determined by the Trustee under this Rule C3.8(b), a Pension or Pensions determined as follows:
  - (1) if there is 1 surviving Spouse, the initial Base Pension of the Spouse shall be equal to the Base Pension of the Member immediately before the Member’s death;
  - (2) if there is more than 1 surviving Spouse, the Trustee may apportion the amount of the Base Pension of the Member immediately before

- the Member's death between each such Spouse, having regard to their respective needs and such other matters as it considers relevant including, without limitation, any notice in writing from the Member received by the Trustee before the Member's death as to the manner in which the Member desired such apportionment to be made, in which case the Trustee shall determine the initial Base Pension of each such Spouse such that the sum of the Base Pensions applicable to all such Spouses shall be equal to the Base Pension of the Member immediately before the Member's death;
- (3) that part of the Pension payable to a Spouse during each of the 6 fortnights following the death of the Member shall be the fortnightly equivalents of 100% of the Base Pension applicable to that Spouse; and
  - (4) after the expiration of the 6 fortnights following the death of the Member, the amount of the Pension payable to a Spouse shall be the sum of 67% of the Base Pension applicable to that Spouse and 11% of such Base Pension for each Associated Child of that Spouse, subject to a maximum Pension of 100% of the Base Pension applicable to that Spouse;
- (c) **no Spouse but Dependant Child of Member:** if, at the date of the Member's death, there is no surviving Spouse but there are 1 or more Dependent Children applicable to that Member then:
- (1) an Allowance shall be payable for the benefit of the Child Benefit Group comprising such Dependent Children;
  - (2) the Base Pension applicable to the Member immediately before the Member's death shall become the Base Allowance applicable to such Child Benefit Group;
  - (3) that part of the Allowance payable for the benefit of such Child Benefit Group during each of the 6 fortnights following the death of the Member shall be the fortnightly equivalents of 100% of such Base Allowance; and
  - (4) after the expiration of the 6 fortnights following the death of the Member, the amount of the Allowance payable under this paragraph with respect to such Child Benefit Group shall be determined under Rule C3.10; and
- (d) **Spouse and Dependant Child of Member who is not an Associated Child of Spouse:** if, at the date of the Member's death, there are 1 or more surviving Spouses applicable to that Member (whether or not there are any Associated Children applicable to any such Spouse) and there are also any Dependent Children applicable to that Member who are not Associated Children of any such Spouse, then benefits shall be payable in accordance with the following:
- (1) for the purposes of this Rule C3.8(d):  
**"Additional Pension"** means the annual rate of additional Pension payable under this Rule C3.8(d);

**“Base Additional Pension”** means an amount determined with respect to any such Spouse, from time to time, as the product obtained by multiplying the Base Pension applicable to that Spouse by the quotient obtained by dividing the amount apportioned with respect to that Spouse under Rule C3.8(d)(6)(ii) as the initial amount of that Spouse’s Base Additional Pension by the initial amount of that Spouse’s Base Pension; and

**“Total Additional Amount”** means the product obtained by multiplying:

- (i) 11% of the Member’s Base Pension immediately before the Member’s death; by
- (ii) the number of Dependent Children of the Member immediately before the Member’s death,

subject to a maximum amount of 33% of the Member’s Base Pension immediately before the Member’s death;

- (2) the provisions of Rules C3.8(b)(1) and (2) shall apply in determining the initial Base Pension applicable to any such Spouse;
- (3) a Pension shall be payable to each Spouse in respect of whom a Base Pension has been so determined, the amount of such Pension being, subject to Rules C3.8(d)(4) and (8), 67% of such Spouse’s Base Pension;
- (4) there shall be payable to each Spouse in respect of whom a Pension is payable under Rule C3.8(d)(3), as an addition to such Pension, such amount (if any) of Additional Pension as shall be determined under Rule C3.8(d)(7)(i);
- (5) there shall be payable for the benefit of the Child Benefit Group comprising the Dependent Children who are not Associated Children of any surviving Spouse, if there are no Associated Children of any such Spouse or if part of the Total Additional Amount is apportioned in favour of the Child Benefit Group under Rule C3.8(d)(6)(ii), an Allowance in an amount determined under Rule C3.8(d)(7)(ii);
- (6)
  - (i) if there are no Associated Children of any such Spouse, the initial Base Allowance for the Child Benefit Group shall be the Total Additional Amount; and
  - (ii) if there are 1 or more Associated Children with respect to any such Spouse, the Trustee shall apportion the Total Additional Amount between the Child Benefit Group and such Spouse or Spouses having regard to the respective needs of all of the Dependent Children and such other matters as it considers relevant including, without limitation, any notice in writing from the Member received by the Trustee before the Member’s death as to the manner in which the Member desired such apportionment to be made and:



- (A) the amount so apportioned with respect to the Child Benefit Group will be the initial Base Allowance of the Child Benefit Group; and
  - (B) the amount so apportioned with respect to each such Spouse shall be the initial amount of the Base Additional Pension of that Spouse;
- (7) (i) the amount of any Additional Pension payable under this Rule C3.8(d) to a Spouse shall be determined from time to time as follows:
- (A) if at the date of the Member's death there was only 1 Associated Child applicable to that Spouse, whilst that Associated Child remains a Dependent Child, the amount payable shall be 100% of the Base Additional Pension;
  - (B) if at the date of the Member's death there were 2 Associated Children applicable to that Spouse:
    - (aa) whilst both Associated Children remain Dependent Children, the amount payable shall be 100% of the Base Additional Pension; and
    - (bb) whilst only 1 of those Associated Children remains a Dependent Child, the amount payable shall be 50% of the Base Additional Pension; and
  - (C) if at the date of the Member's death there were 3 or more Associated Children applicable to that Spouse:
    - (aa) whilst 3 or more of such Associated Children remain Dependent Children, the amount payable shall be 100% of the Base Additional Pension;
    - (bb) whilst only 2 of such Associated Children remain Dependent Children, the amount payable shall be 67% of the Base Additional Pension; and
    - (cc) whilst only 1 of those Associated Children remains a Dependent Child, the amount payable shall be 33% of the Base Additional Pension;
- (ii) the amount of any Allowance payable under this Rule C3.8(d) for the benefit of the Child Benefit Group shall be determined from time to time in the same manner as specified in Rule C3.8(d)(7)(i) for determining the amount of the Additional Pension payable to a Spouse but with any references in that Rule to Associated Children being construed as referring to members of the Child Benefit Group, any references therein to the Base Additional

Pension with respect to a Spouse being construed as referring to the Base Allowance applicable to the Child Benefit Group and the reference to the amount of any Additional Pension payable to a Spouse being construed as referring to the amount of any Allowance payable to the Child Benefit Group;

- (8) if during the 6 fortnights following the death of the Member, the operation of the preceding provisions of this Rule C3.8(d) results in the sum of all Pensions and any Allowance payable under this Rule C3.8(d) determined as at a time immediately following the death of the Member being less than 100% of the Base Pension applicable to the Member immediately before the Member's death, the difference shall be allocated by the Trustee between the Spouse or Spouses of the Member and the Child Benefit Group in such proportions as the Trustee determines having regard to their respective needs and such other matters as it considers relevant including, without limitation, any notice in writing from the Member received by the Trustee before the Member's death as to the manner in which the Member desired such allocation to be made, and the amounts so apportioned shall be payable accordingly during those 6 fortnights; and
- (9) notwithstanding anything contained herein, the sum of all the Pensions and the Allowance payable under this Rule C3.8(d) shall not at any time exceed the Base Pension which would have applied to the Member had the Member continued in receipt of Pension.

Any Allowance payable with respect to a Child Benefit Group under this Rule C3.8 shall, subject to this Rule, be paid as provided for under Rule C3.10.

### **C3.9 Death of Spouse receiving Pension**

On the death of a Spouse while in receipt of a Pension:

- (a) **no Associated Child of Spouse:** if, at the date of the Spouse's death, there is no Associated Child applicable to that Spouse, all further benefits under this Division C applicable to that Spouse shall cease; and
- (b) **Associated Child of Spouse:** if, at the date of the Spouse's death, there are 1 or more Associated Children applicable to that Spouse then:
  - (1) an Allowance shall be payable for the benefit of the Child Benefit Group comprising those Associated Children;
  - (2) the initial Base Allowance applicable to that Child Benefit Group shall be:
    - (i) in any case other than where the circumstances specified in Rule C3.8(d) applied to the determination of the Pension payable to the deceased Spouse, the Base Pension applicable to that Spouse immediately before the Spouse's death; and
    - (ii) in any case where the circumstances specified in Rule C3.8(d) applied to the determination of the Pension payable to the deceased Spouse, the total amount of the Pension,

including any Additional Pension (as defined for the purposes of that Rule) payable to such Spouse immediately before the Spouse's death;

- (3) the Allowance payable during the 6 fortnights following the death of the Spouse shall be 100% of the Base Allowance applicable to the Child Benefit Group; and
- (4) after the expiration of 6 fortnights following the death of the Spouse, the amount of the Allowance payable under this Rule C3.9 with respect to that Child Benefit Group shall be determined under Rule C3.10.

The Allowance payable with respect to a Child Benefit Group under this Rule C3.9 shall, subject to this Rule, be paid as provided for under Rule C3.10.

### **C3.10 Allowances for Children**

- (a) **Amount of Allowances to Child Benefit Groups:** The amount of any Allowance payable under this Division C with respect to a Child Benefit Group shall, except in the case of the Allowance payable under Rule C3.8(d)(5), be determined as follows:
  - (1) whilst there are 4 or more Dependent Children comprised in that Child Benefit Group, 100% of the Base Allowance applicable to that Child Benefit Group;
  - (2) whilst there are 3 Dependent Children comprised in that Child Benefit Group, 90% of the Base Allowance applicable to that Child Benefit Group;
  - (3) whilst there are 2 Dependent Children comprised in that Child Benefit Group, 80% of the Base Allowance applicable to that Child Benefit Group; and
  - (4) whilst there is 1 Dependent Child comprised in that Child Benefit Group, 45% of the Base Allowance applicable to that Child Benefit Group.
- (b) **Manner of payment of Allowances:** Any Allowance payable under this Division C with respect to a Child Benefit Group shall be payable to a Guardian or Guardians of the Dependent Child or Dependent Children comprised in such Child Benefit Group or to any such Dependent Child as has attained the age of 18 years and, if payable to more than 1 person, shall be paid in such proportions as the Trustee determines from time to time having regard to the respective needs of the Dependent Children comprised in such Child Benefit Group and such other matters as the Trustee considers relevant including, without limitation, any notice in writing from the Member or Spouse, as the case may be, received by the Trustee before the death of that Member or Spouse as to the manner in which the Member or Spouse desired such allocation to be made.
- (c) **Cessation of Allowances:** Any Allowance payable under this Division C with respect to a Child Benefit Group shall cease upon there ceasing to be any Dependent Child or Dependent Children in the Child Benefit Group in respect of which such Allowance is payable.

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## Part C4 Miscellaneous

### C4.1 Reduced Benefits Members

- (a) **Classification as “Reduced Benefits Member”:** The Principal Employer may, not later than 3 years after a Member last became a Full Member, determine that the Member shall be a Reduced Benefits Member for the purposes of this Division C.
- (b) **Provision of information by Members:** A Full Member or a Basic Member proposing to become a Full Member shall, if the Principal Employer so determines, provide such information concerning the Member and undergo such medical examination or medical examinations or test or tests as the Principal Employer determines, at any time and from time to time before the Member becomes a Full Member or within a period of 3 years after the Member last became a Full Member.
- (c) **Failure to provide information or provision of false or misleading information:**
  - (1) The Principal Employer may, at any time including after the death of a Member or after the Trustee has made a determination with respect to the Member under Rule C3.4(a), determine that a person was a Reduced Benefits Member with effect from the time that person last became a Full Member, if the Principal Employer forms the opinion:
    - (i) that the person failed to give information that he or she was required to give, or gave false or misleading information, about that person or in connection with a medical examination or test that he or she was required to undergo for the purposes of this Rule C4.1 or rule 10 of the Former VS Rules; and
    - (ii) that, had the person not failed to give that information or not given that false or misleading information, the Principal Employer would have made a determination under Rule C4.1(a), or the Managing Director would have made a determination under sub-rule 10(1) of the Former VS Rules, as the case may be, with respect to that person within the time specified in the relevant provision.
  - (2) If:
    - (i) the Principal Employer makes a determination with respect to a person in accordance with Rule C4.1(c)(1);
    - (ii) benefits have been paid to or with respect to that person pursuant to Rules C3.3 or C3.4 or an equivalent provision under the Former VS Rules; and
    - (iii) the Principal Employer determines that the person died or became Totally and Permanently Incapacitated, as the case may be, for reasons connected, in the opinion of the Principal Employer, with a health disability that existed before the person last became a Full Member,

the benefit entitlement of, or in respect of, the person shall be adjusted accordingly and the person, or any other person to whom benefits in respect of that person have been paid shall, if the Principal Employer so determines and in such amount as the Principal Employer determines, repay to the Fund any amount or part thereof as so determined paid in excess of the adjusted entitlement.

- (d) **When relevant determinations cease to apply:** A determination made under Rule C4.1(a) or Rule C4.1(c)(1) or a corresponding provision of the Former VS Rules shall cease to apply in relation to a Member at the earliest of the following times:
- (1) in the case of an Old Scheme Transferred Member, the expiration of 10 years since the Member last became an “OS member” under the Former Rules;
  - (2) the expiration of 10 years since the Member last became a Full Member; and
  - (3) such date as shall be determined by the Principal Employer after considering an application made by a Reduced Benefits Member under Rule C4.1(e) and the results of any medical examination or medical examinations and of any test or tests undergone by the Member and such other matters as the Principal Employer considers appropriate.
- (e) **Application to have relevant determination removed:** A Reduced Benefits Member may apply to the Principal Employer, in such form as shall be approved by the Principal Employer, to have a determination made under Rules C4.1(a) or C4.1(c)(1) removed before the date on which the determination would otherwise cease to apply and shall upon such application being made provide such information concerning the Member and undergo such medical examination or medical examinations and test or tests as the Principal Employer determines, any such examination or test being at the cost of such Member.
- (f) **Interpretation:** The terms of this Rule C4.1 shall not be taken to limit in any way the operation of Rule C1.3.

#### **C4.2 Preserved Benefits**

Subject to Rule C3.2(f) and Rule C3.5(d), a Member’s benefits under this Division C shall be Preserved Benefits except for:

- (a) the Member’s Accrued Member Benefit;
- (b) in the case of an Old Scheme Transferred Member, the Member’s Member Transfer Value together with Compound Interest thereon; and
- (c) that part of any benefit arising from a transfer to the Fund under Rule C2.9 that would not otherwise be Preserved Benefits.

#### **C4.3 Member defalcation**

- (a) **Condition precedent to Full Member’s right to benefits:**

- (1) With respect to the benefits applicable to a Full Member under this Division C (or arising by operation of Rule A17), it is a condition precedent to the entitlement of the Member or of any other person to any amount of such benefit in excess of the greater of:
  - (i) the amount determined by adding together the following:
    - (A) the Member's or deceased Member's Accrued Member Benefit at the date the Member dies or otherwise ceases to be an Officer;
    - (B) if, at the date the Member dies or otherwise ceases to be an Officer, not less than 3 months has elapsed since the Member last became an Officer, the Member's Accrued Basic Benefit;
    - (C) the Member's Accrued Transfer Amount at the date the Member dies or otherwise ceases to be an Officer, after deducting in the case of an Old Scheme Transferred Member that Member's Corporation Transfer Value and, where that Member's Interim Benefit Transfer Value included a PTE Interim Benefit, that Member's PTE Interim Benefit; and
    - (D) if, at the date the Member dies or otherwise ceases to be an Officer, not less than 3 months has elapsed since the Member last became an Officer, that Member's PTE Interim Benefit, if any,and then subtracting the amount of the Surcharge Aggregate (if any) applicable to that Member, from the sum of (A), (B), (C) and (D); and
  - (ii) the minimum benefit that must be paid in order to satisfy the SIS Act,that the Member not have committed at any time any act of defalcation while engaged in the employment of the Principal Employer or an Associated Employer or a person which was at the time of the employment (but subsequently ceased to be) an Associated Employer or in the Commonwealth Banks Service (or, before the Staff Transfer Time, in the employment of the Corporation or in the Commonwealth Banking Corporation Service), whether or not the Member shall have been found guilty of such defalcation in any court and whether or not the Member shall have been dismissed from employment by reason of such defalcation.
- (2) Notwithstanding the terms of Rule C4.3(a)(1), the Principal Employer may determine that a benefit greater than that provided for under Rule C4.3(a)(1) shall be payable.
- (3) If it is ascertained after the payment or the commencement of payment of any benefit to or with respect to any Full Member or deceased Full Member that the condition precedent referred to in

Rule C4.3(a)(1) has not been satisfied, then subject to any determination under Rule C4.3(a)(2), the Member, or any other person to whom benefits in respect of that Member have been paid, shall repay to the Fund the amount, as determined by the Principal Employer with the consent of the Trustee, paid in excess of the entitlement of the Member or other person, and if any benefit has commenced to be paid by way of Pension or Allowance, the amount of the Pension or Allowance shall be adjusted to reflect the amount of the Pension or Allowance payable by virtue of the terms of Rule C4.3(a)(1).

(b) **Further restriction on benefit entitlement:**

- (1) Except for any minimum benefit that must be paid in order to satisfy the SIS Act, the right to payment of any benefit arising under this Division C (or Rule A17) for or in respect of a Basic Member or (subject to Rule C4.3(a)) a Full Member shall, at the discretion of the Principal Employer, be forfeited:
  - (i) in the event of the Member's dismissal from employment with the Employer or the Commonwealth Banks Service (or the Commonwealth Banking Corporation Service before the Staff Transfer Time) by reason of defalcation; or
  - (ii) upon ascertainment of the fact that while engaged in the employment of the Principal Employer or an Associated Employer or a person which was at the time of the employment (but subsequently ceased to be) an Associated Employer or in the Commonwealth Banks Service (or, before the Staff Transfer Time, in the employment of the Corporation or in the Commonwealth Banking Corporation Service) the Member committed any defalcation whether or not the Member shall have been found guilty of such defalcation in any court.
- (2) If it is ascertained after the payment or the commencement of payment of any benefit as provided for in Rule C4.3(b)(1) to or with respect to any Member or deceased Member that while engaged in the employment of the Principal Employer or an Associated Employer or a person which was at the time of the employment (but subsequently ceased to be) an Associated Employer or in the Commonwealth Banks Service (or, before the Staff Transfer Time, in the employment of the Corporation or in the Commonwealth Banking Corporation Service) the Member committed any defalcation, and the Principal Employer determines that all or any part of the benefits already paid are to be forfeited, the Member, or any other person to whom benefits in respect of that Member have been paid, shall repay to the Fund the amount so forfeited.

- (c) **Benefits payable by way of lump sum:** Benefits payable to or with respect to a Member in the circumstances provided for under this Rule C4.3 shall be payable by way of lump sum only, except in the case of any Pension which had commenced to be paid or any Allowance, whether or

not such Allowance had commenced to be paid, and on payment in full of the amount of any such lump sum benefit to a Member, the Member shall thereupon cease to be a Member.

(d) **Interpretation and transitional:**

- (1) Subject to Rule A10.3, nothing contained in this Deed shall:
  - (i) revive any right to benefits forfeited under sub-rule 25(1) of the Former VS Rules before the Amendment Date; or
  - (ii) except as provided for in Rule C4.3(d)(2)(ii), have the effect of increasing benefits applicable to a person under the Former VS Rules where sub-rule 25(2) of the Former VS Rules had operated to limit the amount of those benefits upon a person dying or otherwise ceasing to be an Officer before the Amendment Date.
- (2) It is confirmed for the purposes of clarity that:
  - (i) in a case where sub-rule 25(1) of the Former VS Rules applied with respect to a Member who died or otherwise ceased to be an Officer before the Amendment Date but where no decision had been made under that sub-rule before the Amendment Date as to whether or not to forfeit all or any part of the benefits, the decision as to whether or not to forfeit the corresponding benefits payable under this Deed shall be made as provided for in Rule C4.3(b) by the Principal Employer; and
  - (ii) in a case where sub-rule 25(2) of the Former VS Rules applied before the Amendment Date to limit the amount of benefits with respect to a Member who died or otherwise ceased to be an Officer before the Amendment Date, but where no determination had been made under that sub-rule before the Amendment Date as to whether or not to increase the benefits, the Principal Employer may determine as provided for in Rule C4.3(a) that there be payable under this Deed a benefit additional to that provided for under sub-rule 25(2).

#### **C4.4 Election on behalf of deceased person**

Where a deceased person was eligible immediately before the death of that person to make a declaration or an election by virtue of this Division C, that declaration or election may be made, within a period determined by the Trustee, by a surviving Spouse of that person or, if there is no surviving Spouse of that person, by such person as the Trustee determines, and shall have effect for the purposes of this Division C, as if it had been made by the deceased person. This Rule C4.4 does not apply to a notice under Rule C3.6 to transfer a lump sum benefit to Division F of the Fund.

#### **C4.5 Assignment, etc**

- (a) **Assignment, alienation and charge not permitted:** A benefit under this Division C is not capable of assignment, alienation or charge and the



Trustee shall not recognise or in any way give effect to any purported assignment, alienation or charge of a benefit.

- (b) **Pensions and allowances:** Without limiting the generality of paragraph (a) of this Rule C4.5, a Pension or Allowance payable under this Division C is not able to be transferred to any person (other than a reversionary beneficiary if such reversion is otherwise permitted under this Division) and cannot be used as security for any borrowing.

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## **Part C5 Transfer of Members from Division C to Division F**

### **C5.1 Transfer of Members from Division C to Division F**

If an Eligible Division C Transferring Member makes a Division F Transfer Election and, at the end of the day before the Division F Transfer Date referable to that Eligible Division C Transferring Member, both that Division F Transfer Election continues to be in effect in accordance with these Rules and with requirements determined by the Principal Employer, with the consent of the Trustee, and that Member has not ceased to be an Eligible Division C Transferring Member, then:

- (a) with effect at the end of the day before the Division F Transfer Date applicable to that Eligible Division C Transferring Member:
  - (1) the Eligible Division C Transferring Member ceases to be a Member under this Division C; and
  - (2) the Eligible Division C Transferring Member ceases to have any right to benefits provided for under this Division C; and
- (b) as provided for in Division F, from the start of the Division F Transfer Date applicable to that Eligible Division C Transferring Member, he or she becomes:
  - (1) if not already a “Member” under Division F, a “Member” under that Division as a “Transferred Ordinary Member” or a “Transferred Post-Employment Member” as the case may be, each as defined in Rule F1.2; or
  - (2) if already a “Member” under Division F, a “Transferred Ordinary Member” or a “Transferred Post-Employment Member” as the case may be, each as defined in Rule F1.2.

### **C5.2 Unpaid Contributions on transfer to Division F**

If an Eligible Division C Transferring Member ceases to be a Member as provided for in Rule C5.1 and any contributions remain outstanding under this Division with respect to that former Member for the period up to that former Member’s Division F Transfer Date, the former Member shall continue to be liable to pay those contributions under this Division C.

### **C5.3 Death of Eligible Division C Transferring Member**

A Division F Transfer Election made by an Eligible Division C Transferring Member ceases to have any effect on the death of that Eligible Division C

Transferring Member prior to the Division F Transfer Date referable to that Eligible Division C Transferring Member.

## Schedule I of Division C

### Fortnightly Accrual Factors

Contribution Rate (% of Salary)	Fortnightly Accrual Factor
0	.00383562
1	.00452603
2	.00521644
3	.00590685
4	.00659726
5	.00728767
6	.00797808
7	.00866849
8	.00935890
9	.01004932
10	.01073973

## Schedule II of Division C

### Factors for conversions between lump sums and Pensions

Age in Years	Conversion Factor
up to 55	15.5
55	15.5
56	15.2
57	14.9
58	14.6
59	14.3
60	14.0
61	13.7
62	13.4
63	13.1
64	12.8
65	12.5

**Complete months between ages shown:** The conversion factors are reduced by .025 for each completed month of age between the ages shown above.

**Conversion from lump sum to Pension:** Conversion to a Pension is made by dividing the lump sum foregone by the conversion factor applicable to the relevant age.

## Schedule III of Division C

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### Paragraph (e) of definition of Final Average Salary

For the purposes of paragraph (e)(1) of the definition of Final Average Salary in Rule C1.2, that part of the total Salary as relates to any part of the period in respect of which Final Average Salary is being calculated, as occurred before the end of the last Salary Fortnight in June 1990, shall be the sum of each amount of Salary, determined in respect of each Salary Fortnight occurring during such part of that period as follows:

- (a) in a case where the Member last became an Officer after the end of the last Salary Fortnight in June 1989, the Salary in respect of each Salary Fortnight or part thereof during the period commencing on the date the Member last became an Officer and ending at the end of the last Salary Fortnight in June 1990 shall be determined by application of the formula:

$$\frac{Sa}{26} \times \frac{d}{14} \quad ;$$

- (b) in a case where the Member last became an Officer after the end of the last Salary Fortnight in June 1988 and not later than the end of the last Salary Fortnight in June 1989:

- (1) the Salary in respect of each Salary Fortnight or part thereof during the period commencing on the date the Member last became an Officer and ending at the end of the last Salary Fortnight in June 1989 shall be determined by application of the formula:

$$\frac{Sb}{26} \times \frac{d}{14} \quad ; \text{ and}$$

- (2) the Salary in respect of each complete Salary Fortnight occurring after the end of the last Salary Fortnight in June 1989 up to and including the end of the last Salary Fortnight in June 1990 shall be determined by application of the formula:

$$\frac{Sb+Sa}{26} \times \frac{1}{2} \quad ;$$

- (c) in a case where the Member last became an Officer after the end of the last Salary Fortnight in June 1987 and not later than the end of the last Salary Fortnight in June 1988:

- (1) the Salary in respect of each Salary Fortnight or part thereof during the period commencing on the date the Member last became an Officer and ending at the end of the last Salary Fortnight in June 1988, shall be determined by application of the formula:

$$\frac{Sc}{26} \times \frac{d}{14} \quad ;$$

- (2) the Salary in respect of each complete Salary Fortnight occurring after the end of the last Salary Fortnight in June 1988 up to and including the end of the last Salary Fortnight in June 1989 shall be determined by application of the formula:

$$\frac{Sc+Sb}{26} \times \frac{1}{2} ; \text{ and}$$

### Schedule III of Division C

#### Paragraph (e) of definition of Final Average Salary (continued)

- (3) the Salary in respect of each complete Salary Fortnight occurring after the end of the last Salary Fortnight in June 1989 up to and including the end of the last Salary Fortnight in June 1990 shall be determined by application of the formula:

$$\frac{Sb+Sa}{26} \times \frac{1}{2}; \text{ and}$$

- (d) in a case where the Member last became an Officer before the end of the last Salary Fortnight in June 1987:

- (1) the Salary in respect of each complete Salary Fortnight up to the end of June 1988 shall be determined by application of the formula:

$$\frac{Sd+Sc}{26} \times \frac{1}{2};$$

- (2) the Salary in respect of each complete Salary Fortnight occurring after the end of the last Salary Fortnight in June 1988 up to and including the end of the last Salary Fortnight in June 1989 shall be determined by application of the formula:

$$\frac{Sc+Sb}{26} \times \frac{1}{2}; \text{ and}$$

- (3) the Salary in respect of each complete Salary Fortnight occurring after the end of the last Salary Fortnight in June 1989 up to and including the end of the last Salary Fortnight in June 1990 shall be determined by application of the formula:

$$\frac{Sb+Sa}{26} \times \frac{1}{2},$$

**where:**

“*Sa*”, “*Sb*”, “*Sc*” and “*Sd*” each refers to the Member’s Salary expressed as an annual amount as at the last Salary payment date of the Corporation in June of 1990, 1989, 1988 and 1987 respectively; and

“*d*” is the number of days during which the relevant person was an Officer in the relevant Salary Fortnight or part thereof.

## Schedule IV of Division C

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### [Rule C1.6(c)]

#### IV.1 Definitions

For the purposes of this Schedule:

“**backdating period**” means, with respect to a Schedule IV Member (as hereinafter defined), the total number of days during which the Schedule IV Member was a Part Time Employee during the period commencing on and including the later of:

- (a) 1 January 1983; and
- (b) the earlier of:
  - (1) the date on which the Schedule IV Member last became an Officer before 19 April 1989; and
  - (2) if the Schedule IV Member was an Officer during more than 1 period before 19 April 1989, the date of the commencement of the most recent of such periods as followed immediately after a period of more than 1 calendar month during which the Schedule IV Member was not an Officer,

and ending on and including 18 April 1989, or such lesser number of days as the Managing Director determined in imposing a condition or conditions pursuant to rule IV.5 of schedule IV to the Former VS Rules;

“**d**” is the total number of days in a Schedule IV Member’s backdating period;

“**f**” is:

- (a) if a Schedule IV Member has remained a Part Time Employee at all times since 19 April 1989, that Schedule IV Member’s Part Time Accrual Adjustment Factor for the last complete Salary Fortnight in June 1990; and
- (b) in any other case, a factor obtained by dividing the average number of hours worked per week by that Schedule IV Member during such Salary Fortnight as was determined in accordance with the corresponding provision of schedule IV to the Former VS Rules; and

“**Schedule IV Member**” means a Member in respect of whom this Division C includes this Schedule.

#### IV.2 Additional rights of Schedule IV Member

The following provisions shall apply with respect to each Schedule IV Member:

- (a) for the purpose of determining the Vesting Factor applicable to that Schedule IV Member during the period until the Schedule IV Member next ceases to be a Member, the membership period of that Schedule IV Member shall be deemed to be longer by the length of the backdating period;
- (b) each payment by that Schedule IV Member under schedule IV of the Former VS Rules (other than any interest required to be paid in satisfaction of a condition or conditions under rule IV.5 of that schedule) together with Compound Interest thereon, shall be included as part of that Schedule IV Member’s Accrued Transfer

**Schedule IV of Division C**

**[Rule C1.6(c)] (continued)**

Amount at any time during the period until the Schedule IV Member next ceases to be a Member;

- (c) the amount determined by application of the formula:

$$\frac{d}{365} \times .0875 \times f$$

shall be included as part of that Schedule IV Member's Additional Multiple at any time during the period until the Schedule IV Member next ceases to be a Member; and

- (d) each reference in Rules C2.4(d) and (e) to 10 years shall, in the case of such Schedule IV Member, be replaced by reference to a period determined by subtracting that Schedule IV Member's backdating period from 10 years.



## Schedule V of Division C

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### Transitional provisions

#### V.1 Amendments to definitions of "Dependent Child" and "Spouse" since 1 July 1994 do not apply to deaths occurring before that date.

When determining benefits payable in the case of any Member who died before 1 July 1994, the following definitions of "Dependent Child" and "Spouse" shall apply in lieu of the definitions of "Dependent Child" and "Spouse" contained in Rule C1.2:

**"Dependent Child"** means a child, step-child, legally adopted child, foster child, ward or ex-nuptial child of a Member, but does not include:

- (a) a child or step-child of a marriage contracted by a Member when the Member was a Pensioner aged over 60 years unless:
  - (1) the marriage took place not less than 5 years before the Member's death; or
  - (2) the marriage took place less than 5 years before the Member's death but:
    - (i) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced while the Member was a Pensioner and not later than 5 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis;
    - (ii) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner and not later than 3 years before the Member's death, lived with the Member as a Member's husband or wife on a permanent and bona fide domestic basis; or
    - (iii) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner but later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and the Trustee determines that such other party was, substantially dependent on the Member at the time of the Member's death;
- (b) a person who became the legally adopted child, foster child or ward of a Member when the Member was a Pensioner aged over 60 years unless the person became the adopted child, foster child or ward of the Member not less than 5 years before the Member's death;
- (c) a person who is an ex-nuptial child of a Member and who was born when the Member was a Pensioner aged over 60 years unless the person is the child of the Member and another person with whom the Member had lived on a permanent and bona fide domestic basis for:
  - (1) except in the case where paragraph (2) applies - a continuous period of not less than 3 years immediately before the Member's death or, if the Trustee determines that the person was substantially dependant on the Member at

## Schedule V of Division C

### Transitional provisions (continued)

the time of the Member's death, any continuous period of less than 3 years immediately before the Member's death; or

- (2) a continuous period of not less than 5 years immediately before the Member's death where the Member had commenced so living with the other person when he was a Pensioner aged over 60 years;
- (d) a person who, the Trustee determines, was not dependent on the Member at the date of the Member's death;
- (e) a person who has attained the age of 16 years and is not receiving full-time education at a school college or university; or
- (f) a person who has attained the age of 25 years.

**“Spouse”** in relation to a Member who has died means:

- (a) a person who was legally married to the deceased Member at the time of the Member's death and who, at that time:
  - (1) was living with the Member on a permanent and bona fide domestic basis; or
  - (2) was not living with the Member on a permanent and bona fide domestic basis but who the Trustee determines was substantially dependent on the deceased Member at that time;
- (b) a person who was not legally married to the deceased Member at the time of the Member's death but who:
  - (1) for a continuous period of not less than 3 years immediately before the Member's death, had lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; or
  - (2) for a continuous period of less than 3 years immediately before the Member's death, had lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and who the Trustee determines was substantially dependent on the deceased Member at the time of the Member's death;

but does not include:

- (c) a person who legally married the deceased Member when the Member was a Pensioner aged over 60 years unless:
  - (1) the marriage took place not less than 5 years before the Member's death; or
  - (2) the marriage took place less than 5 years before the Member's death but:
    - (i) the person had, immediately before the marriage, for a continuous period that commenced while the Member was a Pensioner and not later than 5 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis;

## Schedule V of Division C

### Transitional provisions (continued)

- (ii) the person had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner and not later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; or
- (iii) the person had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner but later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and the Trustee determines that such person was substantially dependant on the Member at the time of the Member's death; or
- (d) a person who was not legally married to the deceased Member at the time of the Member's death if the person commenced living with the Member as the Member's husband or wife on a permanent and bona fide domestic basis when the Member was a Pensioner aged over 60 years unless the person had so lived with the Member for a continuous period of not less than 5 years immediately before the Member's death,

provided that, where there are two or more persons who would otherwise qualify by virtue of sub-paragraphs (a)(1) or (b)(1) of this definition as Spouses in relation to a Member who has died and who were not substantially dependent on that Member, only one such person, as determined in the absolute discretion of the Trustee, shall be a Spouse in relation to that Member for the purposes of this Division C.

### V.2 Amendments to definitions of "Dependent Child" and "Spouse" since 18 February 2005 do not apply to deaths occurring before that date.

When determining benefits payable in the case of any member who died on or after 1 July 1994 but before 18 February 2005, the following definitions of "Dependent Child" and "Spouse" shall apply in lieu of the definitions of "Dependent Child" and "Spouse" contained in Rule C1.2:

**"Dependent Child"** means a child, step-child, legally adopted child, foster child, ward or ex-nuptial child of a Member, but does not include:

- (a) in the case of a person who was a Member on 1 July 1994 but in respect of whom benefits had not become payable as at that date, a person who first became the child, step-child, legally adopted child, foster child, ward or ex-nuptial child of the Member when the Member was a Pensioner aged over 60 years unless the person became the child, step-child, legally adopted child, foster child, ward or ex-nuptial child of the Member not less than 3 years before the Member's death;
- (b) in a case where the circumstances set out in paragraph (a) of this definition do not apply, a child or step-child of a marriage contracted by the Member when the Member was a Pensioner aged over 60 years unless:
  - (1) the marriage took place not less than 5 years before the Member's death; or
  - (2) the marriage took place less than 5 years before the Member's death but:

## Schedule V of Division C

### Transitional provisions (continued)

- (i) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced while the Member was a Pensioner and not later than 5 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis;
  - (ii) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner and not later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; or
  - (iii) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner but later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and the Trustee determines that such other party was substantially dependent on the Member at the time of the Member's death;
- (c) in a case where the circumstances set out in paragraph (a) of this definition do not apply, a person who became the legally adopted child, foster child or ward of the Member when the Member was a Pensioner aged over 60 years unless the person became the adopted child, foster child or ward of the Member not less than 5 years before the Member's death;
- (d) in a case where the circumstances set out in paragraph (a) of this definition do not apply, a person who is an ex-nuptial child of the Member and who was born when the Member was a Pensioner aged over 60 years unless the person is the child of the Member and another person with whom the Member had lived on a permanent and bona fide domestic basis for:
  - (1) except in a case where paragraph (2) applies, a continuous period of not less than 3 years immediately before the Member's death or, if the Trustee determines that the person was substantially dependent on the Member at the time of the Member's death, any continuous period of less than 3 years immediately before the Member's death; or
  - (2) a continuous period of not less than 5 years immediately before the Member's death where the Member had commenced so living with the other person when he was a Pensioner aged over 60 years;
- (e) a person who the Trustee determines was not dependent on the Member at the date of the Member's death;
- (f) a person who has attained the age of 16 years and is not receiving full-time education at a school, college or university; or
- (g) a person who has attained the age of 25 years.

## Schedule V of Division C

### Transitional provisions (continued)

“Spouse” in relation to a Member who has died means:

(a) in the case of a person who was a Member on 1 July 1994 but in respect of whom benefits had not become payable as at that date, a person who was legally married to or was a De Facto Spouse of the deceased Member at the time of the Member’s death and who, at that time:

- (1) was living with the Member on a bona fide domestic basis; or
- (2) was not living with the Member on a bona fide domestic basis but who the Trustee determines was substantially dependent on the deceased Member at that time;

but does not include a person who legally married the deceased Member or became a De Facto Spouse of the deceased Member when the Member was a Pensioner aged over 60 years unless:

- (3) the marriage took place or the person became the De Facto Spouse not less than 5 years before the Member’s death; or
- (4) the marriage took place or the person became the De Facto Spouse less than 5 years before the Member’s death but:
  - (i) the person had, for a continuous period that commenced before the Member became a Pensioner and not less than 3 years immediately before the Member’s death, lived with the Member as the Member’s husband or wife on a bona fide domestic basis; or
  - (ii) the person had, for a continuous period that commenced before the Member became a Pensioner but less than 3 years immediately before the Member’s death, lived with the Member as the Member’s husband or wife on a bona fide domestic basis and who the Trustee determines was substantially dependent on the deceased Member at that time; and

(b) in any other case:

- (1) a person who was legally married to the deceased Member at the time of the Member’s death and who, at that time:
  - (i) was living with the Member on a permanent and bona fide domestic basis; or
  - (ii) was not living with the Member on a permanent and bona fide domestic basis but who the Trustee determines was substantially dependent on the deceased Member at that time;
- (2) a person who was not legally married to the deceased Member at the time of the Member’s death but who:
  - (i) for a continuous period of not less than 3 years immediately before the Member’s death, had lived with the Member as the Member’s husband or wife on a permanent and bona fide domestic basis; or

## Schedule V of Division C

### Transitional provisions (continued)

- (ii) for a continuous period of less than 3 years immediately before the Member's death, had lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and who the Trustee determines was substantially dependent on the deceased Member at the time of the Member's death;

but does not include:

- (3) a person who legally married the deceased Member when the Member was a Pensioner aged over 60 years unless:
  - (i) the marriage took place not less than 5 years before the Member's death; or
  - (ii) the marriage took place less than 5 years before the Member's death but:
    - (A) the person had, immediately before the marriage, for a continuous period that commenced while the Member was a Pensioner and not later than 5 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis;
    - (B) the person had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner and not later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; or
    - (C) the person had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner but later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and the Trustee determines that such person was substantially dependent on the Member at the time of the Member's death; or
- (4) a person who was not legally married to the deceased Member at the time of the Member's death if the person commenced living with the Member as the Member's husband or wife on a permanent and bona fide domestic basis when the Member was a Pensioner aged over 60 years unless the person had so lived with the Member for a continuous period of not less than 5 years immediately before the Member's death,

provided that, where there are 2 or more persons who would otherwise qualify, by virtue of paragraphs (a)(1), (b)(1)(i) or (b)(2)(i) of this definition, as Spouses in relation to a Member who has died, and who were not substantially dependent on that Member, only 1 such person, as determined by the Trustee, shall be a Spouse in relation to that Member for the purposes of this Division C.

## Schedule V of Division C

### Transitional provisions (continued)

#### V.3 Amendments to definitions of “Dependent Child” and “Spouse” since 1 July 2008 do not apply to deaths occurring before that date

When determining benefits payable in the case of any Member who died on or after 18 February 2005 but before 1 July 2008, the following definitions of “Dependent Child” and “Spouse” shall apply in lieu of the definitions of “Dependent Child” and “Spouse” contained in Rule C1.2 :

**“Dependent Child”** means a child, step-child, legally adopted child, foster child, ward or ex-nuptial child of a Member, but does not include:

- (a) in the case of a person who was a Member on 1 July 1994 but in respect of whom benefits had not become payable as at that date, a person who first became the child, step-child, legally adopted child, foster child, ward or ex-nuptial child of the Member when the Member was a Pensioner aged over 60 years unless the person became the child, step-child, legally adopted child, foster child, ward or ex-nuptial child of the Member not less than 3 years before the Member’s death;
- (b) in a case where the circumstances set out in paragraph (a) of this definition do not apply, a child or step-child of a marriage contracted by the Member when the Member was a Pensioner aged over 60 years unless:
  - (1) the marriage took place not less than 3 years before the Member’s death; or
  - (2) the marriage took place less than 3 years before the Member’s death but:
    - (i) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced while the Member was a Pensioner and not later than 3 years before the Member’s death, lived with the Member as the Member’s husband or wife on a permanent and bona fide domestic basis;
    - (ii) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner and not later than 3 years before the Member’s death, lived with the Member as the Member’s husband or wife on a permanent and bona fide domestic basis; or
    - (iii) the other party to the marriage had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner but later than 3 years before the Member’s death, lived with the Member as the Member’s husband or wife on a permanent and bona fide domestic basis and the Trustee determines that such other party was substantially dependent on the Member at the time of the Member’s death;
- (c) in a case where the circumstances set out in paragraph (a) of this definition do not apply, a person who became the legally adopted child, foster child or ward of the Member when the Member was a Pensioner aged over 60 years unless the person became the adopted child, foster child or ward of the Member not less than 3 years before the Member’s death;

## Schedule V of Division C

### Transitional provisions (continued)

- (d) in a case where the circumstances set out in paragraph (a) of this definition do not apply, a person who is an ex-nuptial child of the Member and who was born when the Member was a Pensioner aged over 60 years unless the person is the child of the Member and another person with whom the Member had lived on a permanent and bona fide domestic basis for:
  - (1) except in a case where paragraph (2) applies, a continuous period of not less than 3 years immediately before the Member's death or, if the Trustee determines that the person was substantially dependent on the Member at the time of the Member's death, any continuous period of less than 3 years immediately before the Member's death; or
  - (2) a continuous period of not less than 3 years immediately before the Member's death where the Member had commenced so living with the other person when he was a Pensioner aged over 60 years;
- (e) a person who the Trustee determines was not dependent on the Member at the date of the Member's death;
- (f) a person who has attained the age of 16 years and is not receiving full-time education at a school, college or university; or
- (g) a person who has attained the age of 25 years.

**“Spouse”** in relation to a Member who has died means:

- (a) in the case of a person who was a Member on 1 July 1994 but in respect of whom benefits had not become payable as at that date, a person who was legally married to or was a De Facto Spouse of the deceased Member at the time of the Member's death and who, at that time:
  - (1) was living with the Member on a bona fide domestic basis; or
  - (2) was not living with the Member on a bona fide domestic basis but who the Trustee determines was substantially dependent on the deceased Member at that time;

but does not include a person who legally married the deceased Member or became a De Facto Spouse of the deceased Member when the Member was a Pensioner aged over 60 years unless:

- (3) the marriage took place or the person became the De Facto Spouse not less than 3 years before the Member's death; or
- (4) the marriage took place or the person became the De Facto Spouse less than 3 years before the Member's death but:
  - (i) the person had, for a continuous period that commenced before the Member became a Pensioner and not less than 3 years immediately before the Member's death, lived with the Member as the Member's husband or wife on a bona fide domestic basis; or
  - (ii) the person had, for a continuous period that commenced before the Member became a Pensioner but less than 3 years immediately before the Member's death, lived with the Member as the Member's



## Schedule V of Division C

### Transitional provisions (continued)

husband or wife on a bona fide domestic basis and who the Trustee determines was substantially dependent on the deceased Member at that time; and

- (b) in any other case:
- (1) a person who was legally married to the deceased Member at the time of the Member's death and who, at that time:
    - (i) was living with the Member on a permanent and bona fide domestic basis; or
    - (ii) was not living with the Member on a permanent and bona fide domestic basis but who the Trustee determines was substantially dependent on the deceased Member at that time;
  - (2) a person who was not legally married to the deceased Member at the time of the Member's death but who:
    - (i) for a continuous period of not less than 3 years immediately before the Member's death, had lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; or
    - (ii) for a continuous period of less than 3 years immediately before the Member's death, had lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and who the Trustee determines was substantially dependent on the deceased Member at the time of the Member's death;

but does not include:

- (3) a person who legally married the deceased Member when the Member was a Pensioner aged over 60 years unless:
  - (i) the marriage took place not less than 3 years before the Member's death; or
  - (ii) the marriage took place less than 3 years before the Member's death but:
    - (A) the person had, immediately before the marriage, for a continuous period that commenced while the Member was a Pensioner and not later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis;
    - (B) the person had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner and not later than 3 years before the Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis; or
    - (C) the person had, immediately before the marriage, for a continuous period that commenced before the Member became a Pensioner but later than 3 years before the

## **Schedule V of Division C**

### **Transitional provisions (continued)**

Member's death, lived with the Member as the Member's husband or wife on a permanent and bona fide domestic basis and the Trustee determines that such person was substantially dependent on the Member at the time of the Member's death; or

- (4) a person who was not legally married to the deceased Member at the time of the Member's death if the person commenced living with the Member as the Member's husband or wife on a permanent and bona fide domestic basis when the Member was a Pensioner aged over 60 years unless the person had so lived with the Member for a continuous period of not less than 3 years immediately before the Member's death,

provided that, where there are 2 or more persons who would otherwise qualify, by virtue of paragraphs (a)(1), (b)(1)(i) or (b)(2)(i) of this definition, as Spouses in relation to a Member who has died, and who were not substantially dependent on that Member, only 1 such person, as determined by the Trustee, shall be a Spouse in relation to that Member for the purposes of this Division C.

## Division D

### Former Division B SBV Members

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#### Part D1 Application and interpretation

##### D1.1 Application of this Division D

This Division D only applies to and in respect of persons who immediately before the SBV Staff Transfer Date were “Division B Members” of the SBV Staff Fund under the SBV Staff Fund Deed but, notwithstanding anything expressed or implied to the contrary in this Deed, no person may become, or be re-admitted as, a Member under this Division D after the SBV Staff Transfer Date.

This Division D is always subject to the terms of the Clauses contained in the body of the Deed and to Division A of the Rules.

##### D1.2 Definitions

In this Division D, unless the contrary intention appears or the context requires otherwise:

“**Accrued Interest**” means:

- (a) when related to a period before the SBV Staff Transfer Date, interest at the rate which applied in respect of that period for the corresponding purpose under the corresponding provisions of the SBV Staff Fund Deed; and
- (b) when related to a period after the SBV Staff Transfer Date, interest at the Declared Rate in respect of that period.

“**Beneficiary**” means:

- (a) a Member or other person who is for the time being entitled to receive a benefit from the Fund in accordance with this Division D; and
- (b) a Member who would otherwise be presently entitled to receive a disability pension from the Fund under this Division D but for the exercise of a Power by the Trustee under Rule D7.2(e).

“**Child**” means:

- (a) in relation to a Member:
  - (1) a child of the Member within the meaning of the SIS Act;
  - (2) a child in the regular care, custody or control of the Member before (and as at) the date the Member ceased to be an Employee; and
  - (3) a child for whose support or maintenance the Member was wholly or partially responsible immediately before ceasing to be an Employee,

but, unless the Trustee determines otherwise, does not include any person whose claim to be a Child of a Member depends upon a relationship created or which commenced after the Member ceased to be an Employee; and

- (b) in relation to a person other than a Member (“Relevant Person”), any person who the Trustee determines to be a Child of the Relevant Person having regard to the provisions of paragraph (a) of this definition,

and “**Children**” shall have a corresponding meaning.

“**Clerical Employee**” means an Employee in full-time employment who holds an executive position with an Employer or is bound by the Bank Officials’ (State Bank of Victoria) (Federal) Award 1983 (or any industrial award which replaces the said award) or is employed by an Employer on the maintenance staff or as a messenger.

“**Contribution**” means a payment to the Fund by a Member under this Division D and a payment to the SBV Staff Fund by a Member under the SBV Staff Fund Deed and “**Contribute**” has a corresponding meaning.

“**Contribution Date**” means any day or days agreed (or determined on a basis agreed) between the Trustee and the Employer from time to time, and where used in relation to Contributions to the SBV Staff Fund includes any “Contribution Date” under the SBV Staff Fund Deed.

“**De Facto Spouse**” means, in relation to a person, another natural person who though not legally married to the first mentioned person, in the opinion of the Trustee lives or lived with the first mentioned person as at the relevant date on a genuine domestic basis in a relationship as a couple.

“**Dependant**” means in relation to a person (“**relevant person**”) any one or more of:

- (a) a Spouse of the relevant person;
- (b) a Child of the relevant person; and
- (c) any other natural person who, in the opinion of the Trustee, is or was at the relevant date (being, in the case of a deceased person, the date of death) wholly or partially dependent on the relevant person.

“**Disability**” means in relation to a Member being absent from employment through continuing or recurring injury, disease, infirmity or other medical condition (whether physical or mental) and in such state of health (not due to or induced by any wilful action on the part of the Member or any Dependant designed or intended to bring about a state of health to obtain a benefit from the Fund) as in the opinion of the Trustee, after consideration of all the facts and evidence before the Trustee, renders the Member permanently incapable of performing the Member’s duties or duties for which the Member is or was by reason of education, training or experience suited or for which the Member would be suited as a result of retraining, and “**Disabled**” has a corresponding meaning.

“**Disability Retiree**” means:

- (a) a Member who ceased to be an Employee before 1 July 1994 and before attaining the age of 60 years after having previously applied to the trustee

of the SBV Staff Fund for the trustee's consent to retire on the ground of Disability and received the trustee's consent to retire on that ground; and

- (b) a Member who, in the opinion of the trustee of the SBV Staff Fund (where that opinion was evidenced by a resolution of the trustee of the SBV Staff Fund made before the SBV Staff Transfer Date) or of the Trustee (after considering such information and evidence, including medical reports, as the trustee of the SBV Staff Fund or the Trustee required), ceased to be an Employee between 1 July 1994 and the SBV Staff Transfer Date, and before attaining the age of 60 years, because of Disability; and
- (c) a Member who, in the opinion of the Trustee (after considering such information and evidence, including medical reports as the Trustee may require), ceased to be an Employee on or after the SBV Staff Transfer Date and before attaining the age of 60 years because of Disability.

**“Earnings Index”** means as at a date of calculation:

- (a) the Average Weekly Earnings, States and Territories: Original All Employees Total Earnings for the State of Victoria published by the Australian Bureau of Statistics for the 12 month period up to and including the 30 June immediately preceding the date of calculation; or
- (b) if the abovementioned index is not available or is discontinued, such other percentage as may be agreed between the Trustee and the Principal Employer.

**“Eligible Division D Transferring Member”** means an Eligible Transferring Member who is a Member under this Division D.

**“Employee”** means any person employed for the time being by an Employer (other than as an independent contractor or a casual or temporary employee) and, for the purposes of this Division D, a Member who became a permanent employee of the Principal Employer on 1 January 1991 and was immediately before that date a permanent employee of the State Bank of Victoria and since that date has not ceased to be a person employed by an Employer, or by Employers in accordance with Rule D1.5, shall be deemed to have become or been appointed as an Employee on the date that person last became a permanent employee of the State Bank of Victoria, and without limiting the circumstances by which a person may cease to be an Employee it is confirmed that subject to Rule D1.5 a person who is employed by an Associated Employer ceases to be an Employee when that Associated Employer ceases to be an Associated Employer.

**“Final Average Salary”** means:

- (a) in relation to a Member (whether in full-time employment or a Part-Time Employee) whose Period of Qualifying Membership is less than 2 years, an amount calculated in accordance with the formula:

$$\frac{A}{B} \times 365$$

B

**Where:**

**“A”** is the aggregate Salary of the Member for the Member's Period of Qualifying Membership; and

- “**B**” is the number of days in the Member’s Period of Qualifying Membership;
- (b) in relation to a Member whose Period of Qualifying Membership is not less than 2 years, an amount equal to one-half of the aggregate Salary of the Member for the period of 2 years ended on the last day of the Member’s Period of Qualifying Membership; or
- (c) in relation to a Member who was a Part-Time Employee during the Member’s Period of Qualifying Membership (other than where paragraph (a) of this definition applies) an amount calculated in accordance with the formula:

$$A \times \frac{B}{C}$$

**Where:**

- “**A**” is an amount equal to one-half of the aggregate Salary of the Member for the period of 2 years ended on the last day of the Member’s Period of Qualifying Membership;
- “**B**” is the total number of hours the Member would have worked during the period of 2 years ended on the last day of the Member’s Period of Qualifying Membership had the Member been an Employee in full-time employment performing the same duties as the Member carries out as a Part-Time Employee during that period; and
- “**C**” is the total number of hours actually worked by the Member (including hours of paid leave) during the period of 2 years ended on the last day of the Member’s Period of Qualifying Membership;

and, for the purposes of calculating a Member’s Final Average Salary pursuant to paragraph (a), (b) or (c) of this definition (as the case may be), there shall be deemed to have been payable to the Member during any period or periods of leave without pay taken by the Member (in the calculation period) Salary at the rate which was payable to the Member immediately before any such period of leave without pay.

“**Former General Orders**” means the provisions of the State Bank Consolidated General Orders 1981 (Victoria) in force from time to time before 1 January 1991.

“**Full Member**” means a Member other than a Limited Member.

“**Limited Member**” means:

- (a) a Member who was a Limited Member immediately before 1 January 1991 under the Former General Orders;
- (b) a Member who was admitted as a Limited Member between 1 January 1991 and the SBV Staff Transfer Date under Rule B1(b) or Rule B1(c) of the SBV Staff Fund Deed; and
- (c) a Member who is classified as a Limited Member on or after the SBV Staff Transfer Date under Rule D2.2,

not being a Member who has been admitted as or has been reclassified as a Full Member.

“**Medical Practitioner**” means a legally qualified medical practitioner nominated by the Trustee for the purposes of this Deed.

“**Member**” means a person who:

- (a) immediately before the SBV Staff Transfer Date was a “Division B Member” of the SBV Staff Fund under the SBV Staff Fund Deed, and whose identity as such is notified to the Trustee by the trustee of the SBV Staff Fund; and
- (b) is declared by the Principal Employer to be a Member on and from the SBV Staff Transfer Date by written notice given to the trustee of the SBV Staff Fund and the Trustee (or comes within a class of persons so declared to be Members), including a declaration made before the Amendment Date,

and for the purposes of this Division D:

- (c) each Member shall be considered to have last become a Member of the Fund on the date as at which that person was considered to have last become a “Member” of the SBV Staff Fund under the SBV Staff Fund Deed; and
- (d) a person ceases to be a Member:
  - (i) on the date when all benefits to which that person could become entitled under this Division D have been paid, provided, forfeited, forgone or terminated in accordance with this Deed; or
  - (ii) at the time provided for in Part D19.1(a) or as otherwise provided for under this Division D.

For the purpose of clarity only and without limiting the operation of Rule D1.4 or any other provision dealing with the interpretation of this Deed, it is confirmed that nothing in this Division D shall be construed to mean that a person who had ceased to be a Member prior to the Transfer Time is a Member at or after that time.

“**Normal Retiring Date**” in relation to a Member, means the day immediately preceding the 65th anniversary of the date of the Member’s birth.

“**Part-Time Employee**” means an Employee who is employed and paid to perform less than the ordinary hours of work prescribed by any applicable industrial award or who is referred to as or implied to be such in the Employee’s contract of employment.

“**Period of Actual Membership**” means the sum of:

- (a) the period of the Member’s Service referred to in paragraph (a) of the definition of “Period of Qualifying Membership”; and
- (b) subject to the continued application and observance under this Deed of any relevant conditions which applied under the SBV Staff Fund Deed:
  - (1) in the case of a Member who was not an Employee on the SBV Staff Transfer Date, the period that counted as the Member’s “Period of Actual Membership” immediately before that Date under the SBV Staff Fund Deed; or

- (2) in the case of a Member who was an Employee on the SBV Staff Transfer Date, the period that would have counted as the Member's "Period of Actual Membership" under the SBV Staff Fund Deed if the Member had ceased to be an Employee under that Deed immediately before that Date.

**"Period of Prospective Qualifying Membership"** in relation to a Member who has ceased to be an Employee before the Member's Normal Retiring Date means the aggregate of:

- (a) the Member's Period of Qualifying Membership; and
- (b) the period commencing on the day immediately following the Member's last day of Service and ending on the day on which the Member will, or but for the Member's death would, attain the age of 60 years ("**Period of Prospective Service**"),

but, where a Member at any time during the Member's Service was a Part-Time Employee, the Member's Period of Prospective Service shall be adjusted in proportion by the ratio that the Member's Period of Qualifying Membership bears to the Period of Qualifying Membership that would have accrued to the Member had the Member been in full-time employment throughout the Member's Service.

**"Period of Qualifying Membership"** in relation to a Member who has ceased to be an Employee means, subject to any adjustment provided for in this Division D, a period equal to the aggregate of:

- (a) any period of the Member's Service on and after the SBV Staff Transfer Date (ending on the Member's last day of Service) in respect of which the Member was required, or elected under Rule D3.5(a)(3) or Rule B3.5(a)(3) of the SBV Staff Fund Deed to pay Contributions; and
- (b) subject to the continued application and observance under this Deed of any relevant conditions which applied under the SBV Staff Fund Deed and subject to any adjustment provided for under that Deed:
  - (1) in the case of a Member who was not an Employee on the SBV Staff Transfer Date, the period that counted as the Member's "Period of Qualifying Membership" immediately before that Date under the SBV Staff Fund Deed; or
  - (2) in the case of a Member who was an Employee on the SBV Staff Transfer Date, the period that would have applied to the Member under paragraphs (a), (b) and (c) of the definition of "Period of Qualifying Membership" in the SBV Staff Fund Deed if the Member had ceased to be an Employee under that Deed immediately before that Date,

but does not include a period of Service performed by the Member after the Member's Normal Retiring Date, provided that, where a Member at any time during the Member's Service was a Part-Time Employee, the Member's Period of Qualifying Membership shall be determined in accordance with the formula:

$$A + [B \times \frac{C}{D}]$$

**Where:**



- “**A**” is the aggregate of the number of whole months in the period of the Member’s Service as an Employee in full-time employment falling within paragraphs (a) and (b);
- “**B**” is the aggregate of the number of whole months in the period of the Member’s Service as a Part-Time Employee falling within paragraphs (a) and (b) (“**Part-Time Period**”);
- “**C**” is the aggregate of the number of hours actually worked by the Member (including hours of paid leave) as a Part-Time Employee during the Member’s Part-Time Period; and
- “**D**” is the total number of hours the Member would have worked during the Part-Time Period had the Member been employed as an Employee in full-time employment performing the same duties as the Member carried out as a Part-Time Employee during that period.

“**Pre-Existing Condition**” means:

- (a) in relation to a Member who is for the time being a Limited Member under paragraph (a) or (b) of the definition of Limited Member, a condition that was a “Pre-Existing Condition” in relation to the Member under the SBV Staff Fund Deed immediately before the SBV Staff Transfer Date by reason of a determination made by the trustee of the SBV Staff Fund before that Date; or
- (b) in relation to a Member who is for the time being a Limited Member under paragraph (c) of the definition of Limited Member, any injury, disease, infirmity, illness or other medical condition (whether physical or mental) which in the opinion of the Trustee, after consideration of all the facts and evidence before the Trustee, renders the Member unlikely to continue to be an Employee until the Member attains the age of 60 years.

“**Preserved Lump Sum Amount**” means a lump sum payment equal to the amount a Member would have received had the Member not died but on the day immediately preceding the date of the Member’s death had resigned and elected to take a preserved benefit calculated pursuant to Rule D9.3(a), notwithstanding that the Member’s Period of Actual Membership is less than 10 years and/or that at the date of the Member’s death the Member may have attained the age of 55 years.

“**Quarter**” means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December in any year.

“**Salary**” means the pecuniary remuneration payable periodically and regularly to a Member in respect of services rendered or work done by the Member in the employment of the Employer and includes:

- (a) permanent salary allowances, house allowances, higher duties allowances and fortnightly payments of a permanent and recurring nature (in particular but without limiting the generality of the foregoing remuneration payable whilst on secondment) which are deemed by the Principal Employer to be in the nature of salary;
- (b) such amount as shall be deemed to be Salary payable to a Member pursuant to Rule D3.2(c); and
- (c) where a Member is a manager or of managerial status and is occupying a Principal Employer residence, the value of the occupation of such

residence being a sum equal to the house allowance which would be paid to a non-residential manager employed by the Principal Employer at the same location as the Member,

but does not include bonuses, commissions, gratuities, overtime, living away from home allowances, shift allowances, payments for holiday loading or allowances expenses or payments of a temporary or non-recurring nature, except that:

- (d) where a Member is in Service outside Australia and by reason of that employment the Member's actual salary is different from that which the Member would have received if the Member had been employed in Australia, then for the purposes of this definition the Member's Salary during the period that the Member is so employed may be such lesser or greater amount as may (subject to Clause 8 of this Deed) be determined by the Principal Employer (having regard to the salary which the Member would have received if the Member had been employed in Australia) and advised to the Trustee from time to time; and
- (e) by written notice given to the Trustee, the Principal Employer may (subject to Clause 8 of this Deed):
  - (1) subject to any conditions included in the notice, specify that, in the case of a Member named in the notice (or then or thereafter falling within a group of Members described in the notice), the Member's Salary for the purposes of the whole or any particular provision of this Division D and either indefinitely or for any particular period shall include any remuneration which would not otherwise be included in the Member's Salary ("**special remuneration**"); and
  - (2) amend, add to, revoke or replace any such notice previously given by the Principal Employer,

and such a notice shall take effect on the effective date specified in the notice, which:

- (f) in the case of a notice which includes special remuneration in Salary, may be before, on or after the date the notice is given to the Trustee; or
- (g) in the case of a notice which (by amending, adding to, revoking or replacing a previous notice) excludes special remuneration previously included in Salary (a "**notice of exclusion**"), may not be before the date the notice is given to the Trustee,

or, if no date is so specified, the date the notice is given to the Trustee.

"**Service**" means employment with an Employer but includes:

- (a) the period which counted as "Service" in respect of the Member immediately before the SBV Staff Transfer Date under the SBV Staff Fund Deed; and
- (b) any further period which the Principal Employer may (subject to Clause 8 of this Deed) deem to be Service for the purposes of the whole or any particular provision of this Division D.

"**Spouse**" means in relation to a Member as at any particular date, a spouse of the Member within the meaning of the SIS Act, being, in any case, a person who is or was on that date:

- (a) living with the Member; or
- (b) wholly or mainly maintained by the Member; or
- (c) in the opinion of the Trustee, entitled to be or to have been wholly or mainly maintained by the Member.

“**Technical Employee**” means an Employee in full-time employment who is employed as an architect, valuer, clerk of works, legal practitioner, medical practitioner, economist or any other person employed by an Employer who is not a Clerical Employee.

### **D1.3 Interpretation**

- (a) **Persons taking action or exercising Power under Division D:** Without limiting Part A17, in this Division D, unless the contrary intention appears or the context requires otherwise, a reference to:

- (1) a person taking an action or exercising a Power, including without limitation:
  - (i) giving, making or revoking a direction, determination, approval or election; and
  - (ii) making any payment or transfer to or from the Fund,or
- (2) an event occurring, or a situation or circumstance existing, including without limitation an event, situation or circumstance giving rise to or otherwise affecting a right, entitlement or obligation,

shall be construed as being or including a reference to:

- (3) the taking of a corresponding action or the exercise of a corresponding Power by the same or a corresponding person or office holder; or
- (4) the occurrence or existence of a corresponding event, situation or circumstance,

from time to time before the SBV Staff Transfer Date under the corresponding provisions of the SBV Staff Fund Deed.

- (b) **Corresponding benefits:** Notwithstanding anything expressed or implied to the contrary in this Division D:

- (1) if, in the opinion of the Trustee, this Division D would, but for this Rule D1.3(b), require the amount or terms and conditions of payment of a Contribution or benefit to be determined in a manner that differs from the corresponding manner of determination under the SBV Staff Fund Deed, the Trustee must adjust the relevant manner of determination under this Division D to the extent the Trustee considers appropriate in ensuring consistency with the corresponding manner of determination under that Deed; and
- (2) no benefit amount is payable under this Division D in respect of an event, situation, circumstance or period of time occurring or arising

before the SBV Staff Transfer Date to the extent that the entitlement of any relevant person in respect of the corresponding benefit amount under the SBV Staff Fund Deed has been discharged by payment from the SBV Staff Fund or otherwise in accordance with that Deed.

#### **D1.4 Special Interpretation Provision**

Without limiting the terms of this Deed which otherwise apply to assist in interpreting this Division D, where it is necessary to interpret the provisions of this Division D in relation to any thing done, action taken, payment made, Power exercised, event occurring or situation or circumstance existing under the Commonwealth Banks (Officers' Superannuation) Rules during or referable to the period commencing on the SBV Staff Transfer Date and ending at the Transfer Time, this Division D shall, unless its terms require otherwise expressly or by necessary implication, be construed so as to achieve the same effect with respect to the doing of that thing, the taking of that action, the making of that payment, the exercise of that Power, the occurrence of that event or the existence of that situation or circumstance as if the Commonwealth Banks (Officers' Superannuation) Rules had continued in force as the rules governing the Fund.

#### **D1.5 Transfer of Employment between Employers**

Where a Member transfers from the employment of one Employer to the employment of another Employer:

- (a) the Member shall be taken to have continued to be employed and not to have resigned, terminated employment or ceased to have been an Employee; and
- (b) no benefit is payable to, or in relation to, the Member by reason only of such transfer; and
- (c) benefits will only become payable under Part D6 and under Part D9 when the Member ceases to be employed by an Employer in circumstances where the Member does not transfer to the employment of another Employer.

Transfers of employment shall be categorised as such by way of written notice from the Principal Employer to the Trustee in relation to one or more Members or groups of Members.

#### **D1.6 Employees of Associated Employers**

If a Member employed by an Associated Employer ceases to be an Employee solely because that Associated Employer ceases to be an Associated Employer, the benefits of that Member become payable in accordance with Part D6, if applicable, or in accordance with Part D9.

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## **Part D2 Membership conditions**

### **D2.1 Withdrawal from membership**

At any time subsequent to becoming a Member and having attained the age of 25 years, a Member may apply in writing to the Trustee to be released from the Member's obligation to continue as a Member, but a release shall only be granted or made by the Trustee where the Trustee is satisfied that other satisfactory superannuation arrangements in respect of the Member are in place or will be put in place and where on the advice of an Actuary there would be no material disadvantage to existing Members. Upon the Member being so released by the Trustee the Member shall be entitled to only such benefits as apply to cessation of employment under Part D9 as if the Member had ceased to be an Employee on that date and all such benefits shall be dealt with as if they were a preserved benefit payable under Part D9.

### **D2.2 Incorrect information**

In the event that particulars furnished by the Member pursuant to the Former General Orders, the SBV Staff Fund Deed or these Rules are found to be incorrect or prove to be misrepresented by the Member, the Member's classification as a Full Member or a Limited Member and the benefits payable to or in respect of the Member may be varied by the Trustee in such manner as the Trustee determines.

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## **Part D3 Members' Contributions**

### **D3.1 Time of payment of Contributions**

Subject to Part D5:

- (a) every Member shall be liable to make Contributions to the Fund (including any supplementary or lump sum Contributions pursuant to Rule D3.7) in accordance with this Division D; and
- (b) Contributions are payable on each Contribution Date until the Member ceases to be an Employee.

### **D3.2 Amount of Contributions**

- (a) **Normal basis of calculation:** Subject to this Division D, the amount of the Contribution payable by a Member on a Contribution Date is an amount equal to 6% of the amount of Salary that is payable or is deemed by Rule D3.2(c) to have been payable to the Member on that day.
- (b) **Reduction in Salary:** Where the amount of a Contribution which a Member is required by Rule D3.2(a) to pay would, but for this Rule D3.2(b), be reduced by reason of a decrease in the amount of the Member's annual Salary, a Member may, not later than 30 days (or any longer period agreed between the Trustee and the Principal Employer) after the date on which the first payment of Salary is made at the decreased rate, by notice in writing to the Trustee elect to pay

Contributions as if there had not been a decrease in the amount of the Member's annual Salary provided that, for the purposes of this Rule D3.2(b) and Rule D3.2(c):

- (1) a decrease in a Member's Salary in any of the following circumstances or for any of the following reasons shall not be taken into account:
    - (i) return from a period of secondment;
    - (ii) transfer from a full-time to part-time employment; and
    - (iii) reduction in or loss of a higher duties or other recurring allowance as determined by the Trustee on the advice of the Principal Employer;but
  - (2) a decrease in a Member's Salary by reason of a notice of exclusion given by the Principal Employer in terms of paragraph (e) of the definition of Salary shall be taken into account.
- (c) **Effect of election by Member:** For the purposes of this Division D, where a Member has made an election under Rule D3.2(b), or Rule B3.2(b) of the SBV Staff Fund Deed, there shall be deemed to have been payable to the Member, during the period commencing on the date on which Salary became payable to the Member at the decreased rate and continuing so long thereafter as the amount of the Member's annual Salary is less than the amount of the Member's annual Salary immediately before that date, Salary at the rate which was payable to the Member immediately before the decrease, and the Member shall be liable to pay Contributions on that basis. An election made under Rule D3.2(b) or Rule B3.2(b) of the SBV Staff Fund Deed shall not be revoked unless the Trustee upon written request by the Member otherwise determines.

### **D3.3 Deduction of Contributions from Salary**

Subject to this Deed, Contributions (other than lump sum Contributions pursuant to Rule D3.7 or any relevant provision of the SBV Staff Fund Deed) for which a Member is liable under this Division D shall be deducted from the Member's Salary.

### **D3.4 Contributions during secondment or leave with pay**

A Member who is on secondment or is granted leave of absence from the Employer with Salary, whether increased or reduced, shall continue to pay the Member's Contributions during or in respect of the period of secondment or leave of absence, without reduction, but:

- (a) where a Member on secondment receives a higher Salary than the Member did immediately before the period of secondment, the Member shall, if directed by the Trustee, make the Member's Contributions to the Fund based on the higher Salary; and
- (b) if the Member on secondment neglects or fails to pay any Contributions:

- (1) the period in respect of which the Member neglected or failed to pay such Contributions shall not form part of the Member's Period of Qualifying Membership; and
- (2) the Member shall not be entitled to any benefits under this Division D for the period in respect of which the Member neglected or failed to pay such Contributions, other than a cessation of employment benefit under Part D9.

### **D3.5 Contributions during leave without pay**

- (a) **Options for Member:** A Member who is on leave of absence from the Employer without Salary for at least 2 weeks may in respect of the period of the leave of absence elect:
  - (1) to pay no Contributions under this Division D;
  - (2) to pay Contributions at a rate determined by the Trustee on the advice of an Actuary as sufficient to provide to the Member only death and disability benefits under this Division D during the period of the leave of absence; or
  - (3) to pay Contributions at 3 times the rate of Contributions which would be payable by the Member under this Division D if the Member had not taken the leave of absence and had continued to work during the period of the leave of absence at the Salary which would have been payable to the Member immediately preceding the leave of absence.
- (b) **Conditions of election by Member:** An election under Rule D3.5(a) is not effective unless:
  - (1) it is made in writing to the Trustee;
  - (2) it is made not later than 1 month from the date on which the Member receives or is deemed under Rule A16.3 to have received notice from the Trustee specifying the options available to the Member under Rule D3.5(a); and
  - (3) it is accompanied by a sum equivalent to the total of all Contributions payable throughout the period of the leave of absence in accordance with the election, but the Trustee may, on the application of that Member permit the Contributions payable in accordance with the election to be paid by the Member during the Member's absence in such smaller sums and at such period as the Trustee determines.
- (c) **Effective date of election:** An election made under Rule D3.5(a) shall be deemed to have taken effect on the date on which the leave of absence commences. A Member who is absent on leave of absence without Salary and who does not before the expiration of 1 month from the date on which the leave of absence commences make an election under Rule D3.5(a), shall for the purposes of this Division D be regarded as having made an election under Rule D3.5(a)(1).
- (d) **Death or Disability after election:** Where:

- (1) a Member makes or is deemed to have made an election under Rule D3.5(a)(1) and more than 1 month after the leave of absence commences but before the end of the period for which the Member was granted leave of absence becomes Disabled or dies;
- (2) the Member applies for a benefit under this Division D in consequence of the Member's Disability or the persons who would but for the taking of the leave of absence have been entitled to benefits on the Member's death apply for benefits under this Division D in consequence of the Member's death; and
- (3) the Trustee considers that the major cause of the Member's Disability or death originated before the taking of the leave of absence,

benefits shall be payable to the Member or persons entitled under this Division D in respect of the Member's death or Disability, and the benefits shall be calculated as though the death or Disability of the Member took place on the day preceding the day the Member commenced leave of absence without Salary.

(e) **Effect of election by Member:**

- (1) Subject to Rule D3.5(d), where a Member makes or is deemed to have made an election under Rule D3.5(a)(1), the Member shall, until the Member returns from leave of absence, be entitled to only such benefits as apply to cessation of employment under Part D9 or, if entitled to retire, to retirement benefits under Part D6.
- (2) Where a Member makes an election under Rule D3.5(a)(2), the Member shall until the Member returns from leave of absence only be entitled to benefits under this Division D as apply to cessation of employment, retirement on the ground of Disability or death.
- (3) Where a Member makes an election under Rule D3.5(a)(3), the Member shall until the Member returns from leave of absence be entitled to all benefits under this Division D to which the Member would, but for the period of the leave of absence, be entitled.

- (f) **Failure by Member to pay Contributions:** Where a Member makes or has made an election under Rule D3.5(a)(2) or (3) or Rule B3.5(a)(2) or (3) of the SBV Staff Fund Deed and where on further application by such Member the Trustee permits or the trustee of the SBV Staff Fund has permitted Contributions of the Member during the Member's leave of absence to be made periodically in other than one lump sum amount and the Member neglects or fails to make one or more of any such periodical payments, the Trustee shall within 7 days of such neglect or failure notify the Member by notice in writing of such neglect or failure and if such neglect or failure shall not be remedied within 21 days of service (including deemed service) of such notice upon the Member, the Member shall for the purposes of this Division D be regarded as having made an election under Rule D3.5(a)(1) from the date of the neglect or failure to make any such periodical payments and shall thereafter have no entitlement to make any further election under Rule D3.5(a) for the balance of the period of the leave of absence.



### **D3.6 Acceptance of Contributions**

Notwithstanding anything expressed or implied to the contrary in this Part D3, the Trustee may accept Contributions (including lump sum and supplementary Contributions pursuant to Rule D3.7 or any relevant provision of the SBV Staff Fund Deed) by, on behalf of or in respect of a Member in such manner and from such persons (including without limitation the Employer) as the Trustee may determine and agree upon with the Member from time to time.

### **D3.7 Backdating of membership**

- (a) **Election to backdate:** By notice given to the Trustee in a manner acceptable to the Trustee not more than 6 months (or any greater period which may be agreed between the Trustee and the Principal Employer from time to time either generally or in any particular case) after the Member last became a Member of the SBV Staff Fund:

- (1) a Member may elect; or
- (2) with the approval of the Member and the Trustee, the Principal Employer may in respect of a Member elect,

that, for the purposes of increasing the Member's Period of Qualifying Membership under this Division D, the Member shall be deemed to have been admitted as a "Member" of the SBV Staff Fund under the SBV Staff Fund Deed on a date earlier than the date on which the Member was actually admitted as a "Member" of that Fund (being not earlier than the Member's 25th birthday), subject to:

- (3) a supplementary lump sum Contribution payable by the Member on the Contribution Date next following the date of the election;
  - (4) supplementary Contributions payable by the Member, commencing on the Contribution Date next following the date of the election and thereafter on each succeeding Contribution Date, until the Member's 60th birthday;
  - (5) a combination of the types of supplementary Contributions referred to in (3) and (4) above; or
  - (6) any other arrangements approved by the Trustee (after obtaining the advice of an Actuary) for the securing or funding of the increased Period of Qualifying Membership.
- (b) **Amount of supplementary Contributions:** The amount of such supplementary Contributions (whether lump sum or otherwise) payable under Rule D3.7(a) shall be determined by the Trustee having regard to:
- (1) the advice of an Actuary;
  - (2) the date to which the Member's admission as a "Member" of the SBV Staff Fund under the SBV Staff Fund Deed is backdated; and
  - (3) the requirement that such supplementary Contributions be comprised of the Contributions which Rule B3.9(b)(3) of the SBV Staff Fund Deed would have required to be made during the period from the deemed date of admission as a "Member" of the SBV Staff Fund to the actual date of admission as a "Member" of that

Fund, where the Salary of the Member during that period shall be deemed to be the Member's annual rate of Salary at the date of the election in respect of the Member under Rule D3.7(a).

- (c) **No revocation:** An election made under Rule D3.7(a) shall not be revoked.
- (d) **Deemed operation under SBV Staff Fund Deed:** In applying paragraph (b) of the definition of "Period of Qualifying Membership" in the SBV Staff Fund Deed for the purpose of determining the Period of Qualifying Membership under this Division D, supplementary Contributions paid under this Rule D3.7 shall be deemed to have been paid under that paragraph (b).

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## **Part D4 Waiver of election period**

### **D4.1 Trustee may recognise late elections**

Notwithstanding anything expressed or implied to the contrary in this Division D, where an election under this Division D is made by a Member or other person after expiry of the period otherwise allowed by or under this Division D for the making of the election, and the Trustee is satisfied that in all the circumstances of the case it is desirable that the election should be recognised, the Trustee may treat the election as if it had been made within the period allowed, and the election shall have effect accordingly.

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## **Part D5 Cessation and non-commencement of Member Contributions**

### **D5.1 When Member Contributions cease**

A Member's Contributions to the Fund shall cease on whichever is the earlier of:

- (a) the date upon which the Member ceases to be an Employee; or
- (b) the date upon which the Member attains the age of 65 years.

### **D5.2 Non-commencement of Contributions**

A Member shall not be permitted to make any Contributions to the Fund if at the SBV Staff Transfer Date:

- (a) the Member has ceased to be an Employee; or
- (b) the Member has attained the age of 65 years.

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## **Part D6 Retirement benefits**

### **D6.1 Retirement on or after 55 but before 60**

Subject to Rule D6.4 and Rule D6.5, a Member who ceases to be an Employee on or after attaining the age of 55 years but before attaining the age of 60 years in

circumstances where no benefit is payable under Part D7 or Part D8 shall be entitled to a pension for life of an annual amount calculated in accordance with the formula:

$$A \times B \times \frac{C}{D}$$

**Where:**

- “A” is the Member’s Final Average Salary;
- “B” is the factor with respect to the age at which the Member ceases to be an Employee prescribed in the following table:

Age Next Birthday	Factor
56	0.5985
57	0.6048
58	0.6111
59	0.6174
60	0.6237

- “C” is the number of whole months in the Period of Qualifying Membership; and
- “D” is the number of whole months in the Period of Prospective Qualifying Membership.

**D6.2 Retirement on or after 60 but before Normal Retiring Date**

Subject to Rule D6.4 and Rule D6.5, a Member who ceases to be an Employee on or after attaining the age of 60 years but before the Normal Retiring Date in circumstances where no benefit is payable under Part D7 or Part D8 shall be entitled to a pension for life of an annual amount calculated in accordance with the formula:

$$A \times B$$

**Where:**

- “A” is the Member’s Final Average Salary; and
- “B” is the factor with respect to the age at which the Member ceases to be an Employee prescribed in the following table:

Age Next Birthday	Factor
61	0.630
62	0.644
63	0.658
64	0.672
65	0.686

### **D6.3 Normal and late retirement**

Subject to Rule D6.4 and Rule D6.5, a Member who ceases to be an Employee on or after the Member's Normal Retiring Date shall be entitled to a pension for life of an annual amount equal to 70% of the Member's Final Average Salary.

### **D6.4 Qualification: Period of Qualifying Membership**

Subject to Rule D6.5, where the Period of Qualifying Membership of a Member at the date a Member ceases to be an Employee is less than:

- (a) where the Member last became a Member on or before 22 October 1969, a period of 25 years; or
- (b) where the Member last became a Member on or after 23 October 1969, a period of 35 years,

the amount of the pension for life to which the Member is entitled by virtue of Rule D6.1, D6.2 or D6.3 shall be the amount calculated in accordance with the respective formulae in such Rules reduced by:

- (c) in the case of a Member who last became a Member on or before 22 October 1969, 0.3333% for each whole month that the Member's Period of Qualifying Membership is less than 300 months; or
- (d) in the case of a Member who last became a Member on or after 23 October 1969, 0.2381% for each whole month that the Member's Period of Qualifying Membership is less than 420 months.

### **D6.5 Qualification: Surcharge Reduction**

In determining the annual amount of pension for life under any of Rules D6.1, D6.2 or D6.3, the Surcharge Reduction (if any) applicable to the pension must be deducted from the amount otherwise determined under the relevant Rule (after any reduction required under Rule D6.4).

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## **Part D7 Disability retirement**

### **D7.1 Disability before age 60**

Subject to Rule D7.2 and Rule D10.3, a Disability Retiree shall as from the date of ceasing to be an Employee (or, where the consent of the trustee of the SBV Staff Fund to the Member's retirement was required under a corresponding provision of the SBV Staff Fund Deed, the date that consent was given) be entitled to a pension of an amount equivalent to the amount to which the Member would have been entitled pursuant to Rule D6.2 if the Member had retired with the same Final Average Salary as at the day immediately preceding the date of the Member's attaining the age of 60 years and the Member's Period of Qualifying Membership was the Member's Period of Prospective Qualifying Membership.

### **D7.2 Review of decisions**

- (a) **Review by Trustee:** The Trustee may at any time review the question as to whether a Member receiving a disability pension pursuant to Rule D7.1 or by virtue of any corresponding provision of the SBV Staff Fund Deed

still suffers from a Disability and, if the Trustee so determines, review the extent of the Disability and, subject to this Rule D7.2 and upon completion of the review, the Trustee shall either determine:

- (1) to continue the existing pension;
  - (2) to reduce the pension; or
  - (3) to discontinue the pension.
- (b) **Discontinuance of pension by Trustee:** The Trustee shall discontinue the disability pension where:
- (1) the Member without reasonable excuse fails or refuses to provide any information or submit to any medical examination required by the Trustee; or
  - (2) in the opinion of the Trustee, the Member is no longer Disabled and the Member:
    - (i) is receiving remuneration that is derived wholly or partly from labour provided by the Member whether under a contract of service or otherwise (in this Rule referred to as “**gainful employment**”) and such remuneration is not less than the Salary payable by the Employer (or, where the Member last ceased to be an employee of the State Bank of Victoria before 1 January 1991, payable by the State Bank of Victoria) in respect of the position held by the Member on the day immediately preceding the date on which the Member ceased to be an Employee; or
    - (ii) is offered employment with the Employer (which offer the Employer is bound to make upon the Trustee determining that the Member is no longer Disabled),and, where the Member accepts the Employer’s offer of employment under Rule D7.2(b)(2)(ii), from the date of the Member’s commencement or re-commencement of employment with the Employer the period during which the Member received the disability pension shall form part of the Member’s Period of Qualifying Membership, without any obligation upon the Member to make Contributions for such period.
- (c) **No re-employment or short re-employment:** Where under Rule D7.2(b) the Trustee discontinues the disability pension of a Member who:
- (1) is not employed or re-employed by the Employer; or
  - (2) is employed or re-employed by the Employer but ceases to be an Employee within 30 days of so being employed or re-employed,
- the Member shall be entitled to a lump sum benefit of an amount equal to the Member’s Contributions and Accrued Interest thereon calculated as at the day immediately preceding the date on which the disability pension commenced.
- (d) **Longer re-employment:** Where under Rule D7.2(b) the Trustee discontinues the disability pension of a Member who is employed or re-employed by the Employer for more than 30 days and re-commences

making Contributions as a Member, the Member or the Member's Dependents shall thereafter be entitled to benefits from the Fund in accordance with this Division D.

- (e) **Reduction to take account of gainful employment:** The Trustee may reduce a disability pension payable to a Member where in the opinion of the Trustee a Member is in gainful employment but any such reduction shall not exceed 63% of the remuneration (as determined by the Trustee) which the Member receives from gainful employment.
- (f) **Timing of payment, discontinuance or reduction:** For the purposes of this Division D:
  - (1) a disability pension payable from the Fund pursuant to Rule D7.1 shall be paid from such date (not being later than the date upon which the Member became entitled to the pension under that Rule) as the Trustee determines; and
  - (2) any discontinuance or reduction of such a disability pension shall operate from such date (not being earlier than the date upon which the Trustee's determination as to discontinuance or reduction is made) as the Trustee determines.
- (g) **Information from disabled Member:** The Trustee may at any time require a Member receiving a disability pension to provide to the Trustee within 45 days such returns and information relating to the Member's earnings from employment (whether as an Employee or on the Member's own account) and such other circumstances of the Member as the Trustee may require and to submit for a medical examination by a Medical Practitioner at a time and place specified by the Trustee for the purposes of this Rule.
- (h) **Request for review by affected Member:**
  - (1) A Member who is affected by a consent referred to in Rule D7.1 or its equivalent under the SBV Staff Fund Deed, or a determination under Rule D7.2(a) or its equivalent under the SBV Staff Fund Deed, to reduce or discontinue the Member's disability pension ("**Relevant Decision**") may by notice in writing given to the Trustee within 30 days after the Relevant Decision comes to the notice of the Member request the Trustee to reconsider the decision.
  - (2) On receipt of a request made pursuant to Rule D7.2(h)(1), the Trustee shall obtain from a legally qualified medical practitioner mutually agreed upon by the Member and the Trustee or, where such agreement cannot be reached, by a legally qualified medical practitioner nominated by the Employer, a written report prepared by such medical practitioner after examination of the Member.
  - (3) As soon as practicable after receipt of the medical report obtained pursuant to Rule D7.2(h)(2), the Trustee shall reconsider the Relevant Decision and in so doing shall take into account any previous medical reports or other evidence considered by it, the medical report obtained pursuant to Rule D7.2(h)(2) and the testimony of the legally qualified medical practitioner referred to in

Rule D7.2(h)(2), who shall be requested to be present at the meeting where the Trustee reconsiders the decision and, if present, shall be subject to examination by the Trustee at such meeting.

- (4) Upon reconsideration of the Relevant Decision, the Trustee may confirm or vary the Relevant Decision and, if varied, such decision shall have force and effect from the date the Trustee made the Relevant Decision.
  - (5) The Trustee shall, within 30 days after reaching the Trustee's decision under Rule D7.2(h)(4) by notice in writing inform the Member who made the request of the result of the Trustee's reconsideration of the Relevant Decision.
- (i) **Provision of medical reports to Members:** Where a Member requests that medical reports obtained by the Trustee in the exercise of any of the Trustee's Powers under this Rule be made available to a legally qualified medical practitioner nominated by the Member, the Trustee shall, subject to the consent of the reporting Medical Practitioner, make available copies of such reports.

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## Part D8 Death benefits

### D8.1 Death whilst an Employee: Spouse pension

Subject to this Part D8, where a Member dies whilst an Employee and before the Member's Normal Retiring Date:

- (a) **death before age 60:** where the Member died not having attained the age of 60 years, the Member's Spouse shall be entitled to a pension for life of an annual amount equal to 67% of the amount of the pension to which the Member would have been entitled at the time of the Member's death if the Member had not died but had, immediately before the date of the Member's death, having attained the age of 60 years, retired and become entitled:
  - (1) where the Member was a Full Member or a Limited Member to whom Rule D10.3 does not apply, to a pension under Rule D6.2; or
  - (2) where the Member was a Limited Member, to a pension under Rule D10.3,

but, for the purposes of determining the pension to which the Member would have been entitled at the time of the Member's death, the Member's Final Average Salary shall be calculated as at the day immediately preceding the date of the Member's death and the Member's Period of Qualifying Membership shall be the Member's Period of Prospective Qualifying Membership; or

- (b) **death on or after age 60:** where the Member died after attaining the age of 60 years, the Member's Spouse shall be entitled to a pension equal to 67% of the amount of the pension to which the Member would have been entitled at the time of the Member's death if the Member had not died but

had, immediately before the date of the Member's death, retired and become entitled to a pension under this Division D.

## **D8.2 Death whilst an Employee: Children's pensions**

Subject to this Part D8, where a Member dies whilst an Employee and before the Member's Normal Retiring Date leaving a Child or Children, each Child shall be entitled in equal proportions (unless the Member has by notice in writing to the Trustee previously specified proportions other than equal proportions to be paid to each Child) to:

- (a) in the event that the Member leaves a Spouse who does not make an election to commute any pension to which such Spouse is entitled under this Division D into a lump sum payment under Part D11 and who subsequently dies, an amount equal to:
  - (1) the Preserved Lump Sum Amount (determined in this case as if no deduction for Surcharge Aggregate were required to be made under Rule D9.3(a)); less
  - (2) the amount of the benefits (other than disability benefits where the period during which the Member was in receipt of such disability benefits was succeeded by a period of Service) paid to or in respect of the Member, whether from the Fund or the SBV Staff Fund,

which amount shall be payable at any time after the death of the Spouse to each and every Child who shall survive the Spouse or, where any such Child is unable to give a good and valid discharge for such payment, to such other person or persons as the Trustee determines to be held on trust for and applied for the benefits of any such Child and the receipt of such other person or persons for the sum so paid shall be a good and valid discharge to the Trustee and the Trustee shall not be under any liability to see to the application thereof;

or

- (b) if the Member leaves no Spouse, the Preserved Lump Sum Amount, which shall be payable at any time after 3 months from the date of the Member's death to the Member's legal personal representative on trust for each and every Child and the receipt of the legal personal representative for the Preserved Lump Sum Amount shall be a good and valid discharge to the Trustee and the Trustee shall not be under any liability to see to the application thereof,

and any other benefit (save for an allowance payable in accordance with Rule D8.5) to which each such Child may be or become entitled under this Division D shall be thereupon terminated. The notice in writing to the Trustee specifying the proportions of the Preserved Lump Sum Amount to be paid to each Child may be varied or revoked at any time by further notice in writing.

## **D8.3 Death after retirement on the ground of Disability**

- (a) **Spouses' pensions:** Subject to this Part D8, where a Member dies after having ceased to be an Employee on the grounds of Disability and while in receipt of a disability pension under this Division D or by virtue of any corresponding provision of the SBV Staff Fund Deed, the Member's



Spouse shall be entitled to a pension for life of an annual amount equal to 67% of the amount of the disability pension to which the Member was entitled immediately before the date of the Member's death.

(b) **Children's benefit:** Subject to this Part D8, where a Member dies after having ceased to be an Employee on the ground of Disability and while in receipt of a disability pension under this Division D or by virtue of any corresponding provision of the SBV Staff Fund Deed, leaving a Child or Children, each Child shall be entitled in equal proportions (unless the Member has by notice in writing to the Trustee previously specified proportions other than equal proportions to be paid to each Child) to:

- (1) in the event that the Member leaves a Spouse who does not make an election to commute any pension to which such Spouse is entitled under this Division D into a lump sum payment under Part D11 and who subsequently dies, an amount equal to:
  - (i) the Preserved Lump Sum Amount (determined in this case as if no deduction for Surcharge Aggregate were required to be made under Rule D9.3(a)); less
  - (ii) the amount of the benefits (other than disability benefits where the period during which the Member was in receipt of such disability benefits was succeeded by a period of Service) paid to or in respect of the Member, whether from the Fund or the SBV Staff Fund,

which amount shall be payable at any time after the death of the Spouse to each and every Child who shall survive the Spouse or, where any such Child is unable to give a good and valid discharge for such payment, to such other person or persons as the Trustee determines to be held on trust for and applied for the benefit of any such Child and the receipt of such other person or persons for the sum so paid shall be a good and valid discharge to the Trustee and the Trustee shall not be under any liability to see to the application thereof;

or

- (2) if the Member leaves no Spouse, an amount equal to:
  - (i) the Preserved Lump Sum Amount (determined in this case as if no deduction for Surcharge Aggregate were required to be made under Rule D9.3(a)); less
  - (ii) the amount of any benefits (other than disability benefits where the period during which the Member was in receipt of such disability benefits was succeeded by a period of Service) paid to or in respect of the Member, whether from the Fund or the SBV Staff Fund,

which amount shall be payable at any time after 3 months from the date of the Member's death to the Member's legal personal representative on trust for each and every Child and the receipt of the legal personal representative for the sum so paid shall be a good

and valid discharge to the Trustee and the Trustee shall not be under any liability to see to the application thereof,

and any other benefits (save for an allowance payable in accordance with Rule D8.5) to which each such Child may be or become entitled under this Division D shall be thereupon terminated. The notice in writing to the Trustee specifying the proportions of the Preserved Lump Sum Amount to be paid to each Child may be varied or revoked at any time by further notice in writing.

#### **D8.4 Death after age retirement**

- (a) **Spouses' pensions:** Subject to this Part D8, where a Member dies after having ceased to be an Employee and while in receipt of a pension under Part D6 or by virtue of any corresponding provision of the SBV Staff Fund Deed, the Member's Spouse shall be entitled to a pension for life of an annual amount equal to 67% of the amount of the pension to which the Member was entitled immediately before the date of the Member's death.
- (b) **No Child benefit or allowance:** Where a Member who has ceased to be an Employee dies and leaves no Spouse, no benefits shall become payable to any Child under this Division D.

#### **D8.5 Child allowances**

- (a) **Entitlement and amount:** Where a Member:
  - (1) has died or dies whilst an Employee and before the Member's Normal Retiring Date;
  - (2) has died or dies whilst in receipt of a disability pension; or
  - (3) is in receipt of a disability pension,each Child (if any) of the Member shall, subject to Rule D8.4(b) and Rule D8.5(b), be entitled to an allowance equal to an initial annual amount adjusted and compounded annually on each Adjustment Date by a percentage which is the annual percentage increase in the Index, where "**Adjustment Date**" and "**Index**" have the meaning given to them in Part D12. The initial annual amount effective at the Amendment Date was \$2,813.
- (b) **Conditions of entitlement:** A Child shall not be entitled to an allowance under Rule D8.5(a) unless the Trustee in respect of such Child determines, having regard to the age and circumstances of the Child and such other matters as appear to the Trustee to be relevant, that the Child is wholly or substantially dependent upon the receipt of the allowance and an allowance shall only be payable for that portion of the period that the Child meets the requirements of this Rule D8.5(b).
- (c) **Manner of payment:** Payment of the amount of the allowance to which a Child is entitled under Rule D8.5(a) shall be paid fortnightly to:
  - (1) the Child;
  - (2) a parent or guardian of, or a person having the custody of, the Child; or

- (3) such person or persons on behalf of or for the benefit of the Child as, having regard to the circumstances of the Child, the Trustee considers appropriate.

#### **D8.6 Death of Member leaving no Dependants**

Where a Member dies and is not survived by a Dependant, there shall be payable to the Member's legal personal representative, at least 3 months after the date of the death of the Member, the amount of the Member's Contributions with Accrued Interest thereon, less the amount (if any) paid to or in respect of the Member under Part D6 or Part D7 or the corresponding provisions of the Former General Orders or the SBV Staff Fund Deed (other than any amount paid to the Member under Rule D7.1, or any corresponding provision, in respect of a period during which the Member was in receipt of a disability pension and which was succeeded by a period of Service) with Accrued Interest on the deducted amount (if any) and less the Surcharge Aggregate (if any) applicable to the Member.

However, if after such inquiry as the Trustee considers reasonable the Trustee considers that there is no legal personal representative of the Member and that one is unlikely to be appointed, then (subject to Clause 8 of this Deed) that benefit shall cease to be payable and shall instead be retained in the Fund for its general purposes, but (without being under any duty to do so or to consider whether to do so, even if aware of any material matter or thing) the Trustee may subsequently determine that all or part of that benefit shall be paid to a person who establishes that he or she is the Member's legal personal representative.

#### **D8.7 Benefits not to be less than Contributions and Accrued Interest**

Where the aggregate amount of benefits paid from the Fund under this Division D to or with respect to a Member who dies is less than the amount of the Member's Contributions with Accrued Interest after deducting the Surcharge Aggregate (if any) applicable to the Member, there shall be payable from the Fund to the Member's legal personal representative a lump sum amount equal to the difference between the 2 amounts.

However, if after such inquiry as the Trustee considers reasonable the Trustee considers that there is no legal personal representative of the Member and that one is unlikely to be appointed, then (subject to Clause 8 of this Deed) that benefit shall cease to be payable and shall instead be retained in the Fund for its general purposes, but (without being under any duty to do so or to consider whether to do so, even if aware of any material matter or thing) the Trustee may subsequently determine that all or part of that benefit shall be paid to a person who establishes that he or she is the Member's legal personal representative.

#### **D8.8 Election to pay benefit to legal personal representative**

With the consent of the Trustee, a Member may at any time by notice in writing to the Trustee elect that on the Member's death:

- (a) there shall be payable to the Member's legal personal representative in lieu of the benefit to which the Member's Dependants (if any) would otherwise be entitled under this Division D, the amount of the Member's Contributions with Accrued Interest, less the amount of the benefits (other than disability benefits where the period during which the Member was in

receipt of such disability benefits was succeeded by a period of Service) (if any) received by, or accrued due to, the Member, whether from the Fund or the SBV Staff Fund, before the Member's death with Accrued Interest thereon and less the Surcharge Aggregate (if any) applicable to the Member; or

- (b) there shall be payable to the Member's legal personal representative, in lieu of the benefit to which the Member's Spouse (if any) would otherwise be entitled under this Division D, the amount of the Member's Contributions with Accrued Interest, less the sum of:
  - (1) the amount of the benefits (other than disability benefits where the period during which the Member was in receipt of such disability benefits was succeeded by a period of Service) (if any) received by, or accrued due to, the Member, whether from the Fund or the SBV Staff Fund, before the Member's death with Accrued Interest thereon; and
  - (2) such amount as an Actuary determines as the value of the allowances to which the Member's Child (if any) is entitled under this Division D or became entitled under the corresponding provisions of the SBV Staff Fund Deed,

and less the Surcharge Aggregate (if any) applicable to the Member.

An election under this Rule D8.8 is revocable by express notice in writing to the Trustee and a Member who revokes an election under this Rule D8.8 may at any time make a fresh election under this Rule D8.8 but the Trustee may ignore an election made by a Member under this Rule D8.8 if no legal personal representative of the Member is known to the Trustee within 6 months (or any longer period allowed by the Trustee in any particular case) after the death of the Member.

#### **D8.9 Payment of benefits to Spouses**

- (a) **Notification of De Facto Spouse by Member:** A Member may at any time by notice in writing to the Trustee before the Member's death notify the Trustee of the personal particulars of a person whom the Member considers to be a De facto Spouse and the Trustee shall record the details of such a notification in a register kept for that purpose. The Member may by express notice in writing to the Trustee request the deletion from the register of the details of a De facto Spouse.
- (b) **Application to Trustee by person claiming to be Spouse:** It is a condition precedent to a person being entitled to a benefit as a Spouse of a Member that that person notifies the Trustee of his or her claim to be a Spouse of the Member, and provides to the Trustee such information, evidence and proofs as the Trustee may require, not more than 3 months (or any greater period allowed by the Trustee either generally or in any particular case) after the death of the Member.
- (c) **More than 1 surviving Spouse:** If a Member dies leaving more than 1 surviving Spouse:
  - (1) the amount of any Spouse pension payable after the death of the Member shall be determined as if there was only 1 surviving

- Spouse (being such of the actual surviving Spouses as the Trustee may determine);
- (2) the Spouse pension so determined shall be paid to such one or more of the surviving Spouses to the exclusion of the other or others, and in such shares, as the Trustee may determine;
  - (3) the Trustee may vary such shares between the surviving Spouses during the course of payment of the Spouse pension and may determine that a particular surviving Spouse shall not be entitled to any share of a Spouse pension while another of the surviving Spouses is alive and in receipt of a share of that pension;
  - (4) the relevant Spouse pension shall, subject to Part D11, continue to be payable for so long as 1 of those surviving Spouses remains alive;
  - (5) the Trustee may impose such conditions and restrictions in relation to commutation of the relevant Spouse pension or any part thereof under Part D11, including without limitation refusing to allow commutation of any part of the Spouse pension unless and until all of the surviving Spouses join in the election to commute; and
  - (6) Rule D8.2(a) and Rule D8.3(b)(1) shall only apply if no part of the relevant Spouse pension is commuted under Part D11 and each reference in those Rules to the death of a surviving Spouse of a Member shall be read as referring to the death of the last surviving Spouse of the Member.

#### **D8.10 Miscellaneous**

- (a) **Person may only receive 1 pension:** A person is not entitled to receive at any one time more than 1 pension as:
  - (1) the Spouse of a deceased Member ; or
  - (2) as a Member and as the Spouse of a deceased Member ,but a person who is otherwise entitled to more than 1 pension under paragraph (1) or (2) is entitled to receive whichever of the pensions is of the greater amount, and a Member who is the Spouse of another Member by reason of a marriage which occurred, or a relationship which last commenced, whilst either or both of them was an Employee or before either of them became an Employee shall be entitled to a benefit as a Member and as the Spouse of a Member.
- (b) **Person becomes Spouse of Member after Member's retirement:** A person who becomes a Spouse of a Member after the Member ceases to be an Employee is not entitled to a pension by reason of the death of the Member unless the person became a Spouse of the Member not less than 3 years before the death.
- (c) **Entitlement as Dependant after commutation:** Where a Member or a Dependant of a Member commutes or has commuted into a lump sum payment any pension payable under this Division D, the Former General Orders or the SBV Staff Fund Deed and subsequent to such commutation becomes eligible as the Dependant of another Member to receive a benefit

under this Division D, the benefit to which the Dependant is entitled under this Division D shall be reduced by an amount determined by the Trustee after obtaining the advice of an Actuary and having regard to what the current value of the pension previously commuted would have been had it not been commuted.

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## Part D9 Cessation of employment benefits

### D9.1 Amount and circumstances of payment

Subject to Rule D9.3(a), a Member who ceases to be an Employee and is not entitled to any other benefit from the Fund under this Division D shall be entitled to a lump sum benefit of an amount determined by adding together the following:

- (a) the Member's Contributions, which for the purpose of this Rule D9.1(a) shall include:
  - (1) one-third of the Member's Contributions to the Fund under Rule D3.5(a)(3) or to the SBV Staff Fund under Rule B3.5(a)(3) of the SBV Staff Fund Deed; and
  - (2) any Contributions made by the Member to the SBV Staff Fund under Rule B3.7 of the SBV Staff Fund Deed,but shall not include the Member's Contributions under Rule D3.5(a)(2), Rule B3.5(a)(2) of the SBV Staff Fund Deed or the Contributions referred to in Rule D9.1(d);
- (b) Accrued Interest on such Contributions from the respective date of payment to the Fund or the SBV Staff Fund, as the case may be;
- (c) subject to Rule D9.2, an amount ("**Vested Amount**") equivalent to 10% of the aggregate of the amounts referred to in (a) and (b) above for each complete year of the Member's Period of Actual Membership, but the number of complete years to be counted in calculating the foregoing amount shall be no more than 10 years; and
- (d) the sum of:
  - (1) two-thirds of the Member's Contributions to the Fund under Rule D3.5(a)(3) or to the SBV Staff Fund under Rule B3.5(a)(3) of the SBV Staff Fund Deed;
  - (2) the Member's Contributions to the Fund under Rule D3.7;
  - (3) the Member's Contributions to the SBV Staff Fund under Rule B3.8 and Rule B3.9 of the SBV Staff Fund Deed; and
  - (4) Accrued Interest on such amounts from the respective date of payment to the Fund or the SBV Staff Fund, as the case may be,

and then subtracting the amount of the Surcharge Aggregate (if any) applicable to that Member from the sum of (a), (b), (c) and (d).

## D9.2 Payment of Vested Amount

The Vested Amount referred to in Rule D9.1(c) shall not be paid directly to a Member (other than a Member who last became (or is deemed to have become) a Member before 12 November 1987 and immediately before that date was a contributory member of the SBV Staff Fund, or where the Vested Amount is less than 10% of the Member's Salary at the date the Member ceases to be an Employee) but such amount shall be preserved until the occurrence of an event or circumstance when a benefit that is a "preserved benefit" in terms of the SIS Act may be paid under that Act, such preservation to be achieved by way of the Trustee:

- (a) transferring the Vested Amount to an Approved Benefit Arrangement under which the Vested Amount is required to be preserved as a "preserved benefit" under the SIS Act; or
- (b) retaining the Vested Amount in the Fund.

References in this Rule D9.2 to the "Vested Amount" shall be taken to be references to the Vested Amount after deduction of such part of the Surcharge Aggregate applicable to the Member as the Trustee determines is to be applied against the Vested Amount referred to in Rule D9.1(c).

## D9.3 Preserved benefit option

- (a) **10 years of Period of Actual Membership:** A Member who ceases to be an Employee, who is not entitled to any other benefits from the Fund under this Division D, and whose Period of Actual Membership is 10 years or more shall have the option in lieu of taking any benefit payable pursuant to Rule D9.1 (which option shall be exercised by the Member notifying the Trustee in writing of such within 90 days of the Member ceasing to be an Employee, or within such longer period as may be agreed by the Employer and the Trustee) of a preserved benefit to be payable in lump sum form when (subject to Clause 8 of this Deed) the Member attains the age of 60 years or on the occurrence of any earlier event or circumstance when a benefit that is a "preserved benefit" in terms of the SIS Act may be paid under that Act and being an amount calculated in accordance with the formula:

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

B

**Where:**

"A" is the number of whole months in the Member's Period of Qualifying Membership;

"B" is the number of whole months in the Member's Period of Prospective Qualifying Membership;

"C" is the amount of the benefit to which the Member would be entitled under Rule D6.2 (determined in this case without making the deduction otherwise required under Rule D6.5) were the Member for the purpose of this Rule D9.3 to be deemed to have attained the age of 60 years on the day immediately preceding the day the Member ceased to be an Employee, with the Member's

Final Average Salary to be calculated as at the day immediately preceding the day the member ceased to be an Employee and with the Member's Period of Qualifying Membership being the Member's Period of Prospective Qualifying Membership and further had the Member then elected to commute such benefit to a lump sum payment pursuant to Rule D11.1; and

“D” is the Surcharge Aggregate (if any) applicable to the Member, together with the adjustment (if any) to the amount of such preserved benefit provided for under Rule D9.3(c).

- (b) **Election to transfer to Approved Benefit Arrangement:** A Member who elects to take a preserved benefit under Rule D9.3(a) and who does not desire to retain such preserved benefit in the Fund, may at any time after the Member ceases to be an Employee elect, by notice in writing addressed to the Trustee, to transfer the amount of the Member's preserved benefit from the Fund (where such amount shall be calculated in accordance with the formula set out in Rule D9.3(a) and adjusted in accordance with Rule D9.3(c)) to an Approved Benefit Arrangement under which the transferred amount is required to be preserved as a “preserved benefit” under the SIS Act.
- (c) **Amount of preserved benefit:** The amount of the preserved benefit calculated pursuant to Rule D9.3(a) shall, at the date of payment by the Trustee either:
- (1) to the Member's legal personal representative in the case of the Member's death or otherwise to the Member in the circumstances provided for in Rule D9.3(a); or
  - (2) to another Approved Benefit Arrangement under Rule D9.3(b),
- be an amount calculated in accordance with the formula:

$$A \times \frac{B}{C}$$

**Where:**

“A” is the amount of the preserved benefit calculated at the date the Member ceased to be an Employee in accordance with Rule D9.3(a);

“B” is the value of the Earnings Index applying at the date of calculation of the amount of preserved benefit; and

“C” is the value of the Earnings Index applying at the date the Member ceased to be an Employee in accordance with Rule D9.3(a).

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## Part D9A Retrenchment benefits

### D9A.1 Basic benefit

- (a) **Categories of Members:** For the purposes of this Part D9A, Members who cease to be Employees before attaining the age of 55 years shall be divided into 2 categories, being:



- (1) “**Retrenched Members**”, being Members who in the opinion of the Employer have ceased to be Employees as a result of retrenchment and who are therefore categorised by the Employer by written notice given to the Trustee in a form satisfactory to the Trustee as being Retrenched Members; and
  - (2) Members in respect of whom the Trustee has not received such a notice from the Employer and to whom Rule D9A.1(b) does not apply.
- (b) **Basic benefit for Retrenched Members:** Subject to Rule D9A.2, a Retrenched Member shall be entitled to a lump sum benefit of an amount determined by adding together the following:
- (1) 3 times the sum of:
    - (i) the Member’s Contributions, which for this purpose shall include:
      - (A) one-third of any Contributions made to the Fund by the Member under Rule D3.5(a)(3) or to the SBV Staff Fund under Rule B3.5(a)(3) of the SBV Staff Fund Deed; and
      - (B) in the case of a Part-Time Employee or Technical Employee who applied to become a “Member” of the SBV Staff Fund by written application received by the trustee of the SBV Staff Fund on or before 30 June 1991 and was last admitted as a “Member” of the SBV Staff Fund pursuant to that application, any Contributions made by the Member to the SBV Staff Fund under Rule B3.7 of the SBV Staff Fund Deed, but shall not include any Contributions made by the Member to the Fund under Rule D3.5(a)(2) or to the SBV Staff Fund under Rule B3.5(a)(2) and the Contributions referred to in Rule D9A.1(b)(2); and
    - (ii) Accrued Interest on the amounts which count for the purposes of Rule D9A.1(b)(1)(i) from the respective date of actual payment to the Fund or the SBV Staff Fund, as the case may be;
  - (2) the sum of:
    - (i) two-thirds of any Contributions made by the Member to the Fund under Rule D3.5(a)(3) or to the SBV Staff Fund under Rule B3.5(a)(3) of the SBV Staff Fund Deed;
    - (ii) any Contributions made by the Member to the Fund under Rule D3.7 or to the SBV Staff Fund under Rule B3.8 and Rule B3.9 of the SBV Staff Fund Deed; and
    - (iii) in the case of a Part-Time Employee, or a Technical Employee, not falling within Rule D9A.1(b)(1)(i)(B), any

Contributions made by the Member to the SBV Staff Fund under Rule B3.7 of the SBV Staff Fund Deed;

and

- (3) Accrued Interest on the amounts which count for the purposes of Rule D9A.1(b)(2) from the respective date of payment to the Fund or the SBV Staff Fund, as the case may be,

and then subtracting the amount of the Surcharge Aggregate (if any) applicable to that Retrenched Member from the sum of (1), (2) and (3).

## **D9A.2 Optional alternative benefit**

A Retrenched Member who is entitled to, but has not received, a benefit under Rule D9A.1(b) and whose Period of Actual Membership is 10 years or more may, in lieu of receiving that benefit, by written notice given to the Trustee in a form acceptable to the Trustee not more than 3 months after ceasing to be an Employee elect a preserved benefit determined and payable as provided in Rule D9.3, subject to the options, criteria and conditions specified in that Rule.

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## **Part D10 Limited Members**

### **D10.1 Retirement between 55 and 60**

A Limited Member who ceases to be an Employee on or after attaining the age of 55 years but before attaining the age of 60 years in circumstances where no benefit is payable under Rule D10.3 is entitled to a benefit in accordance with Rule D6.1, in all respects as if the Limited Member had retired as a Full Member with the same Period of Qualifying Membership and Final Average Salary.

### **D10.2 Retirement on or after 60**

A Limited Member who ceases to be an Employee on or after attaining the age of 60 years in circumstances where no benefit is payable under Rule D10.3 is entitled to any benefits under this Division D in all respects as if the Limited Member had retired as a Full Member with the same Period of Qualifying Membership and Final Average Salary.

### **D10.3 Disability retirement before 60**

Subject to Rule D10.4, a Limited Member who is a Disability Retiree shall as from the date of ceasing to be an Employee (or, where the consent of the trustee of the SBV Staff Fund to the Member's retirement was required under a corresponding provision of the SBV Staff Fund Deed, the date that consent was given) be entitled to a benefit being:

- (a) where the Trustee, having regard to any medical and other relevant evidence, determines that a Pre-Existing Condition is the direct cause of the Disability and:
  - (1) in the case of a Limited Member who was last admitted to membership of the SBV Staff Fund after 12 November 1987, a pension of an amount calculated in accordance with the formula:

$$\left(A \times \frac{B}{C}\right) - E; \text{ or}$$

- (2) in the case of a Limited Member who, immediately before 12 November 1987, was a limited member of the State Bank of Victoria Provident Fund under the State Bank (Provident Fund) General Orders 1977 and was required to pay Contributions to that fund, a pension of an amount calculated in accordance with the formula:

$$A \times \left[ D + (1 - D) \times \frac{B}{C} \right] - E$$

**Where:**

- “A” is the amount of the benefit to which the Member would have been entitled under Rule D6.2 (determined in this case without making the deduction otherwise required under Rule D6.5) if the Member had retired on the day immediately preceding the day on which the Member became entitled to a benefit under this Rule D10.3 and had attained the age of 60 years with the same Final Average Salary as at that date and the Member’s Period of Qualifying Membership was the Member’s Period of Prospective Qualifying Membership;
- “B” is the number of whole months in the Member’s Period of Qualifying Membership;
- “C” is the number of whole months in the Member’s Period of Prospective Qualifying Membership;
- “D” is the percentage rate (expressed as a fraction in which that rate is the numerator and the denominator is 100) of benefits for which the Member was admitted as eligible under the State Bank (Provident Fund) General Orders 1977;
- “E” is the Surcharge Aggregate (if any) applicable to the Member,
- or
- (b) in circumstances other than those provided for in Rule D10.3(a), of an amount calculated in accordance with Rule D7.1.

#### **D10.4 Miscellaneous**

The provisions of Rule D7.2 shall apply to a Limited Member unless the contrary intention appears in this Part D10.

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## **Part D11 Lump sum benefit option**

### **D11.1 Election to commute**

Subject to Rule D11.2, a Member or Dependant entitled to a benefit for which a pension (which expression shall not include or be taken to refer to any allowance) is payable under this Division D or the corresponding provisions of the SBV Staff Fund Deed (other than a disability pension payable under Rule D7.1 or Rule D10.3 before a Member attaining the age of 60 years) shall, subject to this Part

D11, have the option (which must be exercised by notice in writing to the Trustee within 3 months of the benefit accruing, except that, in the case of a benefit for which a pension is payable to a Spouse upon the death of a Member, the 3 month election period shall not commence until 3 months after the date of the Member's death) of electing to commute the whole or any part of the amount of such benefit for a lump sum payment of an amount determined by the Trustee on the advice of an Actuary, but:

- (a) if a Member or Dependant elects to commute less than the whole of the amount of such benefit, the Member or Dependant may not elect to commute more than 80% of the benefit;
- (b) if a Dependant elects to commute the whole of the amount of the pension payable pursuant to Rule D8.1(a), such Dependant shall be entitled to receive the greater of either:
  - (1) a lump sum payment of an amount commuted in accordance with this Rule D11.1; or
  - (2) an amount determined in the manner provided in Rule D9.3(a);and
- (c) in the case of a Member who ceased to be an Employee on or after attaining the age of 55 years in circumstances which (subject to Clause 8 of this Deed) the Employer determines constituted retrenchment for the purposes of this Rule D11.1(c) and who elects to commute the whole of the amount of such benefit, the amount of the lump sum amount arising on commutation shall not be less than the greater of:
  - (1) the amount determined in the manner provided in Rule D9A.1(b) as at the date the Member ceased to be an Employee; and
  - (2) if the Member's Period of Actual Membership is 10 years or more, the amount determined as at the date the Member ceased to be an Employee in the manner provided in Rule D9.3(a).

### **D11.2 Discretion of Trustee**

The Trustee may waive the requirement that the election period for a Spouse of a deceased Member not commence until 3 months after the date of the Member's death if the Trustee is satisfied that there is no De facto Spouse with respect to the Member.

### **D11.3 Reduction of other benefits**

Where a Member or Dependant makes an election under Rule D11.1 and is paid the amount of the lump sum payment to which such Member or Dependant becomes entitled, such Member's or Dependant's pension shall, as from the date upon which such Member or Dependant became entitled to make the election, be reduced by the amount of that part of such Member's or Dependant's entitlement which was converted to the lump sum.

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## **Part D12 Cost of living adjustments**

### **D12.1 Definitions**

In this Part D12:

“**Adjustment Date**” means each 1 July, commencing on the 1 July coincident with or next following the Amendment Date.

“**Index**” means as at an Adjustment Date:

- (a) the Consumer Price Index (All Groups) Weighted Average of 8 Capital Cities as determined by the Commonwealth Statistician for the 12 months period up to and including the end of the March Quarter immediately preceding the Adjustment Date; or
- (b) if the abovementioned index is not available or is discontinued, such other percentage as may be agreed between the Trustee and the Principal Employer from time to time, after obtaining the advice of an Actuary.

### **D12.2 Basis of indexation**

Each pension and allowance which is payable under any provision of this Division D (including any uncommuted portion of a pension which has been commuted in part) shall be increased on each Adjustment Date by a percentage which is the annual percentage increase in the Index but:

- (a) for the purpose of this Rule D12.2, the first Adjustment Date in respect of any such pension shall not occur less than 6 months after the date on which the Member or Dependant in receipt of such pension first becomes entitled thereto; and
- (b) where a Member or Dependant becomes entitled to a pension on a date more than 6 months before the next Adjustment Date, the Member’s or Dependant’s pension shall be increased on the next Adjustment Date by a percentage which shall be the percentage increase in the Index for the period commencing on the first day of the next Quarter following the date on which a Member or Dependant becomes entitled to the pension and ending on the following March Quarter.

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## **Part D13 Transfers out of Fund**

### **D13.1 Transfer while Employee**

While a Member is an Employee, with the consent of the Member and of the Principal Employer, the Trustee may pay or transfer from the Fund to or towards another superannuation fund maintained in whole or in part by the Principal Employer in which the Member participates or is eligible to participate an amount agreed, or determined in a manner agreed, between the Trustee and the Principal Employer.

### **D13.2 Transfers of benefits**

In lieu of providing all or part of a benefit under this Division D in respect of a Beneficiary, the Trustee with the consent of the Beneficiary may pay or transfer from the Fund to or towards an Approved Benefit Arrangement in which the Beneficiary participates or is eligible to participate:

- (a) an amount representing the value of all or that part of the benefit, as determined by the Trustee after obtaining the advice of an Actuary; or
- (b) subject to the Principal Employer's consent and to such conditions as it may impose, any greater amount agreed between the Principal Employer and the Trustee, after the Trustee has considered the advice of an Actuary in relation to the impact of such transfer upon the future liability of the Principal Employer and the Members to Contribute to the Fund.

### **D13.3 Powers of transfer under Relevant Law**

The Trustee may unilaterally make a payment or transfer from the Fund to another Approved Benefit Arrangement in the circumstances where the Trustee is so empowered by a Relevant Law, and the Trustee must make such a payment or transfer when required to do so (by force of law) under a Relevant Law.

### **D13.4 Manner and conditions of transfer**

The Trustee may effect a payment or transfer from the Fund under this Part D13 by way of a payment of money or a transfer of assets and, without limiting Rule D13.5, the Trustee may impose any conditions it considers appropriate in connection with a payment or transfer under this Part D13, including without limitation any conditions necessary in order to ensure that the Fund satisfies the Relevant Law.

### **D13.5 Discharge of Trustee**

The receipt of a person to whom the Trustee is authorised (either expressly or by necessary implication) to make a payment or transfer under this Part D13 is a complete discharge to the Trustee and the Trustee is not responsible for the application or disposal of money or assets so paid or transferred.

### **D13.6 Effect of transfer**

Unless otherwise agreed between the Principal Employer and the Trustee, after obtaining the advice of an Actuary, upon a payment or transfer from the Fund in respect of a Member or Beneficiary under this Part D13, all of the rights and interests of that Member or Beneficiary under this Division D (and all of the rights and interests of any person otherwise entitled to claim in respect of the Member or Beneficiary or on the occurrence of any event or circumstance affecting the Member or Beneficiary) are extinguished.

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## **Part D14 Transfer into Fund**

### **D14.1 Transfer from Approved Benefit Arrangement**

The Trustee and the Principal Employer may agree to the Trustee making and carrying into effect an arrangement with the trustee of, or another person responsible for, an Approved Benefit Arrangement or a Member who is or was a participant or former participant in an Approved Benefit Arrangement whereby, subject to any conditions imposed by the Trustee:

- (a) an agreed sum or agreed assets will be paid or transferred to the Fund; and
- (b) subject to the Fund receiving the agreed sum or agreed assets, the Member will be granted such rights and have such obligations (whether additional to or in lieu of the rights and obligations otherwise provided for under this Division D) as are agreed between the Trustee and the Principal Employer, after obtaining the advice of an Actuary.

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## **Part D15 Other schemes**

### **D15.1 Adjustment of benefits**

If a benefit (“**Corresponding Benefit**”) is provided for or secured, or could reasonably be expected to become payable, in respect of a Member under another scheme or arrangement any part of the costs of which are borne directly or indirectly by the Principal Employer or any governmental authority on retirement, death or disablement or in any other circumstances similar to those in which a benefit may be provided under these Rules, then (subject to Clause 8 of this Deed) any benefit otherwise payable from the Fund to or in respect of the Member must (unless otherwise agreed between the Trustee and the Principal Employer) be reduced by the amount of any Corresponding Benefit but, to the extent that a Corresponding Benefit is provided in a different manner or form to an applicable benefit under this Division D, the manner and the extent of any such adjustment shall be determined by the Trustee, after obtaining the advice of an Actuary.

### **D15.2 Effect of adjustments**

Any reduction or adjustment in benefits under Rule D15.1 shall be binding on all interested persons without the need to amend this Deed.

### **D15.3 No regard to benefits under other Divisions**

In applying this Part D15 any benefits available to the relevant Member under any other Division of these Rules shall be disregarded.

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## **Part D16 Miscellaneous**

### **D16.1 Adjustment of benefits to whole dollar amounts**

If the amount of any benefit ascertained in accordance with this Division D includes an amount of cents, the benefit shall be reduced by the amount of the

cents, unless the amount of cents exceeds 50, when the amount of the benefit shall be increased to the next whole dollar, but any periodic payment of any pension or allowance shall not be adjusted to the nearest whole dollar amount pursuant to this Rule D16.1.

## **D16.2 Particular ages and birthdays**

For the purposes of this Division D, a person is to be taken to have attained a particular age on the day immediately preceding the relevant anniversary of that person's birth and, where a person was born on 29 February in any year, then, in any subsequent year which is not a leap year, the anniversary of that person's birth shall be deemed to occur on 1 March of that subsequent year.

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## **Part D17 Conditions precedent: Non-alienability and capacity**

### **D17.1 Definitions**

In this Part D17:

**"Entitled Person"** means a natural person other than:

- (a) a Member in respect of whom (other than with the approval of the Trustee or as otherwise expressly provided for under this Deed) any thing has occurred or any circumstance exists (subject to Clause 8 of this Deed) which would deprive the Member of:
  - (1) absolute legal and beneficial ownership of the whole or any part of a Relevant Benefit; or
  - (2) the right to receive or otherwise have exclusive personal enjoyment of the whole or any part of a Relevant Benefit; or
- (b) a Member who is, in the opinion of the Trustee, incapable of managing his or her own affairs.

**"Relevant Benefit"** means in relation to a person as at a particular date a benefit to which, but for the operation of this Part D17, that person would be entitled under this Division D, including:

- (a) in the case of a benefit payable as a lump sum, the lump sum calculated in accordance with this Division D; and
- (b) in the case of a benefit payable by instalments (including without limitation a pension or a lump sum payable in 2 or more instalments, whether by reason of partial preservation or otherwise), each instalment thereof calculated in accordance with this Division D.

### **D17.2 Condition precedent to benefit entitlement**

Subject to Clause 8 of this Deed, it is a condition precedent to a person being entitled to a benefit under this Division D that the Relevant Person is, at all material times, an Entitled Person.



### **D17.3 Alienation of benefits or incapacity**

If a Member is not an Entitled Person, the Trustee must set aside assets of the Fund equivalent to the Relevant Benefit which shall be paid or applied from the Fund to or for the benefit of one or more of:

- (a) that Member;
- (b) that Member's Dependants; and
- (c) if the Member has died, any other person permitted under the Relevant Law,

to the exclusion of the other or others of them and in the proportions, manner and form, and subject to any trusts and conditions, determined by the Trustee. Without limiting the foregoing, in the exercise of its Powers under this Rule D17.3 in respect of a Member, the Trustee may pay any part of a Relevant Benefit from the Fund to a person who in the opinion of the Trustee:

- (d) is a trustee for the Member or a trustee for a Dependant of the Member, including without limitation a trustee of a trust established for this purpose by the Trustee upon the trusts and with the powers determined by the Trustee;
- (e) is a representative, Spouse, Child, parent or guardian of (or an executor or administrator of the estate of) the Member or of a Dependant of the Member; or
- (f) has the custody or care (or the financial expense of the custody or care) of the Member or a Dependant of the Member.

### **D17.4 Exercise of relevant Powers**

The Trustee may determine that paragraph (a) or (b) of the definition of "Entitled Person" no longer applies to a person but the Trustee is not required to investigate or ascertain whether a person is or is not an Entitled Person, or to exercise or consider the exercise of any Power exercisable by the Trustee under this Part D17, even where the Trustee has actual notice of a relevant matter.

### **D17.5 Discharge of Trustee**

The receipt by a person to whom an amount is paid by the Trustee under this Part D17 is a complete discharge to the Trustee and the fact that a person was not an Entitled Person at the time of payment may not be asserted as a breach of duty by the Trustee.

### **D17.6 Consequential adjustments**

Subject to Clause 8 of this Deed, if a person is not an Entitled Person at a material time:

- (a) the Trustee may adjust the rights, interests and obligations of that person (and of any other person otherwise entitled to claim in respect of that person or on the occurrence of an event or circumstance affecting that person) in the manner and to the extent the Trustee considers appropriate but (without limiting Rule D17.2 or creating an actual entitlement to or interest in a benefit) the Trustee may deem that person to be or to have

been an Entitled Person for any particular period and for any particular purpose under this Division D;

- (b) if that person subsequently becomes an Entitled Person, the Trustee may re-adjust any such right, interest or obligation in the manner, to the extent and on the conditions the Trustee considers appropriate; and
- (c) any part of a Relevant Benefit which is not otherwise paid or applied from the Fund in accordance with this Part D17 shall be retained in the Fund for the general purposes thereof.

### **D17.7 Pensions and allowances**

Without limiting the generality or operation of the preceding Rules in this Part D17, a pension or allowance payable under this Division D is not able to be transferred to any person (other than a reversionary beneficiary if such reversion is otherwise permitted under this Division) and cannot be used as security for any borrowing.

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## **Part D18 Defalcation and debts**

### **D18.1 Employer's lien**

The Employer and any previous Employer of a Member (in this Part referred to as the "relevant Employer") shall (to the extent, if any, permitted under a Relevant Law) have a lien on any benefit payable to or in respect of the Member for an amount equal to the value of any loss arising (whether the events giving rise to that loss occurred before on or after the SBV Staff Transfer Date) from the theft, unauthorised possession or misappropriation by such Member or where such Member aids and abets or in any way assists in such theft, unauthorised possession or misappropriation of, or the failure of such Member to account for any funds, goods, equipment or any other property whatsoever either in the possession, custody, care or control of the relevant Employer or belonging to the relevant Employer or a customer of the relevant Employer or any other persons having a business or personal relationship with the relevant Employer, the SBV Staff Fund or the Fund (in this Part D18 referred to as the "**Defalcation**").

### **D18.2 Reimbursement for loss**

Subject to Clause 8 of this Deed and the Relevant Law, at the request of the relevant Employer and subject to the relevant Employer proving to the satisfaction of the Trustee that such Member was wholly or partly responsible for any loss referred to in Rule D18.1, the Trustee shall have power to deduct, in such manner and at such times as the Trustee considers appropriate, from any benefit subject to such lien an amount or amounts and pay to the relevant Employer a sum certified to the Trustee by an Actuary as being equal to the value of such amount deducted or to be deducted, provided that such sum shall not exceed the pecuniary value of such loss (including Accrued Interest thereon for the period from the actual date of the Defalcation or, if such date cannot be ascertained, from the date upon which the relevant Employer considers the Defalcation took place until the Member ceases to be an Employee) and the receipt of the relevant Employer for such sum shall be a good and valid discharge to the Trustee.

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## **Part D19 Transfer of Members from Division D to Division F**

### **D19.1 Transfer of Members from Division D to Division F**

If an Eligible Division D Transferring Member makes a Division F Transfer Election and, at the end of the day before the Division F Transfer Date referable to that Eligible Division D Transferring Member, both that Division F Transfer Election continues to be in effect in accordance with these Rules and with requirements determined by the Principal Employer, with the consent of the Trustee, and that Member has not ceased to be an Eligible Division D Transferring Member, then:

- (a) with effect at the end of the day before the Division F Transfer Date applicable to that Eligible Division D Transferring Member:
  - (1) the Eligible Division D Transferring Member ceases to be a Member under this Division D; and
  - (2) subject to Rule D19.2, the Eligible Division D Transferring Member ceases to have any right to benefits provided for under this Division D; and
- (b) as provided for in Division F, from the start of the Division F Transfer Date applicable to that Eligible Division D Transferring Member, he or she becomes:
  - (1) if not already a “Member” under Division F, a “Member” under that Division as a “Transferred Ordinary Member” or a “Transferred Post-Employment Member” as the case may be, each as defined in Rule F1.2; or
  - (2) if already a “Member” under Division F, a “Transferred Ordinary Member” or a “Transferred Post-Employment Member” as the case may be, each as defined in Rule F1.2.

### **D19.2 Unpaid benefits as a Division D Member**

If an Eligible Division D Transferring Member, who is a Member who has ceased to be an Employee and is entitled to benefits under Part D9 but has not exercised the option of taking his or her benefits under Rule D9.3, being a Member who has retained his or her “Vested Amount” referred to in Rule D9.1(c) in the Fund, ceases to be a Member as provided for in Rule D19.1, and any benefit other than the “Vested Amount” referred to in Rule D9.1(c) (the “other unpaid benefit”) remains to be paid from the Fund in respect of that Eligible Division D Transferring Member immediately before the time he or she so ceases to be a Member, he or she does not cease to have the right to the other unpaid benefit on so ceasing to be a Member.

### **D19.3 Unpaid Contributions on transfer to Division F**

If an Eligible Division D Transferring Member ceases to be a Member as provided for in Rule D19.1 and any contributions remain outstanding under this Division with respect to that former Member for the period up to that former Member’s Division F Transfer Date, the former Member shall continue to be liable to pay those contributions under this Division D.

#### **D19.4 Death of Eligible Division D Transferring Member**

A Division F Transfer Election made by an Eligible Division D Transferring Member ceases to have any effect on the death of that Eligible Division D Transferring Member prior to the Division F Transfer Date referable to that Eligible Division D Transferring Member.

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### **Part D20 Transferring Members**

#### **D20.1 Definitions and Interpretations**

In this Part D20:

**“Approved Actuary”** means for any particular purpose the Actuary approved for that purpose by the Trustee;

**“Corporate Fund”** means The Corporate Superannuation Master Trust governed by the trust deed and rules made by N.M. Superannuation Proprietary Limited dated 23 April 1998 (as amended); and

**“Fiserv Transfer Value”** means the greater of:

- (a) the present value of the prospective benefit entitlements (“Entitlements”), determined in accordance with actuarial assumptions, in relation to the Member under this Division D as at the date the Member ceased to be an Employee in respect (and only in respect) of the Member’s membership period of the Fund up to that date, as determined by the Approved Actuary, and assuming for this purpose (and only for this purpose) that the Member was still an Employee; and
- (b) the benefit that would have become payable to the Member from Division D had the Member voluntarily ceased to be an Employee in good health on that date; plus
- (c) in respect of the period between the date the Member ceased to be an Employee and the date a transfer of the Member’s Entitlements to the Corporate Fund is effected in respect of the Member under Rule D20.2, any additional amount representing interest on the Entitlements for this period at a rate determined by the Approved Actuary.

#### **D20.2 Transferring Members**

If a Member ceases to be an Employee and elects to become a defined benefit member of the Corporate Fund then, in lieu of providing the benefits which would otherwise be, or at any time in the future become, payable in respect of the Member under this Division D, there shall be transferred from the Fund to the Corporate Fund an amount equal to the Fiserv Transfer Value in respect of that Member, subject to:

- (a) the Member consenting to his or her benefits being provided by way of transfer under this Part D20; and
- (b) the Trustee and the Principal Employer consenting to the transfer taking place and agreeing to the amount, or the method of calculating the amount, of the Fiserv Transfer Value determined under this Rule D20.2.

### **D20.3 Manner and conditions of transfer**

- (a) The Trustee may effect a transfer from the Fund under this Part D20 by way of a payment of money or a transfer of assets.
- (b) The Trustee may in connection with a payment or transfer under this Part D20 impose any conditions the Trustee considers necessary in order to ensure that the Fund satisfies a Relevant Law.
- (c) Without limiting Rule D20.3(b), the Trustee and the Principal Employer may agree to the Trustee imposing any other conditions in respect of such a payment or transfer.
- (d) A Member's consent under Rule D20.2 must be given to the Trustee in writing in a manner and form acceptable to the Trustee no later than 18 May 2005 or such earlier or later time (if any) as may be agreed between the Trustee and the Principal Employer.

### **D20.4 Discharge of Trustee**

The receipt of a person to whom a payment or transfer is made in good faith under this Part D20 is a complete discharge to the Trustee and the Trustee is not responsible for the application or disposal of money or assets so paid or transferred.

### **D20.5 Effect of transfer**

Unless otherwise agreed between the Principal Employer and the Trustee, after obtaining the advice of an Approved Actuary, upon a payment or transfer from the Fund in respect of a Member under this Part D20, the Member ceases to be a Member and all the rights and interests of the Member under this Division D and all of the rights and interests of any person otherwise entitled to claim under this Division D in respect of the Member or on the occurrence of any event or circumstance affecting the member, shall (subject to Clause 8) be extinguished.

## Division E

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### Former Division C SBV Members

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#### Part E1 Application and interpretation

##### E1.1 Application of this Division E

Subject to Part E13, this Division E only applies to and in respect of persons who immediately before the SBV Staff Transfer Date were “Division C Members” of the SBV Staff Fund under the SBV Staff Fund Deed but, notwithstanding anything expressed or implied to the contrary in this Deed, no person may become, or be re-admitted as, a Member under this Division E after the SBV Staff Transfer Date.

This Division E is always subject to the terms of the Clauses contained in the body of the Deed and to Division A of the Rules.

##### E1.2 Definitions

In this Division E, unless the contrary intention appears or the context requires otherwise:

“**Accrued Benefit Multiple**” means in relation to a Member at any particular date the multiple which is the sum of:

- (a) the multiple determined according to the following formula:

$$\frac{1}{100} [MP_0 \times 8 + MP_2 \times 12 + MP_4 \times 16 + MP_6 \times 20 + MP_8 \times 24]$$

Where “**MP<sub>0</sub>**”, “**MP<sub>2</sub>**”, “**MP<sub>4</sub>**”, “**MP<sub>6</sub>**” and “**MP<sub>8</sub>**” mean the number of years (and any fraction of an incomplete year) of the Member’s Period of Qualifying Membership during which the Member’s rate of Contributions was or was deemed to be, respectively 0%, 2%, 4%, 6% or 8% of Salary, but any Period of Qualifying Membership purchased by the Member pursuant to Rule E3.7 (or the corresponding provision in the SBV Staff Fund Deed) shall be treated as a Period of Qualifying Membership during which the Member’s rate of Contributions was or was deemed to be 6% of Salary; and

- (b) in the case of a Former Division B Member, such multiple as may be determined by the Trustee, after obtaining the advice of an Actuary, having regard to such matters as the Trustee considers relevant.

“**Accrued Interest**” means:

- (a) when related to a period before the SBV Staff Transfer Date, interest at the rate which applied in respect of that period for the corresponding purpose under the corresponding provisions of the SBV Staff Fund Deed; and
- (b) when related to a period after the SBV Staff Transfer Date, interest at the Declared Rate in respect of that period.

“**Accrued Retirement Benefit**” means in relation to a Member at any particular date the amount determined by multiplying the Member’s Accrued Benefit Multiple by the Member’s Final Average Salary and then subtracting from the result the amount of the Surcharge Aggregate (if any) applicable to the Member but, where a Member remains an Employee after the Normal Retiring Date, the Accrued Retirement Benefit at the date the Member ceases to be an Employee shall be the amount which would have been the Accrued Retirement Benefit on the Normal Retiring Date together with Accrued Interest from the Normal Retiring Date to the date the Member ceases to be an Employee.

“**Adjustment Date**” means each 1 September, commencing on the 1 September coincident with or next following the SBV Staff Transfer Date.

“**Beneficiary**” means:

- (a) a Member or other person who is for the time being entitled to receive a benefit from the Fund in accordance with this Division E; and
- (b) a Member who would otherwise be presently entitled to receive a disability pension from the Fund under this Division E but for the exercise of a Power by the Trustee under Rule E8.3(e).

“**Child**” means:

- (a) in relation to a Member:
  - (1) a child of the Member within the meaning of the SIS Act;
  - (2) a child in the regular care, custody or control of the Member before (and as at) the date the Member ceased to be an Employee; and
  - (3) a child for whose support or maintenance the Member was wholly or partially responsible immediately before ceasing to be an Employee,but, unless the Trustee determines otherwise, does not include any person whose claim to be a Child of a Member depends upon a relationship created or which commenced after the Member ceased to be an Employee; and
- (b) in relation to a person other than a Member (“Relevant Person”), any person who the Trustee determines to be a Child of the Relevant Person having regard to the provisions of paragraph (a) of this definition,

and “**Children**” shall have a corresponding meaning.

“**Contribution**” means a payment to the Fund by a Member under this Division E and a payment to the SBV Staff Fund by a Member under the SBV Staff Fund Deed and “**Contribute**” has a corresponding meaning.

“**Contribution Date**” means any day or days agreed (or determined on a basis agreed) between the Trustee and the Employer from time to time, and where used in relation to Contributions to the SBV Staff Fund includes any “Contribution Date” under the SBV Staff Fund Deed.

“**Contribution Review Date**” means such date or dates in any year as the Trustee may determine either generally or in respect of any group or class of Members, being the date as at which a Member’s rate of Contributions may be varied as provided in Rule E3.2(b).

“**De Facto Spouse**” means, in relation to a person, another natural person who, though not legally married to the first mentioned person, in the opinion of the Trustee lives or lived with the first mentioned person as at the relevant date on a genuine domestic basis in a relationship as a couple.

“**Dependant**” means in relation to a person (“**relevant person**”) any one or more of:

- (a) a Spouse of the relevant person;
- (b) a Child of the relevant person; and
- (c) any other natural person who, in the opinion of the Trustee, is or was at the relevant date (being, in the case of a deceased person, the date of death) wholly or partially dependent on the relevant person.

“**Disability**” means in relation to a Member being absent from employment through continuing or recurring injury, disease, infirmity or other medical condition (whether physical or mental) and in such state of health (not due to or induced by any wilful action on the part of the Member or any Dependant designed or intended to bring about a state of health to obtain a benefit from the Fund) as in the opinion of the Trustee, after consideration of all the facts and evidence before the Trustee, renders the Member permanently incapable of performing the Member’s duties or duties for which the Member is or was by reason of education, training or experience suited or for which the Member would be suited as a result of retraining, and “**Disabled**” has a corresponding meaning.

“**Disability Retiree**” means:

- (a) a Member who ceased to be an Employee before 1 July 1994 and before attaining the age of 55 years after having previously applied to the trustee of the SBV Staff Fund for the trustee’s consent to retire on the ground of Disability and received the trustee’s consent to retire on that ground;
- (b) a Member who, in the opinion of the trustee of the SBV Staff Fund (where that opinion was evidenced by a resolution of the trustee of the SBV Staff Fund made before the SBV Staff Transfer Date) or of the Trustee (after considering such information and evidence, including medical reports, as the trustee of the SBV Staff Fund or the Trustee required), ceased to be an Employee between 1 July 1994 and the SBV Staff Transfer Date, and before attaining the age of 55 years, because of Disability; and
- (c) a Member who, in the opinion of the Trustee (after considering such information and evidence, including medical reports, as the Trustee may require), ceased to be an Employee on or after the SBV Staff Transfer Date and before attaining the age of 55 years because of Disability.

“**Eligible Division E Transferring Member**” means an Eligible Transferring Member who is a Member under this Division E.

“**Employee**” means any person employed for the time being by an Employer (other than as an independent contractor or a casual or temporary employee) and, for the purposes of this Division E, a Member who became a permanent employee of the Principal Employer on 1 January 1991 and was immediately before that date a permanent employee of the State Bank of Victoria and since that date has not ceased to be a person employed by an Employer, or by Employers in accordance with Rule E1.3A, shall be deemed to have become or been appointed



as an Employee on the date that person last became a permanent employee of the State Bank of Victoria, and without limiting the circumstances by which a person may cease to be an Employee it is confirmed that subject to Rule E1.3A a person who is employed by an Associated Employer ceases to be an Employee when that Associated Employer ceases to be an Associated Employer.

**“Final Average Salary”** means:

- (a) in relation to a Member (whether in full-time employment or a Part-Time Employee) whose Period of Qualifying Membership is less than 2 years, an amount calculated in accordance with the formula:

$$\frac{A}{B} \times 365$$

B

**Where:**

**“A”** is the aggregate Salary of the Member for the Member’s Period of Qualifying Membership; and

**“B”** is the number of days in the Member’s Period of Qualifying Membership;

- (b) in relation to a Member whose Period of Qualifying Membership is not less than 2 years, an amount equal to one-half of the aggregate Salary of the Member for the period of 2 years ended on the last day of the Member’s Period of Qualifying Membership; or

- (c) in relation to a Member who was a Part-Time Employee during the Member’s Period of Qualifying Membership (other than where paragraph (a) of this definition applies) an amount calculated in accordance with the formula:

$$A \times \frac{B}{C}$$

C

**Where:**

**“A”** is an amount equal to one-half of the aggregate Salary of the Member for the period of 2 years ended on the last day of the Member’s Period of Qualifying Membership;

**“B”** is the total number of hours the Member would have worked during the period of 2 years ended on the last day of the Member’s Period of Qualifying Membership had the Member been an Employee in full-time employment performing the same duties as the Member carries out as a Part-Time Employee during that period; and

**“C”** is the total number of hours actually worked by the Member (including hours of paid leave) during the period of 2 years ended on the last day of the Member’s Period of Qualifying Membership;

and, for the purposes of calculating a Member’s Final Average Salary pursuant to paragraph (a), (b) or (c) of this definition (as the case may be), there shall be deemed to have been payable to the Member during any period or periods of leave without pay taken by the Member (in the calculation period) Salary at the rate which was payable to the Member immediately before any such period of leave without pay.

“**Former Division B Member**” means a Member who was previously a Member under Division B of the SBV Staff Fund Deed and who elected and was approved to become a Member under Division C of the SBV Staff Fund Deed pursuant to Rule A13 of the SBV Staff Fund Deed.

“**Former General Orders**” means the provisions of the State Bank Consolidated General Orders 1981 (Victoria) in force from time to time before 1 January 1991.

“**Full Member**” means a Member other than a Limited Member.

“**Index**” means as at an Adjustment Date;

- (a) the Average Weekly Ordinary Time Earnings (All Groups) for Melbourne as determined by the Commonwealth Statistician for the 12 month period up to and including the 30 June immediately preceding the Adjustment Date; or
- (b) if the abovementioned index is not available or is discontinued, such other percentage as may be agreed between the Trustee and the Principal Employer.

“**Limited Member**” means:

- (a) a Member who was a Limited Member immediately before 1 January 1991 under the Former General Orders;
- (b) a Member who was admitted as a Limited Member between 1 January 1991 and the SBV Staff Transfer Date under Rule C2.4 of the SBV Staff Fund Deed; and
- (c) a Member who is classified as a Limited Member on or after the SBV Staff Transfer Date under Rule E2.2,

not being a Member who has been admitted as or has been reclassified as a Full Member.

“**Maximum Accrued Benefit Multiple**” means 20% for each year (and any fraction of an incomplete year) of the Member’s Period of Qualifying Membership.

“**Maximum Benefit**” means the amount determined by multiplying the Member’s Final Average Salary by 8.0 and then subtracting from the result the amount of the Surcharge Aggregate (if any) applicable to the Member.

“**Medical Practitioner**” means a legally qualified medical practitioner nominated by the Trustee for the purposes of this Deed.

“**Member**” means a person who:

- (a) immediately before the SBV Staff Transfer Date was a “Division C Member” of the SBV Staff Fund under the SBV Staff Fund Deed, and whose identity as such is notified to the Trustee by the trustee of the SBV Staff Fund; and
- (b) is declared by the Principal Employer to be a Member on and from the SBV Staff Transfer Date by written notice given to the trustee of the SBV Staff Fund and the Trustee (or comes within a class of persons so declared to be Members), including a declaration made before the Amendment Date,

and for the purposes of this Division E:

- (c) each Member shall be considered to have last become a Member of the Fund on the date as at which that person was considered to have last become a “Member” of the SBV Staff Fund under the SBV Staff Fund Deed; and
- (d) a person ceases to be a Member:
  - (i) on the date when all benefits to which that person could become entitled under this Division E have been paid, provided, forfeited, forgone or terminated in accordance with this Deed; or
  - (ii) at the time provided for in Part E20.1(a) or as otherwise provided for under this Division E.

For the purpose of clarity only and without limiting the operation of Rule E1.4 or any other provision dealing with the interpretation of this Deed, it is confirmed that nothing in this Division E shall be construed to mean that a person who had ceased to be a Member prior to the Transfer Time is a Member at or after that time.

“**Normal Retiring Date**” in relation to a Member, means the day immediately preceding the 65th anniversary of the date of the Member’s birth.

“**Part-Time Employee**” means an Employee who is employed and paid to perform less than the ordinary hours of work prescribed by any applicable industrial award or who is referred to as or implied to be such in the Employee’s contract of employment.

“**Period of Actual Membership**” means the sum of:

- (a) the period of the Member’s Service referred to in paragraph (a) of the definition of “Period of Qualifying Membership”; and
- (b) subject to the continued application and observance under this Deed of any relevant conditions which applied under the SBV Staff Fund Deed:
  - (1) in the case of a Member who was not an Employee on the SBV Staff Transfer Date, the period that counted as the Member’s “Period of Actual Membership” immediately before that Date under the SBV Staff Fund Deed; or
  - (2) in the case of a Member who was an Employee on the SBV Staff Transfer Date, the period that would have counted as the Member’s “Period of Actual Membership” under the SBV Staff Fund Deed if the Member had ceased to be an Employee under that Deed immediately before that Date.

“**Period of Qualifying Membership**” in relation to a Member who has ceased to be an Employee means, subject to any adjustment provided for in this Division E, a period equal to the aggregate of:

- (a) any period of the Member’s Service on and after the SBV Staff Transfer Date (ending on the Member’s last day of Service) in respect of which the Member was required or elected under Rule E3.5(a)(3) or Rule C3.5(a)(3) of the SBV Staff Fund Deed to pay Contributions; and

- (b) subject to the continued application and observance under this Deed of any relevant conditions which applied under the SBV Staff Fund Deed and subject to any adjustment provided for under that Deed:
  - (1) in the case of a Member who was not an Employee on the SBV Staff Transfer Date, the period that counted as the Member's "Period of Qualifying Membership" immediately before that Date under the SBV Staff Fund Deed; or
  - (2) in the case of a Member who was an Employee on the SBV Staff Transfer Date, the period or periods that would have applied to the Member under paragraphs (a), (b) and (c) of the definition of "Period of Qualifying Membership" in the SBV Staff Fund Deed if the Member had ceased to be an Employee under that Deed immediately before that Date,

but does not include a period of Service performed by the Member after the Member's Normal Retiring Date, provided that, where a Member at any time during the Member's Service was a Part-Time Employee, the Member's Period of Qualifying Membership shall be determined in accordance with the formula:

$$A + [B \times \frac{C}{D}]$$

**Where:**

- "A" is the aggregate of the number of whole months in the period of the Member's Service as an Employee in full-time employment falling within paragraphs (a) and (b);
- "B" is the aggregate of the number of whole months in the period of the Member's Service as a Part-Time Employee falling within paragraphs (a) and (b) ("**Part-Time Period**");
- "C" is the aggregate of the number of hours actually worked by the Member (including hours of paid leave) as a Part-Time Employee during the Member's Part-Time Period; and
- "D" is the total number of hours the Member would have worked during the Part-Time Period had the Member been employed as an Employee in full-time employment performing the same duties as the Member carried out as a Part-Time Employee during that period.

**"Pre-Existing Condition"** means:

- (a) in relation to a Member who is for the time being a Limited Member under paragraph (a) or (b) of the definition of Limited Member, a condition that was a "Pre-Existing Condition" in relation to the Member under the SBV Staff Fund Deed immediately before the SBV Staff Transfer Date by reason of a determination made by the trustee of the SBV Staff Fund before that Date; or
- (b) in relation to a Member who is for the time being a Limited Member under paragraph (c) of the definition of Limited Member, any injury, disease, infirmity, illness or other medical condition (whether physical or mental) which in the opinion of the Trustee, after consideration of all the facts and evidence before the Trustee, renders the Member unlikely to continue to be an Employee until the Member attains the age of 60 years.

“**Reserve**” means that amount determined by the Trustee having regard to the advice of an Actuary as being the cash equivalent of the value of all benefits prospectively payable in relation to the Member’s Period of Qualifying Membership (but excluding for the purposes of this definition the period referred to in paragraph (b) of the definition of “Period of Qualifying Membership” in the SBV Staff Fund Deed) before the date of the Member’s ceasing to be an Employee.

“**Salary**” means the pecuniary remuneration payable periodically and regularly to a Member in respect of services rendered or work done by the Member in the employment of the Employer and includes:

- (a) permanent salary allowances, house allowances, higher duties allowances and fortnightly payments of a permanent and recurring nature (in particular but without limiting the generality of the foregoing remuneration payable whilst on secondment) which are deemed by the Principal Employer to be in the nature of salary;
- (b) such amount as shall be deemed to be Salary payable to a Member pursuant to Rule E3.2(c)(2); and
- (c) where a Member is a manager or of managerial status and is occupying a Principal Employer residence, the value of the occupation of such residence being a sum equal to the house allowance which would be paid to a non-residential manager employed by the Principal Employer at the same location as the Member,

but does not include bonuses, commissions, gratuities, overtime, living away from home allowances, shift allowances, payments for holiday loading or allowances expenses or payments of a temporary or non-recurring nature, except that:

- (d) where a Member is in Service outside Australia and by reason of that employment the Member’s actual salary is different from that which the Member would have received if the Member had been employed in Australia, then for the purposes of this definition the Member’s Salary during the period that the Member is so employed may be such lesser or greater amount as may (subject to Clause 8 of this Deed) be determined by the Principal Employer (having regard to the salary which the Member would have received if the Member had been employed in Australia) and advised to the Trustee from time to time; and
- (e) by written notice given to the Trustee, the Principal Employer may (subject to Clause 8 of this Deed):
  - (1) subject to any conditions included in the notice, specify that, in the case of a Member named in the notice (or then or thereafter falling within a group of Members described in the notice), the Member’s Salary for the purposes of the whole or any particular provision of this Division E and either indefinitely or for any particular period shall include any remuneration which would not otherwise be included in the Member’s Salary (“special remuneration”); and
  - (2) amend, add to, revoke or replace any such notice previously given by the Principal Employer,

and such a notice shall take effect on the effective date specified in the notice, which:

- (f) in the case of a notice which includes special remuneration in Salary, may be before, on or after the date the notice is given to the Trustee; or
- (g) in the case of a notice which (by amending, adding to, revoking or replacing a previous notice) excludes special remuneration previously included in Salary (a “**notice of exclusion**”), may not be before the date the notice is given to the Trustee,

or, if no date is so specified, the date the notice is given to the Trustee.

“**Service**” means employment with an Employer but includes:

- (a) the period which counted as “Service” in respect of the Member immediately before the SBV Staff Transfer Date under the SBV Staff Fund Deed; and
- (b) any further period which the Principal Employer may (subject to Clause 8 of this Deed) deem to be Service for the purposes of the whole or any particular provision of this Division E.

“**Spouse**” means in relation to a Member as at any particular date, a spouse of the Member within the meaning of the SIS Act, being, in any case, a person who is or was on that date:

- (a) living with the Member; or
- (b) wholly or mainly maintained by the Member; or
- (c) in the opinion of the Trustee, entitled to be or to have been wholly or mainly maintained by the Member.

“**Year**” means calendar year.

### **E1.3 Interpretation**

- (a) **Persons taking action or exercising Power under Division E:** Without limiting Part A17, in this Division E, unless the contrary intention appears or the context requires otherwise, a reference to:

- (1) a person taking an action or exercising a Power, including without limitation:
  - (i) giving, making or revoking a direction, determination, approval or election; and
  - (ii) making any payment or transfer to or from the Fund,

or

- (2) an event occurring, or a situation or circumstance existing, including without limitation an event, situation or circumstance giving rise to or otherwise affecting a right, entitlement or obligation,

shall be construed as being or including a reference to:

- (3) the taking of a corresponding action or the exercise of a corresponding Power by the same or a corresponding person or office holder; or
- (4) the occurrence or existence of a corresponding event, situation or circumstance,

from time to time before the SBV Staff Transfer Date under the corresponding provisions of the SBV Staff Fund Deed.

- (b) **Corresponding benefits:** Notwithstanding anything expressed or implied to the contrary in this Division E:
  - (1) if, in the opinion of the Trustee, this Division E would, but for this Rule E1.3(b), require the amount or terms and conditions of payment of a Contribution or benefit to be determined in a manner that differs from the corresponding manner of determination under the SBV Staff Fund Deed, the Trustee must adjust the relevant manner of determination under this Division E to the extent the Trustee considers appropriate in ensuring consistency with the corresponding manner of determination under that Deed; and
  - (2) no benefit amount is payable under this Division E in respect of an event, situation, circumstance or period of time occurring or arising before the SBV Staff Transfer Date to the extent that the entitlement of any relevant person in respect of the corresponding benefit amount under the SBV Staff Fund Deed has been discharged by payment from the SBV Staff Fund or otherwise in accordance with that Deed.

### **E1.3A Transfer of Employment between Employers**

Where a Member transfers from the Employment of one Employer to the employment of another Employer:

- (a) the Member shall be taken to have continued to be employed and not to have resigned, terminated employment or ceased to have been an Employee; and
- (b) no benefit is payable to, or in relation to, the Member by reason only of such transfer; and
- (c) benefits will only become payable under Part E6 and Part 10 and Rule E11.1 when the Member ceases to be employed by an Employer in circumstances where the Member does not transfer to the employment of another Employer; and
- (d) the Member's Contributions to the Fund will only cease under Rule E5.1(a) when the Member ceases to be employed by an Employer in circumstances where the Member does not transfer to the employment of another Employer.

Transfers of employment shall be categorised as such by way of written notice from the Principal Employer to the Trustee in relation to one or more Members or groups of Members.

### **E1.3B Employees of Associated Employers**

If a Member employed by an Associated Employer ceases to be an Employee solely because that Associated Employer ceases to be an Associated Employer, the benefits of that Member become payable in accordance with Part E6 or Rule E11.1, if applicable, or in accordance with Part E10.

### **E1.4 Special Interpretation Provision**

Without limiting the terms of this Deed which otherwise apply to assist in interpreting this Division E, where it is necessary to interpret the provisions of this Division E in relation to any thing done, action taken, payment made, Power exercised, event occurring or situation or circumstance existing under the Commonwealth Banks (Officers' Superannuation) Rules during or referable to the period commencing on the SBV Staff Transfer Date and ending at the Transfer Time, this Division E shall, unless its terms require otherwise expressly or by necessary implication, be construed so as to achieve the same effect with respect to the doing of that thing, the taking of that action, the making of that payment, the exercise of that Power, the occurrence of that event or the existence of that situation or circumstance as if the Commonwealth Banks (Officers' Superannuation) Rules had continued in force as the rules governing the Fund.

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## **Part E2 Membership**

### **E2.1 Former Division B Members**

The terms and conditions which applied in respect of a Former Division B Member immediately before the SBV Staff Transfer Date under Rule C2.2 in the SBV Staff Fund Deed shall continue to apply to the same effect under this Division E.

### **E2.2 Incorrect information**

In the event that particulars furnished by the Member pursuant to Rule C2.4(a) of the SBV Staff Fund Deed or a corresponding provision of the Former General Orders are found to be incorrect or prove to be misrepresented by the Member, the Member's classification as a Full Member or a Limited Member and the benefits payable to and in respect of the Member may be varied by the Trustee in such manner as the Trustee determines.

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## **Part E3 Members' Contributions**

### **E3.1 Time of payment of Contributions**

Subject to Part E5:

- (a) every Member shall be liable to make Contributions to the Fund (including any lump sum Contributions pursuant to Rule E3.7(a)) in accordance with this Division E; and



- (b) Contributions are payable on each Contribution Date until the Member ceases to be an Employee.

### **E3.2 Amount of Contributions**

- (a) **Permitted percentages of Salary:** Subject to the provisions of this Part E3 and any special membership conditions applicable to the Member, a Member shall Contribute to the Fund whichever permitted percentage of Salary (being 0%, 2%, 4%, 6% or 8%) is selected by the Member. A Member is deemed to have selected on the SBV Staff Transfer Date the percentage rate which applied in respect of the Member immediately before that date under the SBV Staff Fund Deed. A Member shall only be entitled to Contribute to the Fund at the rate of 8% of Salary if:
  - (1) the Member is aged not less than 40 years; and
  - (2) the Member's Accrued Benefit Multiple at the next Contribution Review Date will be at least 4% less than the Member's Maximum Accrued Benefit Multiple at the next Contribution Review Date.
- (b) **Variation of rate of Contribution:**
  - (1) Subject to Rule E3.2(c), a Member may by written notice to the Trustee in a form determined or approved by the Trustee elect to change the Member's rate of Contributions by nominating another of the permitted Contribution options that the Member wishes to apply from the next following Contribution Review Date or such other date as the Trustee may determine.
  - (2) Unless the Trustee determines otherwise, a notice shall not be valid unless received by the Trustee at least 1 month before the Contribution Review Date or such other date as the Trustee determines pursuant to Rule E3.2(b)(1) from which it is intended to take effect. If no such notice is received, the Member shall be deemed to have elected not to change the Member's rate of Contributions.
- (c) **Reduction in Salary:**
  - (1) Where a Member is Contributing at a rate of 2%, 4%, 6% or 8% of Salary and the amount of such Contribution would, but for this Rule E3.2(c)(1), be reduced by reason of a decrease in the amount of the Member's annual Salary, a Member may, not later than 30 days (or any longer period agreed between the Trustee and the Principal Employer) after the date on which the first payment of Salary is made to the Member at the decreased rate, by notice in writing to the Trustee elect to pay Contributions as if there had not been a decrease in the amount of the Member's annual Salary, provided that for the purposes of Rule E3.2(c):
    - (i) subject to (ii) below, a decrease in a Member's Salary in any of the following circumstances or for any of the following reasons shall not be taken into account:
      - (A) return from a period of secondment;
      - (B) transfer from full-time to part-time employment; and

(C) reduction in or loss of any allowance (of whatsoever nature), bonus, concession, gratuity, overtime payment or loading;

but

(ii) a decrease in a Member's Salary by reason of a notice of exclusion given by the Principal Employer in terms of paragraph (e) of the definition of Salary shall be taken into account.

- (2) For the purposes of this Division E, where a Member has made an election under Rule E3.2(c)(1), or Rule C3.2(c)(1) of the SBV Staff Fund Deed, there shall be deemed to have been payable to the Member, during the period commencing on the date on which Salary became payable to the Member at the decreased rate and continuing so long thereafter as the amount of the Member's annual Salary is less than the amount of the Member's annual Salary immediately before that date, Salary at the rate which was payable to the Member immediately before the decrease, and the Member shall be liable to pay Contributions on that basis.
- (3) An election made under Rule E3.2(c)(1) or Rule C3.2(c)(1) of the SBV Staff Fund Deed, shall not be revoked unless the Trustee upon written request by the Member otherwise determines.

### **E3.3 Deduction of Contributions from Salary**

Subject to this Part E3, Contributions (other than lump sum Contributions pursuant to Rule E3.7(a)) for which a Member is liable under this Division E shall be deducted from the Member's Salary but, if the Trustee determines or the law does not allow deductions from Salary, the Member shall pay Contributions as and when the Member receives each payment of or on account of the Member's Salary in such manner as the Trustee determines.

### **E3.4 Contributions during secondment or leave with pay**

A Member who is on secondment or is granted leave of absence from the Employer with Salary, whether increased or reduced, shall continue to pay the Member's Contributions which were being paid immediately before the Member commencing secondment or leave of absence during or in respect of the period of secondment or leave of absence, without reduction, but:

- (a) the Member may vary the Member's Contributions pursuant to Rule E3.2(b);
- (b) where a Member on secondment receives a higher Salary than the Member did immediately before the period of secondment, the Member shall, if directed by the Trustee, make the Member's Contributions to the Fund based on the higher Salary; and
- (c) if the Member on secondment neglects or fails to pay any Contributions as provided above the Member shall be deemed to have elected to Contribute at the permitted Contribution percentage of 0% and the Member's benefits shall be determined accordingly.

### **E3.5 Contributions during leave without pay**

- (a) **Options for Member:** A Member who is on leave of absence from the Employer without Salary for at least 2 weeks may in respect of the period for the leave of absence elect:
- (1) to pay no Contributions under this Division E by electing that none of the Contribution options referred to in Rule E3.2(a) shall be exercised by the Member;
  - (2) to pay Contributions at a rate determined by the Trustee on the advice of an Actuary as sufficient to provide to the Member only death and disability benefits under this Division E during the period of the leave of absence; or
  - (3) to pay Contributions at 0%, 2%, 4%, 6% or 8% (subject to Rule E3.2(a)) of Salary (whichever is elected by the Member), where the Member's Salary is the Salary which would have been payable to the Member immediately preceding the leave of absence, together with additional Contributions at such rate as is determined by the Trustee on the advice of an Actuary as necessary to enable the period of leave of absence to count as both a Period of Actual Membership and a Period of Qualifying Membership and being appropriate to the rate of Contribution elected by the Member as provided in this Rule E3.5(a)(3).
- (b) **Conditions of election by Member:** An election under Rule E3.5(a) is not effective unless:
- (1) it is made in writing to the Trustee;
  - (2) it is made not later than 1 month from the date on which the Member receives or is deemed under Rule A16.3 to have received notice from the Trustee specifying the options available to the Member under Rule E3.5(a); and
  - (3) it is accompanied by a sum equivalent to the total of all Contributions payable throughout the period of the leave of absence in accordance with the election, but the Trustee may, on the application of that Member permit the Contributions payable in accordance with the election to be paid by the Member during the Member's absence in such smaller sums and at such periods as the Trustee determines.
- (c) **Effective date of election:** An election made under Rule E3.5(a) shall be deemed to have taken effect on the date on which the leave of absence commences. A Member who is absent on leave of absence without Salary and who does not before the date on which the leave of absence commences make an election under Rule E3.5(a) shall for the purposes of this Division E be regarded as having made an election under Rule E3.5(a)(1).
- (d) **Death or Disability after election:** Where:
- (1) a Member makes or is deemed to have made an election under Rule E3.5(a)(1) and more than 1 month after the leave of absence

commences but before the end of the period for which the Member was granted leave of absence becomes Disabled or dies;

- (2) the Member applies for a benefit under this Division E in consequence of the Member's Disability or the persons who would but for the taking of the leave of absence have been entitled to benefits on the Member's death apply for benefits under this Division E in consequence of the Member's death; and
- (3) the Trustee considers that the major cause of the Member's Disability or death originated before the taking of the leave of absence,

benefits shall be payable to the Member or persons entitled under this Division E in respect of the Member's death or Disability, and the benefits shall be calculated as though the death or Disability of the Member took place on the day preceding the day the Member commenced leave of absence without Salary.

(e) **Effect of election by Member:**

- (1) Subject to Rule E3.5(d), where a Member makes or is deemed to have made an election under Rule E3.5(a)(1), the Member shall, until the Member returns from leave of absence, be entitled to only such benefits as apply to cessation of employment under Part E10, or if entitled to retire, to retirement benefits under Part E6, and the period during which the Member was on leave of absence shall not count as a Period of Qualifying Membership.
- (2) Where a Member makes an election under Rule E3.5(a)(2), the Member shall until the Member returns from leave of absence be entitled only to benefits under this Division E as apply to cessation of employment, retirement on the ground of Disability or death and the period during which the Member was on leave of absence shall not count as a Period of Qualifying Membership but, in determining any benefit which becomes payable on death or Disability, the prospective period between the date of death or Disability as the case may be, and the date upon which the Member would have attained the age of 55 years shall be taken into account on the same basis as would have applied if the Member had not been on leave of absence.
- (3) Where a Member makes an election under Rule E3.5(a)(3), the Member shall until the Member returns from leave of absence be entitled to all benefits under this Division E to which the Member would, but for the period of the leave of absence, be entitled, and the period during which the Member was on leave of absence shall count as a Period of Qualifying Membership.

- (f) **Failure by Member to pay Contributions:** Where a Member makes or has made an election under Rule E3.5(a)(2) or (3) or Rule C3.5(a)(2) or (3) of the SBV Staff Fund Deed and where on further application by such Member the Trustee permits or the trustee of the SBV Staff Fund has permitted Contributions of the Member during the Member's leave of absence to be made periodically in other than 1 lump sum amount and the

Member neglects or fails to make 1 or more of any such periodical payments, the Trustee shall within 7 days of such neglect or failure notify the Member by notice in writing of such neglect or failure and if such neglect or failure shall not be remedied within 21 days of the service (including deemed service) of such notice upon the Member, the Member shall for the purposes of this Division E be regarded as having made an election under Rule E3.5(a)(1) from the date of the neglect or failure to make any such periodical payments and shall thereafter have no entitlement to make any further election under Rule E3.5(a) for the balance of the period of the leave of absence.

### **E3.6 Acceptance of Contributions**

Notwithstanding anything expressed or implied to the contrary in this Part E3, the Trustee may accept Contributions (including lump sum Contributions pursuant to Rule E3.7(a) or any relevant provision of the SBV Staff Fund Deed) by, on behalf of or in respect of a Member in such manner and from such persons (including without limitation the Employer) as the Trustee may determine and agree upon with the Member from time to time.

### **E3.7 Backdating of membership**

(a) **Election to backdate:** By notice given to the Trustee in a manner acceptable to the Trustee at any time while the Member is both a Member and an Employee:

- (1) a Member may elect; or
- (2) with the approval of the Member and of the Trustee, the Principal Employer may in respect of a Member elect,

that, for the purpose of increasing the Member's Period of Qualifying Membership under this Division E, the Member shall be deemed to have been admitted as a "Member" of the SBV Staff Fund under the SBV Staff Fund Deed on a date earlier than the date on which the Member was actually admitted as a "Member" of that Fund, subject to:

- (3) a supplementary lump sum Contribution payable by the Member on the Contribution Date next following the date of the election; or
- (4) any other arrangements approved by the Trustee (after obtaining the advice of an Actuary) for the securing or funding of the increased Period of Qualifying Membership.

(b) **Amount of supplementary Contributions:** The amount of any supplementary lump sum Contribution payable under Rule E3.7(a) shall be that determined by the Trustee to be sufficient to increase the Member's Period of Qualifying Membership as though the Member had during the whole of the increase in the Period of Qualifying Membership made Contributions to the SBV Staff Fund under the SBV Staff Fund Deed at the rate of 6% of Salary and having regard to:

- (1) the advice of an Actuary;
- (2) the date to which the Member's admission as a "Member" of the SBV Staff Fund under the SBV Staff Fund Deed is backdated; and

- (3) the requirement that such amount be comprised of the Contributions which Rule C3.7(b)(3) of the SBV Staff Fund Deed would have required to be made during the period from the deemed date of admission as a “Member” of the SBV Staff Fund to the actual date of admission as a “Member” of that Fund if:
  - (i) the Member’s Salary during that period was equal to the Member’s Salary at the date of the election in respect of the Member under Rule E3.7(a); and
  - (ii) during that period the Member had selected the maximum Contribution rate option available in respect of the Member as a “Member” of the SBV Staff Fund.
- (c) **No revocation:** An election made under Rule E3.7(a) shall not be revoked.
- (d) **Deemed operation under SBV Staff Fund Deed:** In applying paragraph (b) of the definition of “Period of Qualifying Membership” in the SBV Staff Fund Deed for the purpose of determining the Period of Qualifying Membership under this Division E, supplementary Contributions paid under this Rule E3.7 shall be deemed to have been paid under that paragraph (b).

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## **Part E4 Waiver of election period**

### **E4.1 Trustee may recognise late elections**

Notwithstanding anything expressed or implied to the contrary in this Division E, where an election under this Division E is made by a Member or other person after expiry of the period otherwise allowed by or under this Division E for the making of the election, and the Trustee is satisfied that in all the circumstances of the case it is desirable that the election should be recognised, the Trustee may treat the election as if it had been made within the period allowed, and the election shall have effect accordingly.

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## **Part E5 Cessation and non-commencement of Members’ Contributions**

### **E5.1 When Members’ Contributions cease**

A Member’s Contributions to the Fund shall cease on whichever is the earliest of:

- (a) the date upon which the Member ceases to be an Employee;
- (b) the date upon which the Member attains the age of 65 years; or
- (c) the date upon which the Member’s Accrued Benefit Multiple equals 8.0.

### **E5.2 Non-commencement of Contributions**

A Member shall not be permitted to make any Contributions to the Fund if at the SBV Staff Transfer Date:

- (a) the Member has ceased to be an Employee;
- (b) the Member has attained the age of 65 years; or
- (c) the Member has an Accrued Benefit Multiple of not less than 8.0.

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## **Part E6 Retirement benefits on or after age 55 years**

### **E6.1 Retirement on or after age 55**

If a Member ceases to be an Employee other than in the circumstances provided for in Part E7:

- (a) on or after the Normal Retiring Date; or
- (b) on or after attaining the age of 55 years but before the Normal Retiring Date,

a lump sum benefit shall be payable to the Member equal to the Member's Accrued Retirement Benefit as at the date of ceasing to be an Employee, but the benefit payable to a Member under this Rule shall not exceed the Maximum Benefit.

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## **Part E7 Death benefits**

### **E7.1 Death whilst an Employee on or after age 55**

If a Member dies whilst an Employee on or after attaining the age of 55 years, a lump sum benefit shall be payable in respect of the Member in accordance with Rule E7.3 of an amount equal to the Member's Accrued Retirement Benefit as at the date of the Member's death.

### **E7.2 Death whilst an Employee before age 55**

Subject to Part E11, if a Member dies whilst an Employee before attaining the age of 55 years, a lump sum benefit shall be payable in respect of the Member in accordance with Rule E7.3 of an amount equal to the sum of:

- (a) the Member's Accrued Retirement Benefit as at the date of death; and
- (b) an amount equal to the product of the Member's Final Average Salary at the date of death and the multiple determined according to the following formula:

$$FS \times \frac{1}{100TF} (f_0 \times 8 + f_2 \times 12 + f_4 \times 16 + f_6 \times 20 + f_8 \times 24)$$

**Where:**

“FS” is the number of years (and any fraction of an incomplete year) between the date of death and the date the Member would have attained the age of 55 years;

- “**f<sub>0</sub>**” is the number of years (and any fraction of an incomplete year) during the Averaging Period when the Member’s rate of Contributions was or was deemed to be 0%;
- “**f<sub>2</sub>**” is the number of years (and any fraction of an incomplete year) during the Averaging Period when the Member’s rate of Contributions was or was deemed to be 2%;
- “**f<sub>4</sub>**” is the number of years (and any fraction of an incomplete year) during the Averaging Period when the Member’s rate of Contributions was or was deemed to be 4%;
- “**f<sub>6</sub>**” is the number of years (and any fraction of an incomplete year) during the Averaging Period when the Member’s rate of Contributions was or was deemed to be 6%;
- “**f<sub>8</sub>**” is the number of years (and any fraction of an incomplete year) during the Averaging Period when the Member’s rate of Contributions was or was deemed to be 8%;
- “**TF**” is the sum of  $f_0$ ,  $f_2$ ,  $f_4$ ,  $f_6$  and  $f_8$ ; and

“**Averaging Period**” is the 2 years of the Period of Qualifying Membership most recently preceding the date of death or the actual Period of Qualifying Membership most recently preceding that date, whichever is the lesser,

provided that the benefit determined pursuant to Rule E7.2(b) shall not exceed the amount that would have been payable to or in respect of the Member if the Member had Contributed at the rate of 6% between the date of death and the date the Member would have attained the age of 55 years and retired at that age, and also provided that the benefit payable in respect of a Member under this Rule E7.2 shall not exceed the Maximum Benefit.

### **E7.3 Application of death benefits**

- (a) Any benefit payable on the death of a Member pursuant to Rule E7.1 or Rule E7.2 shall be paid to:
- (1) the surviving Spouse of the Member or, if there is more than 1 surviving Spouse, such one or more of them to the exclusion of the other or others, and in such shares, as the Trustee may determine; or
  - (2) if there is no surviving Spouse, the Member’s legal personal representative,

but, if after such inquiry as the Trustee considers reasonable the Trustee considers that there is no surviving Spouse or legal personal representative of the Member (and, in the case of the legal personal representative, one is unlikely to be appointed), then (subject to Clause 8 of this Deed) that benefit shall cease to be payable and shall instead be retained in the Fund for its general purposes but (without being under any duty to do so or to consider whether to do so, even if aware of any material matter or thing)



the Trustee may subsequently determine that all or part of that benefit shall be paid to a person who establishes that he or she is the Member's Spouse or legal personal representative.

- (b) The receipt of a person to whom payment may be made under Rule E7.3(a) shall be a complete discharge to the Trustee in respect of the amount paid to that person and the Trustee shall not be bound to see to the application thereof.

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## **Part E8 Disability retirement**

### **E8.1 Amount and circumstances of payment**

Subject to Rule E8.3(a) and Part E11, a Disability Retiree shall as from the date of ceasing to be an Employee (or, where the consent of the trustee of the SBV Staff Fund to the Member's retirement was required under a corresponding provision of the SBV Staff Fund Deed, the date that consent was given) be entitled to an annual pension of an amount equal to one-eleventh of the lump sum benefit calculated pursuant to Rule E7.2 as if the Member had died on the date the Member ceased to be an Employee.

### **E8.2 Adjustment of pensions**

Subject to Part E12, the annual pension payable pursuant to Rule E8.1 shall be adjusted annually on each Adjustment Date by the Index but, in the case of a pension that has been payable for a period less than the whole of the period of 12 months covered by the period from 30 June to 30 June, the percentage increase provided by this Rule E8.2 shall be applied on a pro-rata basis for the actual period that the pension has been payable.

### **E8.3 Review of decisions**

- (a) **Review by Trustee:** The Trustee may at any time review the question as to whether a Member receiving a disability pension pursuant to Rule E8.1 or by virtue of any corresponding provision of the SBV Staff Fund Deed still suffers from a Disability and, if the Trustee so determines, review the extent of the Disability and, subject to this Rule E8.3(a) and upon completion of the review, the Trustee shall either determine:
  - (1) to continue the existing pension;
  - (2) to reduce the pension; or
  - (3) to discontinue the pension.
- (b) **Discontinuance of pension by Trustee:** The Trustee shall discontinue the disability pension where:
  - (1) the Member without reasonable excuse fails or refuses to provide any information or submit to any medical examination required by the Trustee; or
  - (2) in the opinion of the Trustee the Member is no longer Disabled and the Member:

- (i) is receiving remuneration that is derived wholly or partly from labour provided by the Member whether under a contract of service or otherwise (in this Rule referred to as “**gainful employment**”) and such remuneration is not less than the Salary payable by the Employer (or, where the Member last ceased to be an employee of the State Bank of Victoria before 1 January 1991, payable by the State Bank of Victoria) in respect of the position held by the Member on the day immediately preceding the date the Member ceased to be an Employee; or
- (ii) is offered employment with the Employer (which offer the Employer is bound to make upon the Trustee determining that the Member is no longer Disabled),

and, where the Member accepts the Employer’s offer of employment under Rule E8.3(b)(2)(ii), from the date of the Member’s commencement or re-commencement of employment with the Employer the period during which the Member received the disability pension shall form part of the Member’s Period of Qualifying Membership, without any obligation upon the Member to make Contributions for such period but the Member shall be deemed to have made Contributions during the period of Disability at the rate of Contribution at which the Member was Contributing immediately before the date upon which the Member’s Disability commenced.

- (c) **No re-employment or short re-employment:** Where under Rule E8.3(b) the Trustee discontinues the disability pension of a Member, who:

- (1) is not employed or re-employed by the Employer; or
- (2) is employed or re-employed by the Employer but ceased to be an Employee within 30 days of so being employed or re-employed,

the Member shall be entitled to a lump sum benefit of an amount equal to the Member’s cessation of employment benefit pursuant to Part E10 calculated as at the day immediately preceding the date on which the disability pension commenced, adjusted (as provided for in Part E12) for the period during which the Member was paid a disability pension and for any subsequent period of employment or re-employment by the Employer up to the date the Member ceases to be an Employee by the percentage increase in the Index during the said period or periods.

- (d) **Longer re-employment:** Where under Rule E8.3(b) the Trustee discontinues the disability pension of a Member who is employed or re-employed by the Employer for more than 30 days and Contributions in respect of the Member are recommenced, the Member, the Member’s Dependents or the Member’s legal personal representative shall thereafter be entitled to benefits from the Fund in accordance with this Division E.
- (e) **Reduction to take account of gainful employment:** The Trustee may reduce a disability pension where in the opinion of the Trustee a Member is in gainful employment but any such reduction shall not exceed 63% of

the remuneration (as determined by the Trustee) which the Member receives from gainful employment.

- (f) **Timing of payment, discontinuance or reduction:** For the purposes of this Division E:
- (1) a disability pension payable pursuant to Rule E8.1 shall be paid from such date (not being later than the date upon which the Member became entitled to the pension under that Rule) as the Trustee determines; and
  - (2) any discontinuance or reduction of such disability pension shall operate from such date (not being earlier than the date upon which the Trustee's determination as to discontinuance or reduction is made) as the Trustee determines.
- (g) **Information from disabled Member:** The Trustee may at any time require a Member receiving a disability pension to provide to the Trustee within 45 days such returns and information relating to the Member's earnings from employment (whether as an employee or on the Member's own account) and such other circumstance of the Member as the Trustee may require and to submit for a medical examination by a Medical Practitioner at a time and place specified by the Trustee.
- (h) **Request for review by affected Member:**
- (1) A Member who is affected by a consent referred to in Rule E8.1 or its equivalent under the SBV Staff Fund Deed or a determination under E8.3(a) or its equivalent under the SBV Staff Fund Deed to reduce or discontinue the Member's disability pension ("**Relevant Decision**") may by notice in writing given to the Trustee within 30 days after the Relevant Decision comes to the notice of the Member request the Trustee to reconsider the decision.
  - (2) On receipt of a request made pursuant to Rule E8.3(h)(1), the Trustee shall obtain from a legally qualified medical practitioner mutually agreed upon by the Member and the Trustee or, where such agreement cannot be reached, by a legally qualified medical practitioner nominated by the Employer, a written report prepared by such medical practitioner after examination of the Member.
  - (3) As soon as practicable after receipt of the medical report obtained pursuant to Rule E8.3(h)(2), the Trustee shall reconsider the Relevant Decision and in so doing shall take into account any previous medical reports or other evidence considered by it, the medical report obtained pursuant to Rule E8.3(h)(2), and the testimony of the legally qualified medical practitioner referred to in Rule E8.3(h)(2), who shall be requested to be present at the meeting where the Trustee reconsiders the decision and if present, shall be subject to examination by the Trustee at such meeting.
  - (4) Upon reconsideration of the Relevant Decision, the Trustee may confirm or vary the Relevant Decision and, if varied, such decision shall have force and effect from the date the Trustee made the Relevant Decision.

- (5) The Trustee shall, within 30 days after reaching the Trustee's decision under Rule E8.3(h)(4) by notice in writing inform the Member who made the request of the result of the Trustee's reconsideration of the Relevant Decision.
- (i) **Provision of medical reports to Members:** Where a Member requests that medical reports obtained by the Trustee in the exercise of any of the Trustee's Powers under this Rule E8.3 be made available to a legally qualified medical practitioner nominated by the Member, the Trustee shall, subject to the consent of the reporting medical practitioner, make available copies of such reports.

#### **E8.4 Lump sum in lieu of disability pension**

- (a) **Election by Trustee:** Notwithstanding the other provisions of this Part E8, the Trustee may determine that there be paid from the Fund to any Member who is in receipt of a disability pension under this Division E or by virtue of any corresponding provision of the SBV Staff Fund Deed a lump sum benefit in lieu of the disability pension equal to the lump sum benefit which would have been payable pursuant to Rule E7.1 had the Member died on the date of the Member's retirement on the ground of Disability, adjusted (as provided for in Part E12) for the period during which the disability pension was paid by the percentage increase in the Index during the said period, less the total amount of the disability pension payments made to the Member during the said period, whether from the Fund or the SBV Staff Fund.

Upon payment of the lump sum benefit pursuant to this Rule E8.4(a), being a payment to the Member and/or a payment in accordance with Rule A10.7 to an Account in Division F in respect of the Member, that person shall cease to be a Member of this Division E and shall have no further entitlement to benefits under this Division.

- (b) **Election by Member:** Where a Member has been in receipt of a disability pension under this Division E or by virtue of any corresponding provision of the SBV Staff Fund Deed for a period of not less than 3 years, the Member may elect to take a lump sum benefit in lieu of the disability pension equal to the lump sum benefit which would have been payable pursuant to Rule E7.1 had the Member died on the date of the Member's retirement on the ground of Disability adjusted (as provided for in Part E12) for the period during which the disability pension was paid by the percentage increase in the Index during the said period, less the total amount of the disability pension payments made to the Member during the said period, whether from the Fund or the SBV Staff Fund.

#### **E8.5 Death while receiving disability pension**

Where a Member dies whilst in receipt of a disability pension under this Division E or by virtue of any corresponding provision of the SBV Staff Fund Deed, a lump sum benefit equal to the lump sum benefit which would have been payable pursuant to Rule E7.1 had the Member died on the date of the Member's retirement on the ground of Disability, adjusted (as provided for in Part E12) for the period during which the disability pension was paid by the percentage increase

in the Index during the said period, less the total amount of the disability pension payments made to the Member during the said period, shall be paid to:

- (a) the surviving Spouse of the Member or, if there is more than 1 surviving Spouse, such one or more of them to the exclusion of the other or others, and in such shares, as the Trustee may determine; or
- (b) if there is no surviving Spouse, the Member's legal personal representative,

but, if after such inquiry the Trustee considers reasonable the Trustee considers that there is no surviving Spouse or legal personal representative of the Member (and, in the case of the legal personal representative, one is unlikely to be appointed), then (subject to Clause 8 of this Deed) that benefit shall cease to be payable and shall instead be retained in the Fund for its general purposes but (without being under any duty to do so or to consider whether to do so, even if aware of any material matter or thing) the Trustee may subsequently determine that all or part of that benefit shall be paid to a person who establishes that he or she is the Member's Spouse or legal personal representative.

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## Part E9 Child Allowances

### E9.1 Entitlement and amount

- (a) **Definitions:** Notwithstanding Rule E1.2, in this Part E9:

“**Adjustment Date**” means each 1 July, commencing on the 1 July coincident with or next following the Amendment Date.

“**Index**” means as at an Adjustment Date:

- (1) the Consumer Price Index (All Groups) Weighted Average of 8 Capital Cities as determined by the Commonwealth Statistician for the 12 months period up to and including the end of the March Quarter immediately preceding the Adjustment Date; or
- (2) if the abovementioned index is not available or is discontinued, such other percentage as may be agreed between the Trustee and the Principal Employer from time to time, after obtaining the advice of an Actuary.

“**Quarter**” means a period of 3 months ending on 31 March, 30 June, 30 September or 31 December in any year.

- (b) **Basis of indexation:** Where a Member:

- (1) has died or dies whilst an Employee;
- (2) has died or dies whilst in receipt of a disability pension; or
- (3) is in receipt of a disability pension,

each Child (if any) of the Member shall, subject to Rule E9.2, be entitled to an allowance equal to an initial annual amount adjusted and compounded annually on each Adjustment Date by a percentage which is the annual percentage increase in the Index. The initial annual amount effective at the Amendment Date was \$2,813.

## **E9.2 Conditions of entitlement**

A Child shall not be entitled to an allowance under Rule E9.1 unless the Trustee in respect of such Child determines, having regard to the age and circumstances of the Child and such other matters as appears to the Trustee to be relevant, that the Child is wholly or substantially dependent upon the receipt of the allowance and an allowance shall only be payable for that proportion of the period on and after the SBV Staff Transfer Date that the Child meets the requirements of this Rule E9.2.

## **E9.3 Manner of payment**

Payment of the amount of the allowance to which a Child is entitled under Rule E9.1 shall be paid fortnightly to:

- (a) the Child;
- (b) a parent or guardian or a person having the custody of the Child; or
- (c) such person or person on behalf of or for the benefit of the Child as, having regard to the circumstances of the Child, the Trustee considers appropriate.

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## **Part E10 Cessation of employment benefits**

### **E10.1 Amount and circumstances of payment**

Subject to Rule E10.2(b), a Member who ceases to be an Employee and is not entitled to any other benefit from the Fund under this Division E shall be entitled to a lump sum benefit of an amount determined by adding together the following:

- (a) the total Contributions which the Member would have made to the Fund and the SBV Staff Fund, or would have been deemed to have made to the Fund and the SBV Staff Fund (in this Rule called the “**Member Financed Benefit**”) if the Member’s Salary had always been equal to the Member’s Salary when the Member ceased to be an Employee, which shall:
  - (1) include Contributions to the Fund under Rule E3.5(a)(3) and any Contributions to the SBV Staff Fund under Rule B3.5(a)(3) or Rule C3.5(a)(3) of the SBV Staff Fund Deed; and
  - (2) exclude:
    - (i) Contributions to the Fund under Rule E3.5(a)(2) and to the SBV Staff Fund under Rule B3.5(a)(2) or Rule C3.5(a)(2) of the SBV Staff Fund Deed; and
    - (ii) Contributions to the Fund under Rule E3.7(a) and to the SBV Staff Fund under Rule B3.9 or Rule C3.7(a) of the SBV Staff Fund Deed;

and

- (b) (1) if the Member elects to retain the amount determined in accordance with this Rule E10.1(b)(1) in the Fund, an amount equal to one fifteenth of the amount by which (i) exceeds (ii) for each complete

year of the Member's Period of Actual Membership, adjusted annually (as provided for in Part E12) on the Adjustment Date by the percentage increase in the Index for the 12 month period up to and including the 30 June immediately preceding the Adjustment Date, **where:**

“(i)” is the Member's Accrued Retirement Benefit (determined in this case without making any deduction of Surcharge Aggregate applicable to the Member) as at the date the Member ceases to be an Employee, excluding that portion of the Accrued Retirement Benefit (so determined) that relates to any period of back-dated membership purchased pursuant to Rule E3.7 or any corresponding provision of the Former General Orders or the SBV Staff Fund Deed; and

“(ii)” is the Member's Member Financed Benefit,

but:

- (A) in the case of a benefit that has been retained for a period less than the whole of the period of 12 months covered by the period from 30 June to 30 June upon the date of payment as provided in Rule E10.3(b), the adjustment for that period as provided herein shall be applied on a pro rata basis for the actual period that the benefit was retained in the Fund;
- (B) the number of complete years in the Member's Period of Actual Membership to be counted in calculating the foregoing amount shall be no more than 15 years; and
- (C) subject to the application by the Trustee of any amount of the Surcharge Aggregate against the benefits provided for under this Rule E10.1(b)(1), the amount determined in accordance with this Rule E10.1(b)(1) shall not be less than 3% of the Member's Final Average Salary for each year (and any fraction of an incomplete year) of the Member's Period of Actual Membership on and after 1 December 1987;

or

- (2) if the Member elects to transfer the amount determined in accordance with this Rule E10.1(b)(2) (adjusted as provided for in this Rule E10.1) to an Approved Benefit Arrangement, an amount equal to one fifteenth of the amount by which (i) exceeds (ii) for each complete year of the Member's Period of Actual Membership, **where:**

“(i)” is the Member's Reserve as at the date the Member ceases to be an Employee, excluding that portion of the Reserve that relates to any period of back-dated membership purchased pursuant to Rule E3.7(a), or Rule B3.9 or C3.7(a) of the SBV Staff Fund Deed; and

“(ii)” is the Member's Member Financed Benefit,

but:

- (A) the number of complete years in the Member's Period of Actual Membership to be counted in calculating the foregoing amount shall be no more than 15 years; and
- (B) subject to the application by the Trustee of any amount of the Surcharge Aggregate against the benefits provided for under this Rule E10.1(b)(2), the amount determined in accordance with this Rule E10.1(b)(2) shall not be less than 3% of the Member's Final Average Salary for each year (and any fraction of an incomplete year) of the Member's Period of Actual Membership on and after 1 December 1987;

and

- (c) an amount equal to all Contributions paid to the SBV Staff Fund under Rule B3.9 and Rule C3.7(a) of the SBV Staff Fund Deed, and payable to the Fund under Rule E3.7(a) together with Accrued Interest thereon from the respective date of payment to the SBV Staff Fund or the Fund, as the case may be, until the date the Member ceases to be an Employee under this Rule E10.1, provided that the amount determined under this Rule E10.1(c) shall not exceed 20% of the Member's Final Average Salary for each year of backdated membership purchased under Rule E3.7(a), or Rule B3.9 or Rule C3.7(a) of the SBV Staff Fund Deed,

and then subtracting the amount of the Surcharge Aggregate (if any) applicable to that Member from the sum of (a), (b) and (c).

In determining the amount of any benefit to be transferred pursuant to an election under Rule E10.1(b)(2), the Trustee must ensure that the amount transferred is reduced to take account of any amount of Surcharge Aggregate which the Trustee determines is to be applied against the amount otherwise determined under Rule E10.1(b)(2).

## **E10.2 Exceptions**

- (a) **Minimum amount - immediate payment:** Where the Member elects to take a benefit determined pursuant to Rule E10.1(b)(2) and the aggregate benefit determined in respect of the Member under Rule E10.1 is less than 5% of the Member's Salary as at the date the Member ceases to be an Employee, the benefit shall be paid by immediate lump sum payment to the Member.
- (b) **Former Division B Member - retained option:** A Former Division B Member who ceases to be an Employee under this Division E and is not entitled to a benefit from the Fund under any other Rule in this Division shall have the option in lieu of taking any benefit payable pursuant to Rule E10.1 (which option shall be exercised by the Member notifying the Trustee in writing of such within 90 days of the Member ceasing to be an Employee, or within such longer period as may be agreed by the Employer and the Trustee) of a benefit determined by adding together the following:
  - (1) the Member's Contributions to the SBV Staff Fund pursuant to each of Divisions B and C of the SBV Staff Fund Deed and to the



Fund pursuant to this Division E, which for the purpose hereof shall include:

- (i) one-third of the Member's Contributions to the SBV Staff Fund under Rule B3.5(a)(3) of the SBV Staff Fund Deed;
  - (ii) any Contributions made to the SBV Staff Fund under Rule B3.7 of the SBV Staff Fund Deed;
  - (iii) the Member's Contributions to the SBV Staff Fund under Rule C3.5(a)(3) of the SBV Staff Fund Deed at the rate of 2%, 4%, 6% or 8%; and
  - (iv) the Member's Contributions to the Fund under Rule E3.5(a)(3) at the rate of 2%, 4%, 6% or 8%.
- (2) Accrued Interest on such Contributions;
- (3) an amount ("**Vested Amount**") equivalent to 10% of the aggregate of the amounts referred to in (1) and (2) above for each complete year of the Member's Period of Actual Membership, but the number of complete years to be counted in calculating the foregoing amount shall be no more than 10 years; and
- (4) the sum of:
- (i) two-thirds of the Member's Contributions to the SBV Staff Fund under Rule B3.5(a)(3) of the SBV Staff Fund Deed;
  - (ii) the Member's lump sum Contributions and supplementary Contributions to the SBV Staff Fund under Rule B3.8 and Rule B3.9 of the SBV Staff Fund Deed;
  - (iii) any additional Contributions made by the Member to the SBV Staff Fund under Rule C3.5(a)(3) of the SBV Staff Fund Deed and to the Fund under Rule E3.5(a)(3);
  - (iv) any Contributions made by the Member to the SBV Staff Fund under Rule C3.7(a) of the SBV Staff Fund Deed and to the Fund under Rule E3.7(a); and
  - (v) Accrued Interest on the amounts in (i), (ii), (iii) and (iv) above from the respective date of payment to the SBV Staff Fund or the Fund, as the case may be,

and then subtracting the amount of the Surcharge Aggregate (if any) applicable to that Member from the sum of (1), (2), (3) and (4).

The Vested Amount shall be payable to the Member or in the event of the Member's death in accordance with Rule E7.3.

### **E10.3 Procedures**

- (a) **Retention or transfer of benefits under Rule E10.1(b)(1) or E10.1(b)(2):** A Member who is entitled to a benefit under Rule E10.1 may, within 90 days of ceasing to be an Employee, or such longer period as may be agreed by the Employer and the Trustee, elect, by notice in writing addressed to the Trustee:

- 1) pursuant to Rule E10.1(b)(1), to retain the amount determined thereunder in the Fund; or
- 2) pursuant to Rule E10.1(b)(2), to transfer the amount determined thereunder to an Approved Benefit Arrangement under which the transferred amount is required to be preserved as a “preserved benefit” under the SIS Act

provided that if an election is not made (including during any longer period so agreed), the Member is deemed to have made the election pursuant to Rule E10.1(b)(1) to retain the amount in the Fund.

- (b) **Payment of benefits under Rule E10.1(b)(1):** Subject to Clause 8 of this Deed, the amount of the benefit retained in the Fund pursuant to Rule E10.1(b)(1) shall be payable to the Member’s legal personal representative in the case of the Member’s death or to or in respect of the Member where the Member attains the age of 60 years or on the occurrence of any earlier event or circumstance when a benefit that is a “preserved benefit” in terms of the SIS Act may be paid under that Act.

#### **E10.4 Minimum overall entitlement**

Where all the benefits due and payable pursuant to the provisions of this Division E (other than pursuant to this Part E10) and the SBV Staff Fund Deed to or in respect of a Member upon the Member ceasing to be an Employee have been paid and the aggregate amount thereof is less than the amount of benefit calculated pursuant to Rule E10.1 as at the date the Member ceased to be an Employee the difference shall be payable to the Member if the Member is alive or otherwise to:

- (a) the surviving Spouse of the Member or, if there is more than 1 surviving Spouse, such one or more of them to the exclusion of the other or others, and in such shares, as the Trustee may determine; or
- (b) if there is no surviving Spouse, the Member’s legal personal representative,

but, if after such inquiry the Trustee considers reasonable the Trustee considers that there is no surviving Spouse or legal personal representative of the Member (and, in the case of the legal personal representative, one is unlikely to be appointed), then (subject to Clause 8 of this Deed) that benefit shall cease to be payable and shall instead be retained in the Fund for its general purposes but (without being under any duty to do so or to consider whether to do so, even if aware of any material matter or thing) the Trustee may subsequently determine that all or part of that benefit shall be paid to a person who establishes that he or she is the Member’s Spouse or legal personal representative.

#### **E10.5 Transfer of Amounts under Rule E10.1(a) or Rule E10.1(c) to Division F**

Where a Member is entitled to an amount of Member Financed Benefit under Rule E10.1(a) or an amount of Contributions and Accrued Interest under Rule E10.1(c), the Member may apply to the Trustee under Rule A10.7 for a transfer of the amount to the Account in Division F of the Fund in respect of the Member.

## **Part E10A Retrenchment benefits**

### **E10A.1 Categories of Members**

For the purposes of this Part E10A, Members who cease to be Employees before attaining the age of 55 years shall be divided into 2 categories, being:

- (1) “**Retrenched Members**”, being Members who in the opinion of the Employer have ceased to be Employees as a result of retrenchment and who are therefore categorised by the Employer by written notice given to the Trustee as being Retrenched Members; and
- (2) Members in respect of whom the Trustee has not received such a notice from the Employer and to whom Rule E10A.2 does not apply.

### **E10A.2 Amount of retrenchment benefit**

A Retrenched Member shall be entitled to a lump sum benefit of an amount determined and payable in the manner, on the conditions and subject to the options and elections provided for in Part E10 as if the Member had ceased to be an Employee in the circumstances provided for in Rule E10.1 but replacing the expression “one fifteenth of the amount by which (i) exceeds (ii) for each complete year of the Member’s Period of Actual Membership”, where it appears in Rule E10.1(b)(1) and Rule E10.1(b)(2), with the expression “the amount (if any) by which (i) exceeds (ii)”.

---

## **Part E11 Limited Members**

### **E11.1 Retirement on or after 55**

A Limited Member who ceases to be an Employee on or after attaining the age of 55 years in circumstances where no benefit is payable under Rule E11.2 is entitled to a benefit in accordance with Part E6, in all respects as if the Limited Member had retired as a Full Member with the same Period of Qualifying Membership and Final Average Salary.

### **E11.2 Death on or after 55**

If a Limited Member dies whilst an Employee on or after attaining the age of 55 years, a lump sum benefit shall be payable in respect of the Member in accordance with Rule E7.1, in all respects as if the Limited Member had died as a Full Member with the same Period of Qualifying Membership and Final Average Salary.

### **E11.3 Death before 55**

If a Limited Member dies whilst an Employee before attaining the age of 55 years a lump sum benefit shall be payable in respect of the Member, as follows:

- (a) where the Trustee, having regard to any medical and other relevant evidence, determines that the Pre-Existing Condition was the direct cause of the Member’s death, the benefit shall be an amount equal to the sum of:

- (1) the Member's Accrued Retirement Benefit as at the date of death; and
- (2) an amount determined according to the following formula:  
$$(DB - ARB) \times \frac{M}{TM}$$

**Where:**

- “**DB**” is the amount of death benefit calculated pursuant to Rule E7.2;
- “**ARB**” is the Member's Accrued Retirement Benefit;
- “**M**” is the number of whole months in the Member's Period of Actual Membership or 240 months, whichever is the lesser; and
- “**TM**” is the number of whole months in the total Period of Actual Membership the Member would have completed had he remained a Member to age 55 years, or 240 months, whichever is the lesser;

or

- (b) in circumstances other than those provided for in Rule E11.3(a), the benefit shall be an amount calculated in accordance with Rule E7.2.

#### **E11.4 Disability retirement before 55**

Subject to Rule E11.5, a Limited Member who is a Disability Retiree shall as from the date of ceasing to be an Employee (or, where the consent of the trustee of the SBV Staff Fund to the Member's retirement was required under a corresponding provision of the SBV Staff Fund Deed, the date that consent was given) be entitled to a pension determined as follows:

- (a) where the Trustee, having regard to any medical and other relevant evidence, determines that the Pre-Existing Condition is the direct cause of the Disability, the annual amount of the pension shall be equal to one-eleventh of the lump sum benefit calculated pursuant to Rule E11.3 as if the Member had died on the date the Member ceased to be an Employee; or
- (b) in circumstances other than those provided for in Rule E11.4(a), the annual amount of the pension shall be calculated in accordance with Rule E8.1.

#### **E11.5 Miscellaneous**

The provisions of Rule E8.3 and Rule E8.4 shall apply to a Limited Member unless the contrary intention appears in this Part E11 and subject to the references to Rule E7.1 which appear in Rule E8.4(a) and Rule E8.4(b) being regarded as references to Rule E11.3.

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## Part E12 Formula for indexing of certain benefits

### E12.1 Basis of indexation

In any case where a benefit is indexed to movements in the Index, then at any relevant Adjustment Date or such other date provided for in this Division E for the adjustment of benefits subsequent to the date of the Member first becoming actually or prospectively entitled to that benefit (such date being hereinafter referred to as the “**Benefit Date**”) there shall apply in respect of any such benefit the following formula:

$$\text{BEN} \times \frac{\text{A}}{\text{B}}$$

**Where:**

“**BEN**” is the amount of the benefit at the Benefit Date;

“**A**” is the value of the Index applying for the purpose of determining the benefit from the Fund at the relevant Adjustment Date or such other date provided for by this Division E for the adjustment of benefits subsequent to the Benefit Date; and

“**B**” is the value of the Index applying for the purpose of determining the benefit from the Fund at the Benefit Date,

but, if the application of this formula produces a reduction in a particular benefit, then the benefit payable immediately before the occurrence of the reduction shall continue unchanged until such time as the application of the formula produces a higher benefit.

---

## Part E13 Widows' allowances

### E13.1 Definition

In this Part E13, “**Widow**” means a widow of a deceased former employee of the State Bank of Victoria who died after 1 July 1947 and before 23 April 1959, being a widow who as at 31 December 1990 was entitled to receive a widow's allowance pursuant to General Orders of the State Bank of Victoria and originating with General Order No. 39 (1949).

### E13.2 Continued payment of Widows' allowances

There shall be paid from the Fund to each Widow during her lifetime an allowance at the annual rate of \$2,050.00 (not subject to indexation). Such allowances may be paid by one annual payment or by instalments during a year, as the Trustee determines from time to time either generally or in any particular case.

## **Part E14 Transfers out of Fund**

### **E14.1 Transfer while Employee**

While a Member is an Employee, with the consent of the Member and of the Principal Employer, the Trustee may pay or transfer from the Fund to or towards another superannuation fund maintained in whole or in part by the Principal Employer in which the Member participates or is eligible to participate an amount agreed, or determined in a manner agreed, between the Trustee and the Principal Employer.

### **E14.2 Transfers of benefits**

In lieu of providing all or part of a benefit under this Division E in respect of a Beneficiary, the Trustee with the consent of the Beneficiary may pay or transfer from the Fund to or towards an Approved Benefit Arrangement in which the Beneficiary participates or is eligible to participate:

- (a) an amount representing the value of all or that part of the benefit, as determined by the Trustee after obtaining the advice of an Actuary; or
- (b) subject to the Principal Employer's consent and to such conditions as it may impose, any greater amount agreed between the Principal Employer and the Trustee, after the Trustee has considered the advice of an Actuary in relation to the impact of such transfer upon the future liability of the Principal Employer and the Members to Contribute to the Fund.

### **E14.3 Powers of transfer under Relevant Law**

The Trustee may unilaterally make a payment or transfer from the Fund to another Approved Benefit Arrangement in the circumstances where the Trustee is so empowered by a Relevant Law, and the Trustee must make such a payment or transfer when required to do so (by force of law) under a Relevant Law.

### **E14.4 Manner and conditions of transfer**

The Trustee may effect a payment or transfer from the Fund under this Part E14 by way of a payment of money or a transfer of assets and, without limiting Rule E14.5, the Trustee may impose any conditions it considers appropriate in connection with a payment or transfer under this Part E14, including without limitation any conditions necessary in order to ensure that the Fund satisfies the Relevant Law.

### **E14.5 Discharge of Trustee**

The receipt of a person to whom the Trustee is authorised (either expressly or by necessary implication) to make a payment or transfer under this Part E14 is a complete discharge to the Trustee and the Trustee is not responsible for the application or disposal of money or assets so paid or transferred.

### **E14.6 Effect of transfer**

Unless otherwise agreed between the Principal Employer and the Trustee, after obtaining the advice of an Actuary, upon a payment or transfer from the Fund in

respect of a Member or Beneficiary under this Part E14, all of the rights and interests of that Member or Beneficiary under this Division E (and all of the rights and interests of any person otherwise entitled to claim in respect of the Member or Beneficiary or on the occurrence of any event or circumstance affecting the Member or Beneficiary) are extinguished.

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## **Part E15 Transfer into Fund**

### **E15.1 Transfer from Approved Benefit Arrangement**

The Trustee and the Principal Employer may agree to the Trustee making and carrying into effect an arrangement with the trustee of, or another person responsible for, an Approved Benefit Arrangement or a Member who is or was a participant or former participant in an Approved Benefit Arrangement whereby, subject to any conditions imposed by the Trustee:

- (a) an agreed sum or agreed assets will be paid or transferred to the Fund; and
- (b) subject to the Fund receiving the agreed sum or agreed assets, the Employee will be granted such rights and have such obligations (whether additional to or in lieu of the rights and obligations otherwise provided for under this Division E) as are agreed between the Trustee and the Principal Employer, after obtaining the advice of an Actuary.

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## **Part E16 Other schemes**

### **E16.1 Adjustment of benefits**

If a benefit (“**Corresponding Benefit**”) is provided for or secured, or could reasonably be expected to become payable, in respect of a Member under another scheme or arrangement any part of the costs of which are borne directly or indirectly by the Principal Employer or any governmental authority on retirement, death or disablement or in any other circumstances similar to those in which a benefit may be provided under this Division E, then (subject to Clause 8 of this Deed) any benefit otherwise payable from the Fund to or in respect of the Member must (unless otherwise agreed between the Trustee and the Principal Employer) be reduced by the amount of any Corresponding Benefit but, to the extent that a Corresponding Benefit is provided in a different manner or form to an applicable benefit under this Division E, the manner and the extent of any such adjustment shall be determined by the Trustee, after obtaining the advice of an Actuary.

### **E16.2 Effect of adjustments**

Any reduction or adjustment in benefits under Rule E16.1 shall be binding on all interested persons without the need to amend this Deed.

### **E16.3 No regard to benefits under other Divisions**

In applying this Part E16 any benefits available to the relevant Member under any other Division of these Rules shall be disregarded.

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## **Part E17 Miscellaneous**

### **E17.1 Adjustment of benefits to whole dollar amounts**

If the amount of any benefit ascertained in accordance with this Division E includes an amount of cents, the benefit shall be reduced by the amount of the cents, unless the amount of cents exceeds 50, when the amount of the benefit shall be increased to the next whole dollar, but any periodic payment of any pension or allowance shall not be adjusted to the nearest whole dollar amount pursuant to this Rule E17.1.

### **E17.2 Particular ages and birthdays**

For the purposes of this Division E, a person is to be taken to have attained a particular age on the day immediately preceding the relevant anniversary of that person's birth and, where a person was born on 29 February in any year, then, in any subsequent year which is not a leap year, the anniversary of that person's birth shall be deemed to occur on 1 March of that subsequent year.

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## **Part E18 Conditions precedent: Non-alienability and capacity**

### **E18.1 Definitions**

In this Part E18:

“**Entitled Person**” means a natural person other than:

- (a) a Member in respect of whom (other than with the approval of the Trustee or as otherwise expressly provided for under this Deed) any thing has occurred or any circumstance exists (subject to Clause 8 of this Deed) which would deprive the Member of:
  - (1) absolute legal and beneficial ownership of the whole or any part of a Relevant Benefit; or
  - (2) the right to receive or otherwise have exclusive personal enjoyment of the whole or any part of a Relevant Benefit; or
- (b) a Member who is, in the opinion of the Trustee, incapable of managing his or her own affairs.

“**Relevant Benefit**” means in relation to a person as at a particular date a benefit to which, but for the operation of this Part E18, that person would be entitled under this Division E, including:

- (a) in the case of a benefit payable as a lump sum, the lump sum calculated in accordance with this Division E; and
- (b) in the case of a benefit payable by instalments (including without limitation a pension or a lump sum payable in 2 or more instalments, whether by reason of partial preservation or otherwise), each instalment thereof calculated in accordance with this Division E.



### **E18.2 Condition precedent to benefit entitlement**

Subject to Clause 8 of this Deed, it is a condition precedent to a person being entitled to a benefit under this Division E that the Relevant Person is, at all material times, an Entitled Person.

### **E18.3 Alienation of benefits or incapacity**

If a Member is not an Entitled Person, the Trustee must set aside assets of the Fund equivalent to the Relevant Benefit which shall be paid or applied from the Fund to or for the benefit of one or more of:

- (a) that Member;
- (b) that Member's Dependants; and
- (c) if the Member has died, any other person permitted under the Relevant Law,

to the exclusion of the other or others of them and in the proportions, manner and form, and subject to any trusts and conditions, determined by the Trustee. Without limiting the foregoing, in the exercise of its Powers under this Rule E18.3 in respect of a Member, the Trustee may pay any part of a Relevant Benefit from the Fund to a person who in the opinion of the Trustee:

- (d) is a trustee for the Member or a trustee for a Dependant of the Member, including without limitation a trustee of a trust established for this purpose by the Trustee upon the trusts and with the powers determined by the Trustee;
- (e) is a representative, Spouse, Child, parent or guardian of (or an executor or administrator of the estate of) the Member or of a Dependant of the Member; or
- (f) has the custody or care (or the financial expense of the custody or care) of the Member or a Dependant of the Member.

### **E18.4 Exercise of relevant Powers**

The Trustee may determine that paragraph (a) or (b) of the definition of "Entitled Person" no longer applies to a person but the Trustee is not required to investigate or ascertain whether a person is or is not an Entitled Person, or to exercise or consider the exercise of any Power exercisable by the Trustee under this Part E18, even where the Trustee has actual notice of a relevant matter.

### **E18.5 Discharge of Trustee**

The receipt by a person to whom an amount is paid by the Trustee under this Part E18 is a complete discharge to the Trustee and the fact that a person was not an Entitled Person at the time of payment may not be asserted as a breach of duty by the Trustee.

### **E18.6 Consequential adjustments**

Subject to Clause 8 of this Deed if a person is not an Entitled Person at a material time:

- (a) the Trustee may adjust the rights, interests and obligations of that person (and of any other person otherwise entitled to claim in respect of that person or on the occurrence of an event or circumstance affecting that person) in the manner and to the extent the Trustee considers appropriate but (without limiting Rule E18.2 or creating an actual entitlement to or interest in a benefit) the Trustee may deem that person to be or to have been an Entitled Person for any particular period and for any particular purpose under this Division E;
- (b) if that person subsequently becomes an Entitled Person, the Trustee may re-adjust any such right, interest or obligation in the manner, to the extent and on the conditions the Trustee considers appropriate; and
- (c) any part of a Relevant Benefit which is not otherwise paid or applied from the Fund in accordance with this Part E18 shall be retained in the Fund for the general purposes thereof.

### **E18.7 Pensions and allowances**

Without limiting the generality or operation of the preceding Rules in this Part E18, a pension or allowance payable under this Division E is not able to be transferred to any person (other than a reversionary beneficiary if such reversion is otherwise permitted under this Division) and cannot be used as security for any borrowing.

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## **Part E19 Defalcation and debts**

### **E19.1 Employer's lien**

The Employer and any previous Employer of a Member (in this Part referred to as the "relevant Employer") shall (to the extent, if any, permitted under a Relevant Law) have a lien on any benefit payable to or in respect of a Member for an amount equal to the value of any loss arising (whether the events giving rise to that loss occurred before on or after the SBV Staff Transfer Date) from the theft, unauthorised possession or misappropriation by such Member or where such Member aids and abets or in any way assists in such theft, unauthorised possession or misappropriation of, or the failure of such Member to account for any funds, goods, equipment or any other property whatsoever either in the possession, custody, care or control of the relevant Employer or belonging to the relevant Employer or a customer of the relevant Employer or any other persons having a business or personal relationship with the relevant Employer, the SBV Staff Fund or the Fund (in this Part E19 referred to as the "**Defalcation**").

### **E19.2 Reimbursement for loss**

Subject to Clause 8 of this Deed and the Relevant Law, at the request of the relevant Employer and subject to the relevant Employer proving to the satisfaction of the Trustee that such Member was wholly or partly responsible for any loss referred to in Rule E19.1, the Trustee shall have power to deduct, in such manner and at such times as the Trustee considers appropriate, from any benefit subject to such lien an amount or amounts and pay to the relevant Employer a sum certified to the Trustee by an Actuary as being equal to the value of such amount deducted

or to be deducted, provided that such sum shall not exceed the pecuniary value of such loss (including Accrued Interest thereon for the period from the actual date of the Defalcation or, if such date cannot be ascertained, from the date upon which the relevant Employer considers the Defalcation took place until the Member ceases to be an Employee) and the receipt of the relevant Employer for such sum shall be a good and valid discharge to the Trustee.

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## **Part E20 Transfer of Members from Division E to Division F**

### **E20.1 Transfer of Members from Division E to Division F**

If an Eligible Division E Transferring Member makes a Division F Transfer Election and, at the end of the day before the Division F Transfer Date referable to that Eligible Division E Transferring Member, both that Division F Transfer Election continues to be in effect in accordance with these Rules and with requirements determined by the Principal Employer, with the consent of the Trustee, and that Member has not ceased to be an Eligible Division E Transferring Member, then:

- (a) with effect at the end of the day before the Division F Transfer Date applicable to that Eligible Division E Transferring Member:
  - (1) the Eligible Division E Transferring Member ceases to be a Member under this Division E; and
  - (2) subject to Rule E20.2, the Eligible Division E Transferring Member ceases to have any right to benefits provided for under this Division E; and
- (b) as provided for in Division F, from the start of the Division F Transfer Date applicable to that Eligible Division E Transferring Member, he or she becomes:
  - (1) if not already a “Member” under Division F, a “Member” under that Division as a “Transferred Ordinary Member” or a “Transferred Post-Employment Member” as the case may be, each as defined in Rule F1.2; or
  - (2) if already a “Member” under Division F, a “Transferred Ordinary Member” or a “Transferred Post-Employment Member” as the case may be, each as defined in Rule F1.2.

### **E20.2 Unpaid benefits as a Division E Member**

If an Eligible Division E Transferring Member, who is a Member who has ceased to be an Employee and is entitled to benefits under Part E10 but has not exercised the option of taking his or her benefits under Rule E10.2(b), being a Member who has retained his or her benefits under Rule E10.1(b) (the “Rule E10.1(b) benefit”) in the Fund, ceases to be a Member as provided for in Rule E20.1, and any benefit other than the Rule E10.1(b) benefit (the “other unpaid benefit”) remains to be paid from the Fund in respect of that Eligible Division E Transferring Member immediately before the time he or she so ceases to be a Member, he or she does not cease to have the right to the other unpaid benefit on so ceasing to be a Member.

**E20.3 Unpaid Contributions on transfer to Division F**

If an Eligible Division E Transferring Member ceases to be a Member as provided for in Rule E20.1 and any contributions remain outstanding under this Division with respect to that former Member for the period up to that former Member's Division F Transfer Date, the former Member shall continue to be liable to pay those contributions under this Division E.

**E20.4 Death of Eligible Division E Transferring Member**

A Division F Transfer Election made by an Eligible Division E Transferring Member ceases to have any effect on the death of that Eligible Division E Transferring Member prior to the Division F Transfer Date referable to that Eligible Division E Transferring Member.

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