
Participation Schedule – General Part

1 Sub-Division Employers

The Sub-Division Employers are the Principal Employer and any Associated Employers.

2 Status of Parts

2.1 Overriding effect of Parts within Participation Schedule

The Clauses of Part 1 and Part 2 shall be read and construed and have the same force and effect as if set out in the General Part of this Participation Schedule, except that:

- (1) if there is a conflict between a:
 - (A) Clause in the General Part and
 - (B) Clause of Part 1 or Part 2,the relevant Clause in the General Part prevails to the extent of the conflict; and
- (2) if there is a conflict between a Clause in Part 1 and a Clause in Part 2, the relevant Clause in Part 2 prevails to the extent of the conflict.

2.2 Overriding effect of Participation Schedule

- (1) This Participation Schedule overrides the provisions of Division F of the Fund Rules to the extent of any conflict.
- (2) If there is a conflict between Division AAA and any other provision of the Fund Rules or this Participation Schedule or the Participation Agreement, Division AAA prevails to the extent of the conflict.
- (3) Without limiting Clause 2.2 (1) of this General Part:
 - (A) Rule F2.2 is not applicable to this Sub-Division;
 - (B) Rule F3.3 is not applicable to this Sub-Division;
 - (C) Clause 4.3 of this General Part applies in place of Rule F3.4;
 - (D) Clause 1.10 of Part 1 applies in place of Rule F6.1; and
 - (E) Clause 4.1 of this General Part applies in place of Rule F6.5(a).

3 Definitions

A word or expression which is defined in the Fund Rules has, when used in this Participation Schedule, the meaning given to it under the Fund Rules, except as provided in clause 1.4 of Part 2 of this Participation Schedule and as follows:

"Clause" means a Clause of this Participation Schedule. For the avoidance of doubt, a Clause does not mean a Clause of the Participation Agreement that is not a Clause in the Participation Schedule. **"Clauses"** has a corresponding meaning.

"Eligible Employee" means an Employee who is approved for the time being by the Principal Employer (either generally or in any particular case) for membership of the Fund.

"Fully Funded" means funded in advance in accordance with the advice of the Actuary at a level that is reasonably expected by the Actuary to be adequate to provide for present and prospective liabilities in respect of Benefits relating to the Sub-Division.

"Fund Expenses" means the costs and expenses of and incidental to the establishment, operation, management, administration and investment of the Fund.

"General Part" means the General Part of this Participation Schedule.

"Insurance Company" means such insurer, insurers or re-insurance companies as the Trustee may from time to time determine.

"Legal Personal Representative" means the executor or administrator of the deceased Member's estate.

"Minimum Benefits" means the minimum benefits of a Member within the meaning of the Benefit Protection Standards contained in Part 5 of the *Superannuation Industry (Supervision) Regulations 1994*.

"Normal Retirement Date" means the Member's 65th birthday or such other date as is agreed upon in any particular case by the Employer and the Member.

"Other Staff" means those Employees who (having regard to the nature and duties of their employment) have been named by the relevant Employer as being included for the time being as Other Staff.

"Policy" means a term or other policy or contract of insurance.

"Preservation Requirements" means the restrictions on the payment of a benefit in cash to a Member as prescribed by the Relevant Law; and **"Preserved"** shall have a corresponding meaning.

"Rate of Interest" means the rate or interim rate of interest (positive or negative) declared from time to time by the Trustee as determined having regard to the rate of investment return earned on the assets or subgroups of assets of the Sub-Division allowing for such averaging of investment returns, investment fluctuation reserves, administration expenses, insurance costs, Tax whether actual or contingent and other relevant matters as are appropriate in the opinion of the Trustee provided that a different Rate of Interest may apply for different sub-groups of Members.

“Service” means the most recent continuous service of a Member while engaged by an Employer and includes:

- (a) any period of paid leave;
- (b) any period during which the Member is off work because of injury or illness and receives a Temporary Disablement Benefit, workers’ compensation, sickness pay or other regular income from either the Employer or any insurance scheme sponsored by the Employer; and
- (c) any other period declared by the Trustee to be Service;

“Superannuation Authority” means the Australian Prudential Regulation Authority or the Australian Securities and Investments Commission, as the case permits or requires, or any successor body to either of them.

4 Other matters that override or supplement the Fund Rules in Division F for this Employer

4.1 Insurance Arrangements

- (1) The Trustee may (and shall to the extent, if any, specified in the Fund Rules) enter into or otherwise acquire any type of insurance policy or like arrangement (including any reinsurance arrangement or trustee indemnity insurance with any person or fund) or any right or interest in respect thereof and with or subject to any option, right, benefit, term, condition or provision. The Trustee may vary, surrender, terminate, assign or otherwise howsoever deal with such policy or arrangement as the Trustee may think fit.
- (2) Subject to the Relevant Law:
 - (A) if the application for the granting of any insurance under the Policy on the life of a Member or of any increase in the amount of the insurance is not accepted by the relevant Insurance Company on its standard terms; or
 - (B) if the amount (if any) of the insurance under the Policy is limited by the relevant Insurance Company at any time or is not paid or is paid as a reduced amount by the relevant Insurance Company in terms of the Policy;

then the benefit payable under the Sub-Division on the Member's death or disablement shall (unless the Trustee otherwise determines) be adjusted as the Trustee considers equitable having regard to the amount (if any) of the insurance granted by the relevant Insurance Company under the Policy and the conditions relating to it or the amount (if any) of the insurance not paid by the relevant Insurance Company under the Policy.

- (3) All of the premiums and other outgoings in respect of a policy or arrangement under Clause 4.1(1) of this General Part which are not paid by an Employer shall be paid out of the relevant Employer Benefit Account **PROVIDED THAT** all or part of those premiums

and other outgoings may be paid by the Principal Employer at its discretion.

4.2 Replacement of Principal Employer

If, any of the circumstances set out in Rule A13.1 of the Fund Rules occurs in relation to the Principal Employer, the Trustee may agree with an Associated Employer for it to assume the office of Principal Employer. Such an agreement shall be in a form acceptable to the Trustee and shall be binding on all interested persons.

4.3 Termination, Non-payment or Inadequacy of Employer Payments

- (1) The Employer may by written notice to the Trustee, terminate or suspend payment of its contributions either for the period specified in the notice or indefinitely. Such termination or suspension is effective from the date specified in the notice or 90 days after delivery of the notice to the Trustee, whichever is the later, or an earlier date as agreed by the Employer and the Trustee, and the notice may be given either:

- (A) generally; or
- (B) with respect to any person or identified class of persons.

A termination or suspension of payment of contributions under this Clause 4.3 does not affect an obligation to pay a contribution that arose prior to the date the termination or suspension becomes effective.

- (2) Where the Trustee determines that an Employer has failed to pay any amount to the Fund as and when required under the Fund Rules or to contribute at the rate advised to the Trustee by the Actuary, the Trustee may:
 - (A) suspend payment of Benefits (other than a Benefit payable in respect of an accumulation interest within the meaning of regulation 1.03 of the Superannuation Industry (Supervision) Regulations 1993) to or in respect of any person affected by the failure until the relevant amount has been paid; and
 - (B) determine that this Clause 4.3 shall apply while payments are suspended under Clause 4.3(2) as if the Employer had given written notice to the Trustee of the suspension of its contributions pursuant to Clause 4.3 with effect from the day of the Trustee's determination under Clause 4.3(2).
- (3) Suspension for an unbroken two-year period of an Employer's contributions concerning a Member will be treated by the Trustee as constructive notice of termination of those Employer contributions under Clause 4.3 effective at the end of the two-year period.

- (4) Where actual or constructive notice under Clause 4.3 has been given, or the Actuary has investigated the Fund and advised the Trustee to act under this Clause, the Trustee may:
 - (A) refuse to admit new Members to the Sub-Division; and/or
 - (B) refuse to receive contributions from or other amounts payable by or for, Members; and/or
 - (C) to the extent permitted or not prohibited by the Relevant Law, adjust any Benefits affected by the relevant notice or Actuary's advice as it sees fit, which Benefits shall as adjusted be provided in full satisfaction of any Benefit which would have been payable in the absence of such adjustment.
- (5) The Trustee may:
 - (A) impose conditions on an Employer relating to the revocation of a notice given under Clause 4.3, the rectification of a failure to pay as described in Clause 4.3(2), or rectification of the grounds for the Actuary's advice under Clause 4.3(4), and any revocation or rectification will, unless the Trustee determines otherwise, occur subject to payment of all unpaid Employer contributions and earnings on them at the Agreed Rate;
 - (B) after considering the advice of the Actuary concerning the matter, adjust to the extent permitted or not prohibited by the Relevant Law the rights, entitlements and obligations of the persons affected by a revocation or rectification referred to in Clause 4.3(5). Any adjusted benefit may be provided in such manner and form, by way of such arrangements and subject to such conditions as the Trustee may think fit either generally or in any particular case, and shall be in lieu of and in full satisfaction of any benefit which would or might have been or become payable from the Fund but for the operation of this Clause 4.3(5)(A).
- (6) If an Employer has suspended contributions, the Employer must pay all unpaid Employer contributions and earnings on them at the Agreed Rate with respect to that Member or those Members, if a Benefit relating to the Member or any of those Members becomes payable during the suspension period.
- (7) Adjusted benefits payable under Clause 4.3(5) of this Participation Schedule:
 - (A) are provided in full satisfaction of any Benefit which would have been payable in the absence of the operation of Clause 4.3; and
 - (B) may not, unless the Employer consents, increase the Benefit which the Actuary has advised for a person up to the date of the adjustment.

- (8) Where contributions by or relating to a Member have terminated under this Clause, the Trustee may, subject to the consent of the Member's Employer, under the authority of this clause pay or transfer the Member's interest in the Sub-Division to the trustees or other entity responsible for an alternative Approved Benefit Arrangement or to Division E of the Fund after obtaining the advice of the Actuary as to the value of the Member's interest in the Fund. The Trustee may impose such conditions as it thinks fit on the payment of the transferred amount and such payment will discharge the Trustee from all liability relating to that interest.

4.4 Amendment Powers and Procedures

Amendments to this Participation Schedule may be made only in compliance with Rule A12, as if the Participation Schedule formed part of the Fund Rules PROVIDED THAT:

- (1) no amendment shall take effect pursuant to this Clause without the consent of the Trustee if such consent is required under Relevant Law;
- (2) no amendment shall be made other than in accordance with Relevant Law; and
- (3) no amendment shall take effect in respect of a Member or Beneficiary unless:
 - (A) the Actuary (whose decision shall be final) determines that such amendment will not reduce the amount of the benefits presently or prospectively payable in respect of the Member or Beneficiary to the extent that such benefits have accrued or have or shall become payable in respect of the period up to the date the deed is executed or the resolution is made; or
 - (B) such amendment is approved by the Superannuation Authority in writing or is required by Relevant Law; or
 - (C) such amendment is approved by that Member or Beneficiary in writing.

4.5 Where Sub-Division is more than Fully Funded

The Employer may reduce its contributions to the Sub-Division if the Trustee advises the Employer after consulting the Actuary that the amount standing to the credit of the Sub-Division is more than sufficient for the Section to be Fully Funded. Unless the provisions of Part 2 of the Participation Schedule provide to the contrary, the reduction in contributions by the Employer will have no bearing on contributions required to be made by Members of the Sub-Division.

4.6 National superannuation

Subject to the Relevant Law, if the Trustee considers that by reason of any current or proposed government or legislative action the Benefits provided by the Fund

are, or will be, no longer necessary, whether wholly or in part, for the welfare of the Members, the Trustee may arrange for one or more of the following:

- (1) a cessation of contributions of all Standard Employer Sponsors;
- (2) a reduction of contributions, whether of Members or of Standard Employer Sponsors, to such extent as the Trustee considers appropriate;
- (3) a reduction of Benefits, provided that the Trustee does not reduce a Benefit below the Minimum Benefit (if any);
- (4) a cessation of the accrual of Benefits;
- (5) an adjustment to the accrual of Benefits;
- (6) any other action which the Trustee considers appropriate.

4.7 Transfers

- (1) The Trustee must provide the Employer with not less than 120 days' notice of any proposed transfer of the members and assets of the Sub-Division to a successor fund within the meaning of the *Superannuation Industry (Supervision) Regulations 1994*, or with such other period of notice as the Employer and the Trustee may from time to time agree.
- (2) Unless a Member of the Sub-Division is transferred to another division or part of the Fund in accordance with:
 - (D) the provisions of the Trust Deed and this Agreement;
 - (E) following cessation of employment with the Principal Employer or Associated Employer;

the Trustee is required to obtain the consent of the Principal Employer prior to transferring any of the Members of the Sub-Division to another division or part of the Fund.

Part 1

1 GENERAL PROVISIONS

1.1 Application of Part

This Part shall apply to all Members, subject to the Clauses in the General Part. If there is a conflict between:

- (1) a Clause in the General Part; and
- (2) a Clause of this Part 1,

the relevant Clause in the General Part prevails to the extent of the conflict. Unless the context otherwise requires, Clause references in this Part 1 are references to Clauses in this Part 1.

1.2 Part-time Employment or Non-eligibility

Subject to the Relevant Law, the Principal Employer may determine special terms, conditions and restrictions in relation to the contributions to be payable and the benefits to be provided in respect of a Member during and in respect of any period when in the opinion of the relevant Employer the Member is employed by the Employer in other than a full-time capacity or the Member remains in the employ of the Employer but is not a person who is classified as an Eligible Employee for the purposes of the Fund Rules. The Principal Employer shall notify the Trustee in writing of such a determination.

1.3 Interest Payments

The Trustee may, in its absolute discretion, increase a benefit payable pursuant to the Fund Rules by an amount in respect of the period between the date the benefit first became payable and the actual date of payment of the benefit.

1.4 Taxation

- (a) Subject to Relevant Law the Trustee with the approval of the Principal Employer may take such actions as the Trustee considers appropriate in taking account of any Tax, including without limitation:
 - (1) adjusting the amount of and conditions governing any benefit or other amount payable into or out of the Fund; and
 - (2) making provisions in the accounts of the Fund and payments from the Fund to relevant governmental authorities.
- (b) The Trustee may at any time recalculate the Tax in respect of a person who is or has been a Member.
- (c) If the Tax in respect of a Member as recalculated is less than the Tax in respect of that person as previously determined the Trustee may;
 - (1) If the person is a Member when the Tax was calculated allocate the difference to the relevant Employer Contribution Account or

Employer Compulsory Contribution Account as the Trustee determines;

- (2) If the person is not a Member and was, when the Tax was calculated, a Member, pay an amount equal to the difference to the person from the Fund or to the relevant Employer Contribution Account or Employer Compulsory Contribution Account or some combination of them as the Trustee considers equitable.
- (d) If the Tax in respect of a Member as recalculated exceeds the Tax in respect of the person as previously determined the Trustee may allocate the difference to the relevant Employer Contribution Account or Employer Compulsory Contribution Account;
- (e) If the person is not a Member and was, when the Tax was calculated, a Member, the additional Tax:
 - (1) shall be paid from the relevant Employer Contribution Account or Employer Compulsory Contribution Account; or
 - (2) constitutes a debt due and payable by the person to the Trustee and the Trustee may sue for that debt; or
 - (3) shall be paid or dealt with in some combination of the above,

as the Trustee considers equitable and determines.
- (f) If a person fails to provide the required information within 14 days of a request under Rule A10.8(a) of the Fund Rules, the Trustee may determine the Tax in respect of the person on the basis of any assumptions which, in the circumstances, are reasonable. The person has no claim against the Trustee or the Fund for any loss suffered as a result of any such assumptions being incorrect.
- (g) Where a person makes, or has made, a statement to the Trustee that is:
 - (1) in the opinion of the Trustee relevant to the Trustee's determination of Tax in respect of the person; and
 - (2) reasonably believed by the Trustee to be untrue or misleading either by misstatement or omission,

then the Trustee may recalculate the Tax in respect of the person having regard to what the Trustee reasonably considers to be the true circumstances of the person.

1.5 Employer Contributions

(a) Additional Voluntary Contributions

In addition to any contributions expressly provided for elsewhere in the Fund Rules, with the approval of the Trustee an Employer may contribute further amounts in respect of particular Members or groups of Members, and any such additional contributions shall be applied in respect of the Members concerned on such basis as the Principal Employer shall direct.

(b) Contributions Other than in Cash

Subject to Relevant Law the Trustee may accept contributions other than in cash including, without limitation, contributions arising as a result of a superannuation guarantee shortfall.

1.6 Member Contributions

(a) Manner and Timing of Payment

- (1) Unless the Principal Employer otherwise determines or the law does not so allow, the contributions, if any, payable by a Member shall be deducted by the Member's Employer from each payment of or on account of the Member's remuneration from that Employer, and shall be paid by the Employer to the Fund as agreed by the Trustee and the Employer and in accordance with the Relevant Law.
- (2) If the Principal Employer determines not to make deductions in respect of a Member's contributions or if the law does not allow the deduction of contributions, the Member shall pay contributions to the Fund as and when the Member receives each payment of or on account of the Member's remuneration in such manner as the Trustee may determine with the approval of the Principal Employer.
- (3) Unless otherwise specified in the Fund Rules or agreed between the Trustee, the Principal Employer and the Member concerned, no contributions shall be payable by a Member after the earlier of the date the Member ceases to be in the employ of an Employer and the Normal Retirement Date.

(b) Adjustments for Non-payment

Without prejudice to Clause 1.6(a), if the contributions payable by a Member are not paid to the Fund as and when required, the Trustee may impose such special terms, conditions and restrictions in respect of that Member's membership of and benefits under the Fund as the Trustee may consider appropriate.

(c) Reduction, Suspension or Waiver

- (1) Subject to such conditions as may be determined by the Principal Employer and approved by the Member concerned (including without limitation conditions upon which contributions otherwise payable by the Member and interest thereon shall be made up by and in respect of the Member and conditions as to how benefits to be provided for and in respect of the Member shall be adjusted to take account of such reduction, suspension or waiver), the Principal Employer may for such period as it determines reduce, suspend or waive the contributions otherwise payable by the Member.
- (2) Without prejudice to Clause 1.6(c)(1), subject to such conditions as it thinks fit the Principal Employer may determine that contributions which would have been paid by a Member but for the exercise of a discretion as provided in Clause 1.6(c)(1) shall be deemed to have been paid by that Member for the purpose of

calculating the amount of or determining the eligibility for payment of any benefit payable pursuant to the Fund Rules the amount of or eligibility for which depends on the amount of the contributions paid by the Member or the period during which the Member has contributed.

- (3) The Principal Employer shall notify the Trustee of any such determination as soon as practicable thereafter.
- (d) Amount to be Contributed
Each Member shall contribute to the Fund such amount or rate of contributions as is specified in the subsequent Part that applies to that Member.
- (e) Government Co-Contributions and other Contributions
The Trustee may accept in respect of a Member a contribution made on behalf of the Member by the Commonwealth Government of Australia in accordance with the *Superannuation (Government Co-Contribution for Low Income Earners) Act 2003* and contributions from any other source as permitted under Relevant Law.

1.7 Amount and Payment of Benefits

- (a) Amount of Benefits
The benefit payable from the Fund to a Member shall be calculated in accordance with the provisions of the subsequent Part that applies to that Member.
- (b) Payment of Benefits
A benefit payable from the Fund shall be payable at such place and in such manner (including payment in specie or in kind) as the Trustee shall determine or approve and every person to whom a benefit is payable (whether in that person's own right or for and on behalf of another person) shall upon request by the Trustee provide such information and do such acts and things as the Trustee may consider necessary, desirable or expedient.
- (c) Proofs
Whenever it shall be necessary for the Trustee to decide questions of fact the Trustee may act upon such proofs or presumptions as the Trustee may deem satisfactory whether they are strictly legal proofs or legal presumptions or not.

1.8 No Claim Apart From Fund Rules

No Member or Beneficiary or person claiming in respect or on behalf of a Member or Beneficiary or as a Dependant or legal personal representative of a Member or Beneficiary shall be entitled to require any payment from the Fund except as may be expressly provided in the Fund Rules.

1.9 Proof of Qualification for Benefits

Any person appearing, purporting or claiming to be qualified or entitled to any benefit from the Fund shall on request produce to the Trustee or a nominee of the Trustee such evidence, do such acts and execute such documents as and when the Trustee may reasonably require. If a person fails to do so to the Trustee's reasonable satisfaction, the Trustee may refuse to consider any claim to a benefit or suspend or terminate a benefit, as the Trustee considers appropriate in the circumstances.

1.10 Special Arrangements and Adjustments

(a) Alternative Forms of Benefits

- (1) Subject to the agreement of the Trustee and the Principal Employer, and to such terms and conditions as the Trustee or the Principal Employer may impose:
 - (A) a Member or Beneficiary may elect that (in lieu of the normal or specified terms and conditions of payment) all or part of a benefit to which that person is or may otherwise become entitled shall be replaced by a benefit payable in other circumstances or in another manner and form, including, without limitation, the commutation of a pension benefit or shall be paid upon other terms and conditions;
 - (B) any such election shall be final and binding on all interested persons (including without limitation all persons who may be or become contingently entitled to receive a benefit in respect of the Member or Beneficiary making such election); and
 - (C) in giving effect to and taking account of such an election, the Trustee may adjust the benefits which are or would or might otherwise become payable to or in respect of that Member or Beneficiary or any other person then or thereafter claiming under or in respect of the Member or Beneficiary in such manner and to such extent as the Trustee may think fit.
- (2) The Trustee, after obtaining the advice of the Actuary and with the approval of the Principal Employer, may unilaterally commute to a lump sum any pension or instalment benefit which is or would otherwise become payable from the Fund if, in the opinion of the Trustee, the amount of that benefit is or would be trivial.
- (3) Any benefit which pursuant to an election made under this Clause 1.10(a) is due and payable after the death of a person shall be payable by the Trustee in the manner provided in Clause 1.11 unless the terms and conditions on which that benefit was granted provide otherwise.
- (4) If a pension is paid from the Fund but the Superannuation Authority, in accordance with the Relevant Law, requests that all or

part of the pension be commuted, the Trustee must comply with that request.

- (5) The factor used to calculate any commutation of any pension payable from the Fund must comply with the Relevant Law.

(b) **Augmentation of Benefits**

Subject to Relevant Law and such terms and conditions as the Principal Employer may determine, the Principal Employer may direct the Trustee to pay or provide a benefit or other amount greater than would be provided but for such a direction and the Principal Employer may rescind or vary such a direction. The Trustee shall act on such a direction **PROVIDED THAT** the Principal Employer shall obtain the approval of the Trustee if such approval is required by Relevant Law and **PROVIDED FURTHER THAT** if and to the extent that, in the opinion of the Trustee (after obtaining the advice of the Actuary), to act on such a direction would cause a deficiency in the relevant Employer Benefit Account, before acting on such a direction or in the course of doing so the Trustee may require an undertaking from an Employer that it shall contribute to the Employer Benefit Account such additional amounts or rates of contribution and at such times as the Trustee shall determine after obtaining the advice of the Actuary. If any undertaking required by the Trustee as aforesaid is not given or, having been given, is not fulfilled to the satisfaction of the Trustee, the Trustee may refuse to pay or provide (or to continue to pay or provide) the greater benefit or amount to which the undertaking relates.

1.11 Payment of Death Benefits

The Trustee may permit a Member to nominate the person or persons that the Member would prefer to receive the Member's Benefit on or after the death of the Member. The Trustee shall be entitled, but in no way obliged, to act in respect of such a nomination.

1.12 Allocation of surplus or deficit

At no time shall the Trustee provide for an allocation of surplus or deficit in a manner which creates a debit balance in a Reserve Account maintained in respect of the Sub-Division.

Part 2 – BENEFITS

1A Application of Part

This Part shall apply to all Members, subject to the Clauses in the General Part. If there is a conflict between:

- (1) a clause in the General Part; and
- (2) a clause of this Part 2,

the relevant clause in the General Part prevails to the extent of the conflict. Unless the context otherwise requires, clause references in this Part 2 are references to clauses in this Part 2.

1 Interpretation and definitions

1.1 Interpretation of provisions in this Part 2:

- (a) In this Part, unless the contrary intention appears:
 - (i) a reference to a **clause** is a reference to a clause of this Part 2;
 - (ii) a reference to an **Appendix** is a reference to an Appendix of this Part 2 and Appendices form part of this Part 2;
 - (iii) [Deleted];
 - (iv) [Deleted];
 - (v) [Deleted];
 - (vi) a reference to a **statute, regulation or provision of a statute or regulation (Statutory Provision)** includes:
 - (A) subordinate legislation, determinations, rulings or guidelines made by any person under the authority of such a Statutory Provision;
 - (B) that Statutory Provision as amended or re-enacted from time to time; and
 - (C) a statute, regulation or provision enacted in replacement of that Statutory Provision;
 - (vii) wherever a power is conferred on the Trustee or any other person or persons, that power is exercisable by a delegate of that person at any time and from time to time unless the provision conferring the power provides otherwise;
 - (viii) references to **contributions and liability to contribute** shall be read as references to contributions (if any) and liability (if any) to contribute;

- (ix) each **gender** includes each other gender and the singular includes the plural and vice versa;
- (x) **headings** are inserted for ease of reference only and do not form part of this Part 2 and do not affect the construction of this Part 2;
- (xi) **footnotes** are inserted to assist with the interpretation of this Part 2 only; they do not form part of this Part 2 and do not affect the construction of this Part 2;
- (xii) whilst for convenience particular words or groups of words defined in this Part 2 commence with capital or lower case letters, failure to use capital or lower case letters in those words or groups of words elsewhere in this Part 2 does not of itself mean that those words or groups of words bear meanings different from the meanings they have in this Part 2;
- (xiii) when a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning;
- (xiv) where:
 - (A) there is a reference to an authority, institution, association or body, whether statutory or otherwise (**Authority**); and
 - (B) the Authority is reconstituted, reconstructed, privatised, ceases to exist or is replaced or its powers or functions are transferred to another entity,

the reference must be read as being to the reconstituted, reconstructed, or privatised entity or an entity established or constituted in replacement of or which succeeds to the relevant powers and functions of or which serves substantially the same purposes or has substantially the same objects as the Authority;
- (xv) **including** and similar expressions are not words of limitation; and
- (xvi) **leaves Service** does not include dying in Service.

(b) If any dispute or doubt arises as to the interpretation of this Part 2 or as to the rights of:

- (i) a Member;
- (ii) an Employer; or
- (iii) any other person,

then, except to the extent provided in the Fund Rules, the decision of the Trustee is final and conclusive against all persons subject to any overriding powers of a court or tribunal of competent jurisdiction.

- (c) For the purposes of interpreting any provisions of this Part 2, the Trustee may have regard to the provisions of the CoP Fund Trust Deed and to any footnotes contained in this Part 2.
- (d) In this Part 2, terms that are defined in Part 1 of the Participation Schedule shall have the same meaning where used in Part 2.

1.2 Inconsistency between this Part 2 and the Trust Deed

The provisions of this Part 2, other than clause 3(e), are subject to Rule A12 of Division A of the Trust Deed and Rule 4.5 of the General Part of the Participation Schedule.

1.3 Application of the Trust Deed

(a) Category A Members, Beneficiaries and Employers in respect of them

Subject to clause 1.2, the provisions of Division A, Division AAA and Division F of the Trust Deed apply in respect of Category A Members and Beneficiaries and Employers in relation to them, in addition to relevant provisions of this Participation Schedule.

(b) Non-Category A Members, Beneficiaries and Employers in respect of them

Subject to clause 1.2, the provisions of Division A, Division AAA and Division F of the Trust Deed apply in respect of all Members who are not Category A Members (**Non-Category A Members**) and Beneficiaries and Employers in relation to them in addition to relevant provisions of this Participation Schedule.

1.4 Definitions

In this Part 2, unless the contrary intention appears:

- (a) **Active Service** means service with an Employer, including annual leave, sick leave, long service leave, maternity leave and other approved paid or unpaid leave;
- (b) **Actuary** means the person appointed by the Trustee as actuary to the Sub-Division of the Fund;
- (c) **Additional Fund Earning Rate** means a rate declared under clause 10.7 of this Part 2;
- (c.1) **AS Fund** means the superannuation fund currently known as AustralianSuper.
- (c.2) **AS Transfer Date** means 30 June 2009 or such other date as the AS Trustee and the CoP Transferor Trustee determine in writing.
- (c.3) **AS Trust Deed** means the declaration of trust dated 13 December 1985 which constituted the AS Fund, including the Schedules to it, as amended from time to time;
- (c.4) **AS Trustee** means AustralianSuper Pty Ltd ACN 006 457 987.

- (c.5) **AS Section Specification** means the CoP Section Specification dated 30 June 2009.
- (d) **Award** means a prescribed agreement or award as defined in the Relevant Law or any other arrangement which the Employer and the Trustee agree should be treated as an Award;
- (e) **Bonus Account** means the account kept for a Member under clause 10.2(g);
- (f) **Category** in relation to a Member means the category of membership to which a Member is admitted or transferred;
- (g) **Category A Member** means any person who was a Category A Member in the CoP Section of the AS Fund immediately before the Transfer Date as advised on or before the Transfer Date by the AS Trustee to the Trustee and who has not subsequently been reclassified;
- (h) [Deleted];
- (i) **Chosen Fund** means the superannuation fund or funds or retirement savings account or accounts nominated by the Fund Choice Member in a Fund Choice Notice;
- (j) **Commencement Date (Earlier)** for the purposes of this Part 2 means 24 December 1994;
- (k) [Deleted];
- (l) **Contribution Account** means Member Contribution Account, Employer Contribution Account, Employer Compulsory Contribution Account, Voluntary and Other Contributions Account, Deemed Member Contribution Account, Post-65 Employer Compulsory Contribution Account, Bonus Account, Transfer Account or Deemed Member Voluntary Contribution Account;
- (m) **Contribution Cessation Date** means the date advised to the Trustee by the Employer as the date when contributions by the Employer shall cease to be made to the Sub-Division for a Fund Choice Member and when the contributions by that Member shall cease to be accepted by the Trustee;
- (n) **CoP Fund** means the City of Perth Superannuation Fund which was constituted by the CoP Fund Trust Deed;
- (o) [Deleted];
- (p) **CoP Transferor Trustee** means C.P.S.F. Pty Ltd ACN 066 005 687;
- (q) **CoP Fund Trust Deed** means the trust deed for the CoP Fund dated 31 October 1994, and any appendices to that trust deed, as amended from time to time;
- (r) **Death Benefit** means a benefit payable on the death of a Member under clause 6.5(a) or clause 6.5(b) of this Part 2;

- (s) **Deemed Member Contribution Account** means the account kept for a Member under clause 10.2(e) of this Part 2;
- (t) **Deemed Member Voluntary Contribution Account** means the account kept for a Member under clause 10.2(i) of this Part 2.
- (u) **Deferred Salary Fraction** means for a Deferred Salary Member the fraction:

$$A/B$$

where

A is the Deferred Salary Member's annual rate of Salary (or, if the Member is also a Part-Time Member, the annual rate of Salary he would receive if he were not a Part-Time Member), and

B is the Deferred Salary Member's annual rate of Normal Salary;
- (v) **Deferred Salary Member** means:
 - (i) a Member:
 - (A) who the Employer has admitted to a deferred salary scheme of the Employer before the AS Transfer Date; and
 - (B) who the AS Trustee notifies to the Trustee as a Deferred Salary Member on or before the AS Transfer Date; and
 - (C) whose Deferred Salary Membership details will be provided by the AS Trustee to the Trustee on or as soon as practicable after the AS Transfer Date; or
 - (ii) a Member who the Employer admits to a deferred salary scheme of the Employer on or after the AS Transfer Date and who the Employer notifies to the Trustee as being admitted to its deferred salary scheme;
- (w) **Eligible Defined Benefit Members** means any person who was a Category A Member in the CoP Section immediately before the AS Transfer Date as notified by the AS Trustee to the Trustee;
- (x) **Eligible Rollover Fund** has the same meaning as in the Relevant Law;
- (y) **Employee¹** has the same meaning as in the *Superannuation Industry (Supervision) Act 1993* but includes only:
 - (i) any Employee of the Principal Employer; and

¹ According to the City of Perth Superannuation Fund product disclosure statement dated 1 July 2007 (page 5): 'The City of Perth Superannuation Fund is the superannuation fund specifically designed for employees of the City of Perth. Certain ex-City of Perth employees who are now with the Town of Vincent, Town of Cambridge and Town of Victoria Park are also members of the Fund. Only new employees to the City of Perth are eligible to join the Fund. Existing employees of the City of Perth who have other superannuation arrangements are also welcome to join the City of Perth Superannuation Fund...'

- (ii) any Employee of a Participating Employer in respect of whom section 170D of the *Local Government Act 1960 (WA)* or section 29 of the *City of Perth Restructuring Act 1993 (WA)* requires the Participating Employer to participate in, and comply with, the 'City of Perth Scheme';
- (z) **Employer** means the Principal Employer or if applicable the Participating Employer, and in relation to any particular Member means the Employer by which that Member is employed or engaged;
- (aa) **Employer Compulsory Contribution Account** means the account kept for a Member under clause 10.2(c) of this Part 2;
- (bb) **Employer Contribution Account** means the account kept for a Member under clause 10.2(b) of this Part 2 less an amount equal to the sum of:
 - (i) \$1.75 per week for each week of the relevant Member's membership of the Fund or such other amount as may be agreed from time to time by the Trustee and the Employer;
 - (ii) an amount equal to 0.164% per annum of the Total Account Balance calculated monthly during the period of the Member's membership of the Fund or such other amount as may be agreed from time to time by the Trustee and the Employer; and
 - (iii) an amount equal to 40% of the insurance premiums paid in respect of the Member relating to a benefit payable under clause 6.5 or 6.6 of this Part 2, calculated monthly during the period of the Member's membership of the Fund or such other amount as may be agreed from time to time by the Trustee and the Employer,

calculated and deducted monthly during the period of the Member's membership of the Fund;
- (cc) **Final Average Salary** means:
 - (i) for the purpose of clause 6.2 of this Part 2 - the average annual Normal Salary received by a Member over the last three years before the Member's Projected Retirement Date;
 - (ii) for the purpose of clause 6.5(a) of this Part 2 - the average annual Normal Salary that the Member would have received over the last three years before age 65 (or, if later, the Projected Retirement Date) if the Member had continued in Service until that time at the same annual Normal Salary as at the date of death; and
 - (iii) for the purpose of clause 6.6 of this Part 2 - the average annual Normal Salary that the Member would have received over the last three years before age 65 (or, if later, the Projected Retirement Date) if the member had continued in Service until that time at the same annual Normal Salary as at the date the Member was last fully active at work;
- (dd) **Financial Year** has the same meaning as the term **Fund Year** in the Fund Rules;

- (ee) **Former Fund** means the City of Perth Superannuation Fund established by the City of Perth under the City of Perth Superannuation Fund Act 1934;
- (ff) **Fund** means the superannuation fund currently known as Equipsuper;
- (gg) **Fund Choice Benefit** means a lump sum benefit equal to the benefit set out in this Part 2 determined as if the Fund Choice Member either leaves or retires from Service on the Fund Choice Date other than as a result of the death or Permanent Disablement of that Member, which benefit shall be calculated having regard to the Member's period of Service until the Fund Choice Date;
- (hh) **Fund Choice Date** means the date advised to the Trustee by the Employer as the date when the initial contribution is made by the Employer for a Fund Choice Member to the Chosen Fund;
- (ii) **Fund Choice Member** means a Member who provides his or her Employer with a Fund Choice Notice;
- (jj) **Fund Choice Notice** means a notice provided to the Member by the Employer pursuant to the *Superannuation Guarantee (Administration) Act 1992* which is completed by the Member and returned to the Employer or such other notice as may be provided to the Employer by the Member in relation to superannuation fund choice in accordance with the SGC Act and in relation to the transfer of the Fund Choice Benefit;
- (kk) **Industry Scheme** means the WA Local Government Superannuation Plan (formerly called the W.A. Local Government Occupational Superannuation Fund) established by a trust deed dated 21 March 1990 and continued under a trust deed dated 4 November 2004;
- (ll) **Insolvent** means 'technically insolvent' as described in regulation 9.06(3) of Division 9.3 of the *Superannuation Industry (Supervision) Regulations 1994*;
- (mm) [Deleted];
- (nn) **Member or Member of the Sub-Division** means a person who has been admitted to membership of the Sub-Division and who has not ceased to be a Member, in accordance with this Participation Agreement and Division A, Division AAA and Division F of the Trust Deed;
- (oo) **Member Contribution Account** means the account kept for a Member under clause 10.2(a) of this Part 2;
- (pp) **Normal Salary** means:
 - (i) for a Deferred Salary Member or a Part-Time Member, the substantive normal full-time salary for the post occupied by that Member inclusive of payments for leave entitlements and leave loading but exclusive of commissions, payments for overtime and other special payments, as notified by the Employer to the Trustee from time to time, and
 - (ii) for any other Member, means the Member's Salary.

However, the Employer and Trustee may agree that some greater amount is the substantive normal full-time salary of the Member;

- (qq) **Participating Employer** means any entity which, under section 170D of the *Local Government Act 1960 (WA)* or section 29 of the *City of Perth Restructuring Act 1993 (WA)*, is required to participate in the 'City of Perth Scheme' and comply with the governing rules of the City of Perth Scheme and whose participation in the City of Perth Scheme has not been terminated in accordance with the provisions of the Fund Rules;
- (rr) **Part-Time Fraction** means for a Part-Time Member the fraction:
- A/B
- Where
- A is the number of ordinary hours per week for which the Part-Time Member is employed or engaged; and
- B is the number of ordinary hours per week the Member would be required to work if employed or engaged on a full-time basis, as determined by the Employer;
- (ss) **Part-Time Member** means a Member that the Employer determines is employed on a part-time basis;
- (tt) **Payment Date** means the date when the Fund Choice Benefit is paid by the Trustee to the Chosen Fund or to the Eligible Rollover Fund pursuant to clause 14 of this Part 2;
- (uu) **Permanent Disablement** means incapacity to an extent that the Trustee is satisfied, after considering any medical or other information it considers appropriate, that the Member is unlikely ever to be able to work again in a job for which the Member is reasonably qualified by education, training or experience, provided that where at any time all or part of the benefit payable in the event of Permanent Disablement is insured with an insurance company, the term 'Permanent Disablement' shall bear the meaning ascribed to it in the relevant insurance policy in lieu of the above definition;
- (vv) **Post-65 Employer Compulsory Contribution Account** means the account kept for a Member under clause 10.2(f) of this Part 2;
- (ww) **Principal Employer** means the City of Perth. If the City of Perth ceases to exist, the Principal Employer will be another person who takes its place by written agreement with the Trustee;
- (xx) **Projected Retirement Date** means:
- (i) the day the Member would have left Service if the Member had remained in Service until using up any period of leave to which the Member was entitled on leaving Service; or

- (ii) for a Member who dies in Service or leaves Service because of Permanent Disablement - the later of the Projected Retirement Date calculated under clause 1.4(xx)(i) of this Part 2 or the day the Member would have reached age 65;
- (yy) **Salary** means a Member's rate of ordinary salary or wages for services performed for the Employer. It includes payments for leave entitlements and leave loading, but excludes commissions, payment for overtime and other special payments. However, the Employer and Trustee may agree that some greater amount is the Salary of a Member;
- (zz) [Deleted];
- (aaa) [Deleted];
- (bbb) **Solvent** means 'technically solvent' as described in regulation 9.06(2) of Division 9.3 of the Superannuation Industry (Supervision) Regulations 1994 and Solvency has a corresponding meaning;
- (ccc) **Temporarily Disabled** has a corresponding meaning to Temporary Disablement;
- (ddd) **Temporary Disablement** means incapacity incurred or aggravated while in Active Service to an extent that the Trustee is satisfied, after considering any medical or other information it considers appropriate, that the Member is incapable of carrying out the Member's previous duties, but does not include:
 - (i) self-inflicted incapacity; or
 - (ii) any incapacity incurred or aggravated while in the service of the armed forces,

provided that where at any time all or part of the benefit payable in the event of Temporary Disablement is insured with an insurance company, the term 'Temporary Disablement' shall bear the meaning ascribed to it in the relevant insurance policy in lieu of the above definition;
- (eee) **Temporary Disablement Benefit** means a benefit payable under clause 6.10(a) of this Part 2 in accordance with clause 6.10 of this Part 2;
- (fff) **Total Account Balance** means the total balances of the Contribution Accounts of a Member;
- (ggg) **Transfer Account** means the account kept for a Member under clause 10.2(h) of this Part 2;;
- (hhh) [Deleted];
- (iii) **Trust Deed** means the trust deed of Equipsuper, as amended from time to time;
- (jjj) **Trustee** means trustee of the Fund, in that capacity;
- (kkk) **vary or amend** means vary, amend, add to, revoke or replace;

(III) **Voluntary and Other Contributions Account** means the account kept for a Member under clause 10.2(d) ; and

(mmm) **Years of Membership** means:

- (i) the number of years of membership of the Former Fund (if any), the CoP Fund, the AS Fund and the Fund as a Category A Member up to the Projected Retirement Date; plus
- (ii) any additional period credited under clause 4.9(a)(v) of this Part 2, with each additional day counting as 1/365th of a year.

1.5 Severability

- (a) Any provision of this Part 2 which is void, prohibited or unenforceable in a jurisdiction (whether by reason of the Relevant Law or otherwise) is ineffective in that jurisdiction to the extent only that the provision is void, prohibited or unenforceable in that jurisdiction.
- (b) Any provision which is ineffective under clause 1.5(a) of this Part 2 shall not invalidate the remaining provisions of this Part 2.
- (c) Subject to the Relevant Law:
 - (i) where a provision is ineffective under clause 1.5(a) of this Part 2, the Trustee shall determine the effect and interpretation of the remaining provisions of this Part 2; and
 - (ii) the Trustee's determination shall be final, conclusive and binding on all interested persons.

1.6 Role of Relevant Law

The provisions of this Part 2 are to be read and construed subject to the Relevant Law to the extent that they apply to the Fund. Where there is an inconsistency between a provision of this Part 2 and the Relevant Law, the latter prevail.

1.7 Applicable Law

This Part 2 is governed and construed and takes effect in accordance with the laws of the State of Victoria. Employers, Trustee, Members and Beneficiaries must accept the jurisdiction of the Courts of the State of Victoria.

2 [Deleted]

3 Variation of Part 2

- (a) This Part 2, including this clause 3, may be varied from time to time by the Trustee by a document in writing executed by the Trustee, subject to compliance with the Relevant Law and clause 3(e) of this Part 2.

- (b) A variation takes effect from such date (whether before, on or after the date on which the document effecting the variation is executed) as may be specified in the document effecting the variation, and if no date is specified, a variation takes effect from the date the document effecting variation is executed by the Trustee.
- (c) When this Part 2 is varied, the Trustee must endorse this Part 2 as it stood before the variation, to indicate when, and by what document, it was varied, but a failure to endorse this Part 2 in that way does not invalidate the variation or delay the effective date of the variation.
- (d) The Trustee may, at any time for convenience, prepare a consolidated Part 2 reflecting all variations.
- (e) A variation to this Part 2 requires the consent of the Principal Employer.

4 Eligibility and membership

4.1 Eligibility

Eligible Defined Benefit Members are eligible to be a Member of the Sub-Division.

4.2 Eligible Defined Benefit Members' period of membership

The period of a Member's membership of a Category includes any period of membership of a corresponding Category in the AS Fund, the CoP Fund, or the Former Fund prior to the Transfer Date. For the avoidance of doubt, the period prior to the AS Transfer Date includes any period of membership of a corresponding Category in the Former Fund prior to the Commencement Date (Earlier).

4.3 [Deleted]

4.4 [Deleted]

4.5 [Deleted]

4.6 [Deleted]

4.7 Employees on 12 month or more fixed term contracts

An Employee who is engaged under a fixed term contract of 12 months or more is a permanent Employee rather than a casual or temporary Employee for the purposes of this Sub-Division.

4.8 Closed category

- (a) Category A is closed to new Members.
- (b) [Deleted]
- (c) [Deleted]
- (d) [Deleted]

- (e) [Deleted]

4.9 Transfer to the Fund

- (a) The Trustee may make arrangements it considers appropriate with:
 - (i) a Member; or
 - (ii) any previous employer of the Member; or
 - (iii) the trustee of any superannuation fund of which the Member has been a member,to transfer assets to the Fund, and to provide benefits in respect of the Member which may be calculated in a different manner than set out in this Part 2, including:
 - (iv) crediting amounts to the Contribution Accounts of the Member; and
 - (v) crediting an additional period in the Years of Membership of the Member.
- (b) Any arrangement under clause 4.9(a) of this Part 2 must be consistent with Relevant Law.

4.10 Temporary absences

- (a) If a Member:
 - (i) ceases to be an Employee but the Employee's Employer believes the Member is likely to recommence as an Employee within a reasonable period; or
 - (ii) takes unpaid leave and the Trustee considers it appropriate,then:
 - (iii) the Member is taken not to have left Service and the Member's Service is taken to be continuous;
 - (iv) the period of absence or leave does not count as part of the Member's Years of Membership; and
 - (v) the Member's Years of Membership continue to accrue when the Member returns.
- (b) If a Member referred to in clause 4.10(a) of this Part 2 does not recommence as an Employee within a period that the Trustee considers to be reasonable, the Member is taken to have left Service on the date the Member ceased to be an Employee.
- (c) [Deleted]

4.11 Transfer of Service

The transfer of a Member from Service with one Employer to Service with another Employer is not a termination of Service unless the Principal Employer and the Trustee declare it to be or the Member elects to cease being a Member of the Sub-Division.

5 Contributions

5.1 Member contributions

- (a) The rates of Member contributions for Category A are:

Category	% of Salary
A	4%

- (b) A Member must contribute to the Fund at the rate (if any) for the Member's Category until the Member dies or leaves Service or reaches age 65 (whichever is earlier).
- (c) A Member may contribute any further amount if the Trustee agrees.
- (d) A Member who remains in Service after age 65 may continue to contribute to the Fund if the Trustee agrees and the Relevant Law permits. The amount of those contributions is to be agreed with the Trustee and the Member's Employer.
- (e) The Trustee may agree to waive a Member's obligation to contribute under clause 5.1(a) of this Part 2 in whole or part.
- (f) Unless the Member and the Employer agree otherwise, the Employer must deduct the Member's contributions from the Member's remuneration. The Employer must pay the contributions to the Trustee:
- (i) in the manner and at the times agreed between the Employer and the Trustee; and
 - (ii) within any time limit imposed by law.

5.2 Employer contributions

- (a) The rates of Employer contributions for Category A Members are:

Category	% of Salary
A	14% consisting of:
	• 'award or quasi-award contributions' being the minimum percentage required to be contributed by the

	Employer under an Award or to avoid the Superannuation Guarantee Charge; and • 'normal employer contributions' being the balance of 14% of Salary.
--	---

(b) Subject to clause 5.2(c) of this Part 2, the Employer must contribute to the Fund in respect of a Member at the rate (if any) for the Member's Category until the Member:

- (i) dies; or
- (ii) leaves Service; or
- (iii) reaches age 65; or
- (iv) if the circumstances set out in clause 6.13 of this Part 2 apply - reaches age 70,

(whichever is earlier).

(c) If:

- (i) an Award requires contributions to be made after age 65 if a Member is employed as an Employee for less than 10 hours each week; or
- (ii) an Award requires contributions to be made until a Member reaches age 70; or
- (iii) an Employer must contribute after age 65 to avoid the Superannuation Guarantee Charge,

then the Employer must contribute the minimum contributions required under the Award or to avoid the Superannuation Guarantee Charge until those contributions are no longer required.

(d) An Employer may contribute any further amount for a Category A Member. This may include additional contributions to replace any Member contributions waived under clause 5.1(c) of this Part 2.

(e) If the Actuary advises that the Sub-Division is in actuarial surplus, the Trustee may agree that all or part of the surplus is to be applied in meeting some or all of the Employer contributions that would otherwise be made under clause 5.2(b), clause 5.2(c) or clause 5.2(d) of this Part 2. If so:

- (i) the Employer is not required to contribute the amount of contributions being met out of surplus; and

- (ii) for the purposes of this Part 2, the Employer will be deemed to have made those contributions; and
 - (iii) the relevant Contribution Accounts of Members are to be credited with the Employer contributions being met out of surplus, less any amount the Trustee considers appropriate to reflect the tax that would be debited to the relevant Contribution Accounts if the Employer had made the contributions.
- (f) Subject to clause 5.2(g) of this Part 2 an Employer may cease, suspend or reduce its contributions in respect of any Member by written notice to the Trustee. If the Employer does so:
- (i) the Trustee must notify the Member; and
 - (ii) the Member may cease, suspend or reduce the Member's contributions to the extent the Trustee considers appropriate; and
 - (iii) the Trustee must modify the benefits of the Member as it considers appropriate, but may not reduce any benefit that has accrued or become payable to the Member unless Relevant Law permits.
- (g) Clause 5.2(f) of this Part 2 is to be read in conjunction with Clause 4.3 of the General Part of this Participation Schedule and Rule F3.1(b) of the Fund Rules. Clause 4.3 of the General Part of the Participation Schedule and Rule F3.1(b) of the Fund Rules apply except to the extent of any inconsistency with clause 5.2(f) of this Part 2. For the avoidance of doubt, a cessation, suspension or reduction of contributions under clause 5.2(f) does not affect an obligation to pay a contribution that arose prior to the date the cessation, suspension or reduction becomes effective.
- (h) If an Employer does not contribute the minimum amount specified in the most recent actuarial certificate (obtained in accordance with the Relevant Law), the Trustee must modify the benefits of Members affected by the Employer's action as it sees fit, taking into account any advice provided by the Actuary.

6 Benefits for Category A Members

6.1 Application

This clause 6 applies to, and only to, a Member of the Sub-Division who is a Category A Member.

6.2 Retirement

A Category A Member who leaves Service:

- (a) at or after age 55; but

- (b) not after age 65²,

is (except if clause 6.6 of this Part 2 applies) entitled to a benefit³ equal to the total of:

- (c) $FAS \times \{(18.75\% \times A) + (20.5\% \times B)\}$,

where:

FAS = Final Average Salary

A = Years of Membership prior to 1 July 1989

B = Years of Membership from 1 July 1989; and

- (d) the balance of the Voluntary and Other Contributions Account, Bonus Account, Deemed Member Voluntary Contribution Account and Transfer Account of the Member,

less any amount that has been transferred to the Fund or to the CoP Fund in exchange for including an additional period in the Member's Years of Membership in accordance with clause 4.9(a)(v) and clause 4.9(b) of this Part 2.

6.3 Leaving after age 65⁴

A Category A Member who leaves Service after age 65⁵ is entitled to a benefit⁶ equal to the total of:

- (a) the benefit calculated under clause 6.2(c) of this Part 2 as if the Member had left Service on reaching age 65⁷; and
- (b) interest credited or debited at the Agreed Rate to the amount under clause 6.3(a) of this Part 2 for the period from age 65⁸ to the date the Member leaves Service; and
- (c) the balance of the Voluntary and Other Contributions Account, Bonus Account, Deemed Member Voluntary Contribution Account, Transfer Account and Post-65 Employer Compulsory Contribution Account of the Member at the time the Member leaves Service.

6.4 Request after age 65

A Category A Member who:

- (a) is in Service on or after age 65; and
- (b) requests payment,

² Note clause 6.13.

³ Note clause 6.7

⁴ Note clause 6.13

⁵ Note clause 6.13

⁶ Note clause 6.7

⁷ Note clause 6.13

⁸ Note clause 6.13

is entitled to a benefit⁹ calculated under clause 6.2 or clause 6.3 of this Part 2 as if the Member had left Service on the date the Trustee receives the request.

6.5 Death

- (a) On the death of a Category A Member in Service before age 65, the Trustee must pay a benefit¹⁰ equal to:

$$\text{FAS} \times \{(18.75\% \times A) + (20.5\% \times B)\} + C$$

where:

FAS = Average Salary

A = Years of Membership prior to 1 July 1989

B = Years of Membership from 1 July 1989 to age 65 (or, if later, the Projected Retirement Date) as if the Member had continued in membership until that time

C = the balance of the Voluntary and Other Contributions Account, Bonus Account, Deemed Member Voluntary Contribution Account and Transfer Account of the Member.

- (b) On the death of a Category A Member in Service at or after age 65¹¹, the Trustee must pay a benefit¹² equal to the amount that would have been payable under 6.2 or clause 6.3 of this Part 2 if the Member had left Service on the date of death.

6.6 Permanent Disablement

A Category A Member who leaves Service before age 65 because of Permanent Disablement is entitled to a benefit¹³ equal to:

$$\text{FAS} \times \{(18.75\% \times A) + (20.5\% \times B)\} + C$$

where:

FAS = Final Average Salary

A = Years of Membership prior to 1 July 1989

B = Years of Membership from 1 July 1989 to age 65 (or, if later, the Projected Retirement Date) as if the Member had continued in membership until that time

⁹ Note clause 6.7

¹⁰ Note clause 6.7

¹¹ Note clause 6.13

¹² Note clause 6.7

¹³ This benefit is equal to the benefit payable under clause 6.5(a). Note also clause 6.7.

C = the balance of the Voluntary and Other Contributions Account, Bonus Account, Deemed Member Voluntary Contribution Account and Transfer Account of the Member.

6.7 Minimum benefit

Any benefit payable under clauses 6.2 to 6.6 of this Part 2 must not be less than the Total Account Balance of the Member.

6.8 Ill health or retrenchment

A Category A Member who leaves Service because of ill-health or retrenchment (as determined by the Trustee¹⁴) in circumstances where clauses 6.2, 6.3, 6.5 and 6.6 of this Part 2 do not apply, is entitled to a benefit equal to the greater of:

- (a) the Total Account Balance of the Member; or
- (b) the amount the Actuary determines is held for the provision of the Member's retirement benefit in respect of membership up to the date of leaving Service; or
- (c) any greater benefit decided by the Trustee (but only if the Trustee is satisfied that the Sub-Division has sufficient funds to pay that greater benefit).

For the avoidance of doubt, this clause 6.8 is subject to Rule AAA2.1 of Division AAA of the Trust Deed and Rule A11.2 of Division A of the Trust Deed.

6.9 Leaving Service

A Category A Member who leaves Service where clauses 6.2, 6.3, 6.5, 6.6 and 6.8 of this Part 2 do not apply is entitled to a benefit equal to the Total Account Balance of the Member.

6.10 Temporary Disablement

- (a) A Category A Member who is absent from work before age 65 because of Temporary Disablement is entitled to a benefit equal to 75% of the Member's Salary (or, in the case of a Deferred Salary Member, the Member's Normal Salary) at the date the Member was last fully active at work, reduced by:
 - (i) any amount paid or payable to the Member in relation to the disability as worker's compensation or damages or under any insurance policy indemnifying the Member for loss of earnings; and
 - (ii) any Salary paid to the Member by the Employer in relation to the period of the disablement; and
 - (iii) any Salary that would be payable to the Member if the Member complied with a request from the Employer to return to work in a different capacity

¹⁴ In practice, the Trustee will consult the Employer as to whether a Member has been retrenched.

and the Trustee is of the opinion that the Member is suitably qualified and sufficiently well to do that other work.

- (b) A Temporary Disablement Benefit is payable in the same manner and with the same frequency as the Member's Salary.
- (c) If any amount referred to in clause 6.10(a)(i), 6.10(a)(ii) or 6.10(a)(iii) of this Part 2 is paid or payable in lump sum form or for a period that does not coincide with the Member's normal pay period, the Trustee may attribute it as the Trustee considers appropriate to one or more of the Temporary Disablement Benefit payments and reduce those payments accordingly. If a Temporary Disablement Benefit payment that would otherwise be reduced under this clause has already been paid, the Member must pay to the Trustee the amount of reduction that would have been made from that payment.
- (d) Entitlement to a Temporary Disablement Benefit commences from the later of the expiry of:
 - (i) 28 days of continuous Temporary Disablement (subject to clause 6.10(f)¹⁵ of this Part 2); or
 - (ii) any period during which the Member is entitled to full pay sick leave; or
 - (iii) any period of maternity leave; or
 - (iv) any period of unpaid leave which was approved by the Employer before the onset of Temporary Disablement,and ceases on the earlier of:
 - (v) the Member, in the opinion of the Trustee, no longer being Temporarily Disabled; or
 - (vi) the Member working for reward, other than for the Employer; or
 - (vii) the Member becoming entitled to any other benefit from the Fund; or
 - (viii) the death of the Member; or
 - (ix) any failure by the Member to be medically examined or provide any information when required by the Trustee; or
 - (x) two years from when entitlement to the benefit commenced (subject to clause 6.10(f) of this Part 2)¹⁶.
- (e) A Member is not entitled to a Temporary Disablement Benefit for any period of compulsory childbirth leave required to be taken under an Award.
- (f) The 28 day waiting period under clause 6.10(d)(i) of this Part 2 does not apply if the Member suffers Temporary Disablement within six months of a previous

¹⁵ Equivalent to rule 6.16 of the CoP Deed.

¹⁶ Equivalent to rule 6.16 of the CoP Deed

period of Temporary Disablement. That previous period of Temporary Disablement is added to the current period for the purpose of the two year limit to the Temporary Disablement Benefit under clause 6.10(d)(x) of this Part 2.

- (g) The Member must provide the Trustee with all medical information relevant to the Temporary Disablement and details of any proceedings, settlements, claims or payments relating to the Temporary Disablement.
- (h) Before making any Temporary Disablement Benefit payment, the Trustee may require the Member to agree in writing to comply with the conditions of the Temporary Disablement Benefit as set out in this clause 6.10 of this Part 2 and give an irrevocable authority to the Trustee to obtain access to all relevant information.
- (i) In calculating the Final Average Salary of a Category A Member, the Salary for any period during which the Member is Temporarily Disabled is taken to be the Salary that the Member would have earned during that period if the Member was fully active at work in the same position he or she occupied before becoming disabled.

6.11 Part-Time Members and Deferred Salary Members

In calculating the Years of Membership of a Category A Member:

- (a) in respect of any completed period of Service:
 - (i) any period during which the Member was a Part-Time Member is multiplied by the Member's average Part-Time Fraction over that period; and
 - (ii) any period during which the Member was a Deferred Salary Member is multiplied by the Member's average Deferred Salary Fraction over that period; and
 - (iii) for the avoidance of doubt, any period during which the Member was both a Part-Time Member and a Deferred Salary Member is multiplied by both the Member's average Part-Time Fraction and the Member's average Deferred Salary Fraction over that period; and
- (b) in respect of any period after the Member dies or leaves Service that counts in determining the Years of Membership:
 - (i) if the Member was a Part-Time Member at the time of death or leaving Service, the period concerned shall be multiplied by the Member's Part-Time Fraction as at the date of death or leaving Service; and
 - (ii) if the Member was a Deferred Salary Member at the time of death or leaving Service, the period concerned shall not be multiplied by the Member's Deferred Salary Fraction as at the date of death or leaving Service, or otherwise subject to any adjustment on the assumption that, had he remained in Service he would have continued to be a Deferred Salary Member.

6.12 Reducing Normal Salary due to graduated retirement

- (a) The Trustee may agree with a Member that a Normal Salary as calculated previously ('Previous Normal Salary') may continue to apply for the purpose of calculating Final Average Salary, notwithstanding that a Member's Normal Salary as otherwise calculated under this Part 2 is less than the Previous Normal Salary.
- (b) If the Trustee agrees a Previous Normal Salary with a Member pursuant to clause 6.12(a) of this Part 2, then:
 - (i) for the avoidance of doubt, for the purpose of determining contributions to the Fund, the actual Salary applies; and
 - (ii) in calculating Years of Membership of a Category A Member:
 - (A) any period during which the Member's Normal Salary is less than the Previous Normal Salary pursuant to clause 6.12(a) of this Part 2 is multiplied by:
$$\frac{\text{Actual Normal Salary}}{\text{Previous Normal Salary}}; \text{ and}$$
 - (B) where the ratio pursuant to clause 6.12(b)(ii)(A) of this Part 2 is less than 1 at the time of the payment of a Benefit, including by death or Permanent Disablement, any period subsequent to the Member having died or left service which is included in the Years of Membership must also be multiplied by the ratio set out in clause 6.12(b)(ii)(A) of this Part 2 (as calculated as at the date of death or leaving Service).

6.13 Continued Service of at least 10 hours each week to age 70

If a Category A Member continues in employment as an Employee for at least 10 hours each week beyond age 65 and makes the required Member Contributions under clause 5.1(a) of this Part 2 (unless waived under clause 5.1(e) of this Part 2) then:

- (a) the Member's Benefit as calculated under clause 6.2 of this Part 2 continues to accrue to the earlier of:
 - (i) attaining age 70;
 - (ii) ceasing Service;
 - (iii) the Member ceasing to make contributions as per clause 5.1(a) of this Part 2 (subject to clause 5.1(e) of this Part 2); and
- (b) clause 6.3 of this Part 2 applies in like manner from age 70 as would otherwise apply from age 65.

7 [Deleted]

8 Benefit entitlement - general

8.1 Early Release of Benefits

- (a) The Trustee may pay a benefit to a Member who has not left Service if the Member requests and the Relevant Law permits, including:
 - (i) a benefit that is an unrestricted non-preserved benefit under the Relevant Law;
 - (ii) in circumstances constituting severe financial hardship or compassionate grounds within the meaning of the Relevant Law; or
 - (iii) in any other circumstances permitted by the Relevant Law.
- (b) The Trustee must adjust any future benefit entitlements of the Member as it considers appropriate to take into account any early release of benefit under clause 8.1(a) of this Part 2.

8.2 Interest

- (a) Subject to clause 8.2(b) of this Part 2, the Trustee must credit or debit interest at the Agreed Rate in respect of Category A Members to a benefit for any period between the benefit becoming payable and payment of the benefit.
- (b) The Trustee is not required to credit or debit interest under clause 8.2(a) of this Part 2:
 - (i) if the benefit is paid within 30 days of becoming payable;
 - (ii) for any period of delay caused or contributed by the Member or other recipient of the benefit; or
 - (iii) for any period of delay in determining whether a Permanent Disablement benefit is payable.

8.3 Benefits all subject to Rule F2.1 of Schedule F of the Trust Deed

Nothing in this Participation Schedule shall be taken to override Rule F2.1 of Division F of the Trust Deed.

9 Payment of benefits

9.1 Purchase of annuity

If a Member entitled to a benefit asks the Trustee to apply all or part of it to purchase an annuity in the name of the Member or of the Member and one or more Dependants, and the purchase complies with the Relevant Law, then the Trustee must comply with the request.

9.2 Transfer of assets

At the request of a person entitled to a benefit, the Trustee may, if Relevant Law permits, pay the benefit by transferring assets of equivalent value to the person or the person's nominee.

9.3 Unclaimed benefits

The Trustee has no further liability in relation to any benefit paid or applied under clauses 9.1 or 9.2 of this Part 2.

10 Records, accounts and actuary

10.1 Actuarial surplus or deficiency

If the Actuary advises that the Sub-Division is in actuarial surplus or deficiency, the Trustee may, after consultation with the Principal Employer, deal with it in one or more of these ways either temporarily or permanently:

- (a) apply all or part of the surplus:
 - (i) in meeting Employer contributions under clause 5.2(e) of this Part 2;
 - (ii) in declaring an Additional Fund Earning Rate for a Financial Year under clause 5.2(a) of this Part 2;
 - (iii) in making distributions to Bonus Accounts;
 - (iv) in reducing Member contributions; or
 - (v) improving benefits; or
- (b) (subject to Relevant Law) deal with a deficiency by decreasing benefits.

10.2 Contribution Accounts for Category A Members

The Trustee must record for each Category A Member:

- (a) in a Member Contribution Account- contributions made by the Member under clause 0 of this Part 2; and
- (b) in an Employer Contribution Account - the 'normal employer contributions' made for the Member under clause 0 of this Part 2; and
- (c) in an Employer Compulsory Contribution Account- the 'award or quasi- award contributions' made for the Member under clause 0 of this Part 2; and
- (d) in a Voluntary and other Contributions Account - contributions made by the Member under clause 5.1(c) or clause 5.1(d) of this Part 2, and contributions accepted by the Trustee in respect of the Member under clause 1.6 of Part 1 of this Participation Schedule; and

- (e) in a Deemed Member Contribution Account - contributions made for the Member under clause 5.2(d) of this Part 2 to replace contributions waived under clause 5.1(e) of this Part 2; and
- (f) in a Post-65 Employer Compulsory Contribution Account- contributions made for the Member under clause 5.2(c) of this Part 2; and
- (g) in a Bonus Account - amounts distributed for the Member under clause 10.1(a)(iii) of this Part 2; and
- (h) in a Transfer Account any amount transferred from another fund which the Trustee decides to credit to this account; and
- (i) in a Deemed Member Voluntary Contribution Account, contributions made for the member under clause 5.2(d) of this Part 2, except those made to replace contributions waived under clause 5.1(e) of this Part 2.

10.3 [Deleted]

10.4 Additional items to record in Contribution Accounts

The Trustee must also record in each Contribution Account:

- (a) the balance in the Contribution Account as at the Transfer Date, based on the balance of the corresponding account or accounts maintained before that date in the CoP Section of the AS Fund;
- (b) amounts credited or debited to the account for earnings or losses of the Sub-Division;
- (c) amounts paid as benefits or transferred to other funds from the account.
- (d) [Deleted].

10.5 Tax and expenses

The Trustee may debit to one or more Contribution Accounts:

- (a) tax incurred by the Trustee;
- (b) administration or other expenses of the Sub-Division or in relation to a Member of the Sub-Division;
- (c) the cost of any group life or other insurance provided in respect of a Member under a policy; and
- (d) provisions for the items in clauses 10.5(a), 10.5(b) and 10.5(c) of this Part 2,

in proportions which the Trustee considers fair and which are consistent with Relevant Law.

10.6 Agreed Rate and Fund Earning Rate

Without limiting any other provision of the Trust Deed, the Trustee must distribute interest (whether positive or negative) to Contribution Accounts at the Agreed Rate in respect of Category A Members.

10.7 Additional Fund Earning Rate

- (a) The Trustee and Principal Employer may agree to enhance the Fund Earning Rate and the Agreed Rate for a Financial Year by declaring an Additional Fund Earning Rate for that year out of surplus or additional Employer contributions.
- (b) An Additional Fund Earning Rate is to be applied to Contribution Accounts and other amounts in the same way as the Fund Earning Rate or the Agreed Rate as the case may be. However, the Trustee and the Principal Employer may agree that the Additional Fund Earning Rate for any Financial Year is to be applied only to some Contribution Accounts or other amounts to the exclusion of others.

11 Member authorisation

The Trustee may treat a written authorisation purported to be given by a Member as given by the Member.

12 Termination of the Sub-Division

12.1 [Deleted]

12.2 When terminated

- (a) The Principal Employer may give written notice to the Trustee that the Sub-Division is to terminate at a date specified by the Principal Employer, which date must be more than 90 days from the date that notice is given to the Trustee.
- (b) The Trustee must terminate the Sub-Division on a date chosen by it if the Principal Employer ceases to exist and the Trustee determines that no other person is likely to take the place of the Principal Employer.
- (c) The Trustee may declare in writing that the Sub-Division will be closed on a date specified by it if:
 - (i) it appears to the Trustee that the Sub-Division is Insolvent; and
 - (ii) after receiving not less than 14 days' notice, the Employer or Employers have not taken the action required to restore the Sub-Division to Solvency.
- (d) For the purposes of this Part 2, 'Sub-Division Closure Date' means, in respect of Members of the Sub-Division, the date specified in clause 12.2(a) of this Part 2 or the date chosen by the Trustee under clause 12.2(b) of this Part 2 or the date specified by the Trustee under clause 12.2(c) of this Part 2.

12.3 Final distribution

The Trustee must treat the Sub-Division Closure Date as the end of a Financial Year and apply a Fund Earning Rate and Agreed Rate (as applicable) for the period since the end of the last Financial Year.

12.4 Application of Sub-Division Assets

- (a) On termination of the Sub-Division, the Trustee must (subject to the Relevant Law) apply the Sub-Division assets in the following order of priority provided that there are at least sufficient assets of the Sub-Division to meet the payments in clauses 12.4(a)(i) and 12.4(a)(ii) of this Part 2:
 - (i) to provide for all expenses and liabilities for which the Trustee is or may become liable;
 - (ii) to provide in respect of each Member:
 - (A) any benefit which became payable before the termination date; or
 - (B) for Category A Members, if clause 12.4(a)(ii)(A) of this Part 2 does not apply- a benefit calculated as if the Member left Service on the Sub-Division Closure Date and qualified for a benefit under clause 6.2 of this Part 2.
 - (C) [Deleted].
 - (iii) to increase any benefits as agreed between the Trustee and the Principal Employer or, if clause 12.2(b) of this Part 2 applies, as the Trustee decides; and
 - (iv) to pay any remaining amount to the Employers in proportions the Trustee considers appropriate.
- (b) The benefits referred to in clause 12.4(a)(ii)(A) of this Part 2 include:
 - (i) any benefit which would have been payable before the Sub-Division Closure Date if preservation under the Relevant Law did not apply; and
 - (ii) any pension benefit which has commenced to be payable.
- (c) Where the assets of the Sub-Division are not sufficient to meet the payments in clauses 12.4(a)(i) and 12.4(a)(ii) of this Part 2 on termination of the Sub-Division, the Trustee will apply the Sub-Division's assets in a manner that it considers fair and reasonable after consultation with the Actuary and taking into consideration clause 12.4 of this Part 2.

12.5 Payment of benefits

If a Member dies before receiving a benefit provided under clause 12.4 of this Part 2, the Trustee must pay it under Rule A10.12 of Division A of the Trust Deed as if it were a Death Benefit.

13 Deleted

14 Choice of fund provisions

- (a) If a Member becomes a Fund Choice Member, then the Fund Choice Benefit of that Member shall be transferred to the Chosen Fund or if the Fund Choice Member fails to nominate a Chosen Fund in respect of the Fund Choice Benefit in the Fund Choice Notice the Trustee may transfer that benefit to the Eligible Rollover Fund provided that in all circumstances any transfer to the Chosen Fund or the Eligible Rollover Fund shall be in accordance with the Relevant Law and upon completion of such transfer the Member releases the Trustee from any further liability under the Sub-Division.
- (b) A Fund Choice Member shall become entitled to a Fund Choice Benefit calculated as at the Fund Choice Date.
- (c) Notwithstanding any other provision of the Trust Deed or this Part 2, no contributions shall be payable by an Employer in respect of the Member to the Trustee and no contributions shall be accepted by the Trustee from a Fund Choice Member with effect from the Contribution Cessation Date.
- (d) A Fund Choice Member shall cease to be a Member of the Sub-Division on and from the Payment Date.
- (e) The Fund Choice Benefit in respect of a Fund Choice Member shall be transferred to the Chosen Fund or the Eligible Rollover Fund by the Trustee with effect from the Payment Date in accordance with clause 14(a) of this Part 2.
- (f) The Fund Choice Benefit shall be adjusted at the Agreed Rate for the period from the Fund Choice Date until the Payment Date.

Appendix A - Normal 'Insured' Benefit

The additional amount under clause 7.3¹⁷ and clause 7.4¹⁸ is determined from the table below according to the Member's age at the next birthday after the date of death or, in the case of Permanent Disablement, the last day the Member was fully active at work.

Age Next Birthday	Amount	Age Next Birthday	Amount
18 or less	50,000	40	25,000
19	50,000	41	23,000
20	50,000	42	21,000
21	49,750	43	19,000
22	49,500	44	17,000
23	49,250	45	15,000
24	49,000	46	13,500
25	48,750	47	12,000
26	48,500	48	10,500
27	48,250	49	9,000
28	48,000	50	7,500
29	47,750	51	6,700
30	47,500	52	5,900
31	46,000	53	5,100
32	44,500	54	4,300
33	43,000	55	3,500
34	41,500	56	3,200
35	40,000	57	2,900
36	37,000	58	2,600
37	34,000	59	2,300
38	31,000	60	2,000
39	28,000	61 or more	nil

The additional amount is only available if the Trustee:

- (a) is satisfied that the Member has worked an average of 20 hours per week; or
- (b) otherwise determines (in special circumstances).

¹⁷ Equivalent of Rule 7.3 of the CoP Deed.

¹⁸ Equivalent of Rule 7.4 of the CoP Deed.

Annexure A - Section 29 of the *City of Perth Restructuring Act 1993* (WA)

NOTE: This Annexure is for aiding interpretation of Part 2 of this Participation Schedule and does not form part of Part 2.

Section 29 of the *City of Perth Restructuring Act 1993* (WA) provides as follows:

29 City of Perth superannuation scheme members who become employed by a new town

(1) If a person-

(a) immediately before division day¹⁹ is-

- (i) an employee of the City of Perth; and
- (ii) a member of the City of Perth scheme;

and

(b) on or after division day and before 1 July 1996 is transferred under section 21 or 22 of the principal Act²⁰ to the service of and becomes an employee of the council of a new town,

then, despite section 170B of the principal Act, the new town shall, in respect of that person, participate in and comply with the City of Perth scheme in the same way and to the same extent as the City of Perth would be required to if the person were its employee; unless the person elects to become a member of the industry scheme.

(2) A person referred to in subsection (1) does not cease to be a member of the City of Perth scheme by reason only of ceasing to be an employee of the City of Perth.

(3) In this section-

City of Perth scheme means the superannuation fund or scheme established under the *City of Perth Superannuation Fund Act 1934*²¹ or under section 170C of the principal Act²², as the case may be, as the scheme is amended from time to time [emphasis added];

¹⁹ 'Division Day' is defined in section 3 of this Act as 1 July 1994.

²⁰ 'Principal Act' is defined in section 3 of this Act as the *Local Government Act 1960* (WA).

²¹ The AS Trustee has indicated that it understands that the *City of Perth Superannuation Fund Act 1934* was repealed by section 6 of the *Local Government (Superannuation) Legislation Amendment Act 1994*, and the City of Perth superannuation scheme established under section 170C of the principal Act came into operation on 24/12/1994 by operation of section 7 of the *Local Government (Superannuation) Legislation Amendment Act 1994* (WA).

²² Section 170C of the principal Act provides as follows:

170C. City of Perth scheme

employee and employer have the same definitions as in section 10 of the *Superannuation Industry (Supervision) Act 1993* (Cwlth) as amended from time to time;

industry scheme has the same definition as in section 170A of the principal Act²³;

member, if used in relation to the superannuation fund or scheme established under the *City of Perth Superannuation Fund Act 1934*, includes contributor.

(1) The City of Perth shall establish a scheme that accords with the SIS Act to provide superannuation and other benefits for its employees and their dependants and for those of its former employees (and their dependants) whose employers, by virtue of section 170D or section 29 of the *City of Perth Restructuring Act 1993*, are required to participate in and comply with the scheme.

(2) The City of Perth shall participate in and comply with the City of Perth scheme.

(3) The City of Perth shall exercise such powers and discharge such obligations as are necessary to give effect to the City of Perth scheme.

(4) A person who becomes an employee of the City of Perth shall be a member of and subject to the City of Perth scheme unless he or she elects to be a member of the industry scheme.

²³ Under section 170A of the principal Act, industry scheme means the WA Local Government Superannuation Plan (formerly called the W.A. Local Government Local Government Act Occupational Superannuation Fund) established by a trust deed dated 21 March 1990 and continued under a trust deed dated 4 November 2004.

Annexure B - Section 170D of the *Local Government Act 1960* (WA)

NOTE: This Annexure is for aiding interpretation of Part 2 of the Participation Schedule and does not form part of Part 2.

Section 170D of the *Local Government Act 1960* (WA), as reinstated by the *Local Government Act 1995* (WA)²⁴ provides as follows:

‘170D

(1) If a person

- (a) is a member of the City of Perth scheme; and
- (b) becomes an employee of a regional council of which the City of Perth is a constituent municipality,

then, despite section 170B, the regional council shall, in respect of that person, participate in and comply with the City of Perth scheme in the same way and to the same extent as the City of Perth would be required to if the person were its employee; unless the person elects to become a member of the industry scheme.

(2) A person referred to in subsection (1) does not cease to be a member of the City of Perth scheme by reason only of ceasing to be an employee of the City of Perth.’

²⁴ The reference to section 170D of the ‘Local Government Act’ in the CoP Fund trust deed is a reference to section 170D of the *Local Government Act 1960* (WA) (1960 Act). Section 170D of the 1960 Act was found in Part VIA of the 1960 Act. Part VIA of the 1960 Act was repealed by the *Local Government Act 1995* (WA) (1995 Act). Nevertheless, pursuant to section 16 of the 1995 Act, provisions of Part VIA (of the 1960 Act) that applied to a municipality or to the City of Perth (within the meaning of that Part) continue to apply to the continuing authorities in respect of each such municipality or the City of Perth as if the 1995 Act had not commenced, and will continue to apply until regulations are made under section 5.47 of the 1995 Act in relation to that continuing authority. Regulations under the 1995 Act may amend former provisions of the 1960 Act (section 16(2) of the 1995 Act).